



Department of Justice and Community Safety

Secretary

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Our ref: EBC ID 22112677

State Coroner Judge John Cain
Coroners Court of Victoria
65 Kavanagh Street
SOUTHBANK VIC 3006

Dear Coroner Cain

Response to the Coronial recommendations arising from the inquest in June 2013, into the death of Dermot O'Toole

Mr Greg Wilson, then Secretary, Department of Justice and Regulation, wrote to Her Honour Judge Sara Hinchey on 11 September 2017, in relation to two recommendations she made arising out of the inquest into the death of Mr Dermot O'Toole.

The recommendations were as follows:

- That the Minister for Corrections explore whether Corrections Victoria and the Adult Parole Board should be granted coercive powers to obtain the health and medical records of offenders, in order that they are accurately informed of all relevant matters when conducting risk assessments for parole applications.
- That Corrections give consideration to the best manner of integrating random drug testing into the supervision and reporting regime for any parolee subject to a drug and alcohol testing condition as part of their parole order.

Mr Wilson's correspondence advised that the Department accepted both recommendations. I am writing to provide an update of their implementation.

In relation to the first recommendation, I have received advice on the current process to obtain the health and medical records of offenders and consider that coercive powers are not required at this stage. Since Judge Hinchey made her findings, the process to obtain the health and medical records of offenders has been enhanced by procedural changes and the family violence and child safety information sharing regimes. The procedural changes include the gaining of informed consent from prisoners for health information when they apply for parole, and the making of a recommendation against parole if the prisoner refuses to consent to the release of such information and the offence-related risks cannot be confidently mitigated based on the available information.

In relation to recommendation two, saliva testing in Community Correctional Services (CCS) was introduced in September 2022, with relevant practice guidelines updated to provide guidance to staff on how to utilise the new method of testing. Saliva testing requires collection of a saliva sample on an approved device, which identifies if certain drugs are detected in a person's system. This method of collection is considered the least invasive and can be done in any environment with little to no staff interaction, but only provides an indicative result.

The saliva swabs used by CCS are indicative only as they do not meet evidentiary standards. When used on a court stream offender, the process is to send the individual for a urine test to confirm any indicative positive result (although this may not always be necessary if the offender admits to the use of the drug identified through the saliva test).

When used on a person on parole, the process is for any indicative positive saliva test result to be immediately referred to the Adult Parole Board, so that a decision can be made at the earliest opportunity on whether the person presents a heightened risk, and their parole should be cancelled or otherwise amended.

Should you require further information, please contact Jenny Roberts, Executive Director, Community Operations and Parole.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Kate Houghton'.

Kate Houghton PSM
Secretary

06/11/2023