



LEGISLATIVE COUNCIL
LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry: Inquiry into Victoria's criminal justice system

Hearing Date: 6 September 2021

Additional Question[s] taken on notice

Directed to: John Herron

1. Ms MAXWELL, by email:

Question asked.

Could you provide further information on your experience with Thomas Embling hospital as the sentencing of offenders with who have been found 'not guilty due to mental impairment' can be directed to remain under Forensicare's hospital for an unknown period of time

Response:

I was the Project Director for DoJ for awarding the TEH contract to Forensicare.

THE has 138 bed. 'Clients' are divided into three categories; Low risk (about 50%) who are allowed to work and day release, problematic killers (about 42%) and permanent clients not for release (8%). The later are the 25 year ones, most who don't want to leave anyway

The 25y term is as the legislation says 'nominal' and the act says it must be stated during sentencing. This is completely misleading to the public. The OPP also saying the term is 'open ended' is also false.

THE clients usually have a term (Forensicare's own stats) of 7yrs. TEH has considerable 'churn' of releasing violent offenders, many multiple killers are released after 2,3, or 4 years, often with suppression orders (to protect offenders). It is nonsensical to assume these offenders -often committing brutal killings – could be possibly 'cured.' On the later, the release triage of offenders is a conflict – a panel of a judge and psychiatrists. It's in their interest to keep THE churn going. Some offenders are also thrown back into Corrections to mask crimes they may have committed on day release or inside TEH.

Summary: most killers are released very early (over 80% under 6yrs) and a few over 10yrs. The public is deceived into believing they all have 25yr sentences.



2. Ms MAXWELL, by email:

Question asked.

Could you provide the committee with your understanding of “not guilty due to mental impairment” and the consequences and impact this has for victims of crime such as yourself.

Response:

The legislation provides the basis: the Crimes (Mental Impairment and Unfitness to Be Tried) Act 1997 (Vic). How that is interpreted by the judiciary is another matter, specifically the headline “not understanding the nature of the crime or awareness.” That is routinely disregarded, but it should be the main guide.

The DPP invariably accepts almost any plea of ‘not guilty, mental impairment’. The exception was the Gargasoulis/Bourke Street event. The state threw all resources to defeat Gargasoulis’ not guilty plea, including using TEH Chairman Ogeloff to rebut the plea. Gargasoulis had identical circumstances to my daughter’s killer and many others. Why? It’s the optics of the sentence so therefore the Victorian Government is selecting what crimes to prosecute or not.

Victims realise this and that they have been lied to concerning the early release of offenders which generates more trauma. The deception is made worse by Victorian authorities telling victims otherwise and then finding out the truth later. At this stage, the Victorian Government has cast them aside and is often hostile, issuing threats (eg the OPP) against victims who make simple enquiries.

3. Ms MAXWELL, by email:

Question asked.

Do you believe victims should be informed when offenders who have committed crimes against them, or their family, should be notified when the offender is released and if so why?

Response:

Yes of course, if only for the fact that many TEH inmates seek revenge on their victims and families. TEH does not instil any sense or remorse or acceptance to offenders of their crimes[^], so the desire to to attack remains strong. THE enables this by supplying them with mobile phones so that they often harass victims.

- Case of Peko Lakovski. His father-in-law, who he wounded, is terrified especially as Peko had killed two inmates in THE, causing the staff to strike upon his return. Imagine how victims feel <https://www.heraldsun.com.au/news/victoria/peko-lakovski-granted-supervised-leave-from-thomas-embling-hospital/news-story/b52590e82d2203beaf0e3f6a4c7d2023>



- Many TEH inmates return to their locale and boast of their early release, as well as terrifying victims eg Melton man who killed two elderly neighbours released after 2yrs at TH now locally boasting

^ most THE inmates have committed horrendously brutal crimes, usually resulting in death and sometimes multiple deaths. My daughter's killed Henry Hammond took according to police five minutes to kill her. He had previously attacked numerous women viciously. Now TEH is in a race to release him' along with many brutal killers.

4. Ms MAXWELL, by email:

Question asked.

Does an offender who is sentenced to Thomas Embling upon release have a conviction.

Response:

No

5. Ms MAXWELL, by email:

Question asked.

Do you believe there should be a specialised victims of crime agency to support victims who are dealing with the ramifications of mentally impaired offenders and related justice matters.

Response:

Yes

The OPP and police are not equipped to do so, plus they have a conflict as they are pushing their various agendas with specific offenders. It needs to be independent. This applies in helping victims navigate the justice system, as these two entities have a pathway for their own outcomes for offenders