

**SUBMISSION TO SENTENCING ADVISORY COUNCIL –
REVIEW OF ADULT PAROLE SYSTEM IN VICTORIA**

SEPTEMBER 2011

**OFFENDERS WITH A MENTAL
ILLNESS AND THE ADULT PAROLE
SYSTEM IN VICTORIA**



Forensicare

Victorian Institute of Forensic Mental Health
Yarra Bend Road
Fairfield 3078

telephone 03 9495 9143
www.forensicare.vic.gov.au

SUMMARY

This submission to the Sentencing Advisory Council, Review of the Adult Parole System in Victoria, is made by Forensicare (Victorian Institute of Forensic Mental Health), and discusses the issues that relate to people with a mental illness on parole or being considered for parole in Victoria.

The submission has been prepared under the following headings that address the broad terms of reference –

- . Statutory Criteria and Parole Decisions
- . Breaching of Parole Orders
- . Information Sharing
- . Role of Multi Agency Public Protection Arrangements in England

In addition to focusing on the role of parole in respect to people with a mental illness, this response also covers Forensicare's interactions and experience with the Adult Parole Board in their dealings with our patients and clients and people with a mental illness more generally.

INTRODUCTION

The Victorian Institute of Forensic Mental Health, known as Forensicare, is a statutory agency that is responsible for the provision of forensic mental health services in Victoria. Forensicare is governed by a ten member Council that is accountable to the Minister for Mental Health. In addition to providing specialist clinical services through an inpatient and community program, Forensicare is mandated (under the *Mental Health Act 1986*) to provide research, training and professional education.

The specialist clinical services provided by Forensicare include –

- . Inpatient services - Thomas Embling Hospital, a 116 bed, secure inpatient hospital located in Fairfield.
- . Prison services - within the prison system we provide a 16 bed Acute Assessment Unit for male prisoners thought to be mentally ill, specialist clinics, outpatient services and a reception program at Melbourne Assessment Prison (the statewide reception prison for males); a 20 bed residential program, intensive outreach program and therapeutic day program for women at Dame Phyllis Frost Centre (the main prison for women in the state), and consultant psychiatrist services to the larger state managed prisons.
- . Community services – programs provided include a Community Forensic Mental Health Program (providing primary secondary and tertiary consultations, a Community Integration Program supporting people with a serious mental illness in their transition from prison or Thomas Embling Hospital back into the community and a Non-custodial Supervision Order Consultation and Liaison Program), a Problem Behaviour Program (for people with a range of 'problem behaviours' that have led, or may lead, to offending) and Court Services.

Our patients and clients are primarily people with a serious mental illness who have offended and subsequently been sentenced by the courts to either imprisonment or ordered to receive inpatient or community treatment and care. Our community clients are predominantly referred from correctional or mental health agencies.

A large proportion of the patients at Thomas Embling Hospital (58%) have been found not guilty or unfit to plead on the grounds of mental impairment and ordered by the court to be detained for care and treatment. Other Thomas Embling Hospital patients have been transferred from the prison system as an involuntary patient and are returned to the prison system when/if they regain their health.

Forensicare was established to achieve –

- . improved quality of services in forensic mental health
- . increased level of community safety
- . better community awareness and understanding of mentally disordered offenders
- . increased specialist skills and knowledge
- . policy advice, service planning and research that contributes to the improved delivery of mental health services.

FORENSIC MENTAL HEALTH – A SPECIALIST MENTAL HEALTH FIELD

Forensic mental health is a specialist area within the mental health field that provides care and treatment to people within the criminal justice system who have a serious mental illness. It addresses the special needs of mentally disordered offenders, the justice sector and the community, while providing effective assessment, treatment and management of forensic patients in appropriately secure settings.

FORENSICARE AND THE ADULT PAROLE BOARD

The major points of interaction between Forensicare and the parole system in Victoria are –

1. Forensicare clinicians are involved in the assessment and treatment of prisoners with a serious mental illness, primarily at Melbourne Assessment Prison and Dame Phyllis Frost Centre, where we provide both outpatient and residential services. In addition, Forensicare consultant psychiatrists provide a visiting outpatient service to other metropolitan and regional prisons. Our clinicians consequently have contact with a large number of the incarcerated population who have a mental illness, many of whom will have contact with the parole system at some stage.
2. Forensicare psychologists and psychiatrists are involved in the provision of reports to the Adult Parole Board which typically address the current mental state and future treatment needs of people with putative mental disorders. These may include acquired brain injury, mental illness, personality disorder, intellectual disability and substance use disorders. In some cases the Adult Parole Board

requests an early review of these prisoners, ostensibly it would seem to provide clinical input into decisions about treatment needs, including programs in prison.

In 2010-2011, Forensicare completed 81 reports for the Adult Parole Board on people in custody. The preparation of these reports is an activity that is funded by the Department of Justice.

3. A number of prisoners being released on parole have a standard condition that they attend the Community Forensic Mental Health Service for assessment and treatment, as directed by the Clinical Director or his or her nominee. It should be noted, that due to limited resources, these referrals, which are made by Community Corrections Officers, are not automatically seen for assessment unless there is a clear case for significant risk, significant mental disorder or significant forensic issues.

In 2010-2011, 34% of all clients accepted at Community Forensic Mental Health Service were referred from Community Corrections. While we are unable to provide a further breakdown of this data to indicate the number of accepted referrals that are subject to a parole order, it is anecdotally believed to be a significant percentage.

TERMS OF REFERENCE – RESPONSE

Statutory Criteria and Parole Decisions

As a provider of specialist mental health services, Forensicare does not offer an opinion on whether statutory criteria are desirable to guide decision making in relation to parole decisions. From our perspective as a mental health service provider however, Forensicare believes that through the Adult Parole Board the existing parole system in Victoria provides an opportunity for a supervised return to the community with a range of mandated supports. These supports work to assist those with mental disorder, substance use problems, intellectual disability or personality vulnerability to benefit from the provision of expert services to reintegrate into the community.

If it is determined that statutory criteria are required, we would request that the criteria consider the effect of mental illness in making parole decisions and providing opportunities for achieving successful community reintegration. Importantly, any statutory criteria introduced must be practical and appropriately resourced.

The need to provide appropriate resourcing of reintegration supports for people with a mental illness is one that has impacted on Forensicare directly. Through the Community Forensic Mental Health Service, we have established a Community Integration Program to assist people with a serious mental illness on their transition into the community from prison or Thomas Embling Hospital. This program provides for a needs assessment and clinical support for a time limited period, generally 6 to 12 weeks, following the person's release from custody or hospital. During this time, a

management plan is developed for the transition of care to an area mental health service or other service provider.

This program was developed within our existing resources initially to meet the specific needs of people with a serious mental illness on their release from custody. It was noted that many of these people were being released from custody without appropriately targeted supports which seriously compromised their prospects of achieving a good outcome from parole.

The transition period is a particularly difficult and critical time for people with a mental illness, and the difficulties are even more pronounced for those with a mental illness released on parole. The Community Integration Program is providing much needed immediate support at a time when people with a mental illness frequently struggle with the competing demands of community living, managing their illness and fulfilling the requirements of their parole order. It is unfortunate that the lack of resources has limited the growth of the program (it is currently only offered in three metropolitan prisons) which is denying some people with a mental illness the opportunity to maximise their parole outcomes.

. **Breaching of Parole Orders**

Our clinicians report that there appears to be a significant variation in practice in the supervision of parolees. For example, there have been instances where referral from a Community Correctional Officer to Forensicare is accompanied by information stating that the parolee is abusing substances which may be associated with a deterioration in the parolee's mental state. Again, in making this observation, Forensicare offers no opinion as to whether this is something that would be best addressed by the introduction of statutory criteria or formal policies/practice guidelines that will establish consistency in service delivery and monitoring.

. **Information Sharing**

The existing arrangements established for the sharing of information between Forensicare clinicians and the Adult Parole Board are sound and based on a mutual understanding and respect of the roles of both agencies. Information sharing between the two agencies remains confidential. The process of obtaining an informed consent for the preparation of a report by our clinicians includes a clarification of the process, and Forensicare has no concerns about the system as it currently operates.

Similarly, in working with Community Corrections, Forensicare requires paroled prisoners to sign a form authorising the exchange of information between Forensicare and Corrections Victoria. In practice, Forensicare does not usually allocate appointments for assessment until this signed form has been received. Our clinicians consider that this existing process provides an adequate and practical level of information sharing. It is noted though that one apparent obstacle is the frequent change of Community Corrections staff which can make it difficult to contact the Community Corrections officer responsible for the parolee.

In terms of ensuring that the Community Integration Program (discussed above) is able to achieve improved parole outcomes for people with a serious mental illness, the process would be improved if our clinicians had accurate information on prison release dates. As a health service, Forensicare does not have access to the Prisoner Information Management System and we rely on Corrections Victoria advising accurate and timely release information.

To enable appropriate preparation and release planning to be undertaken for people referred to the Community Integration Program, we rely on being advised by Corrections Victoria of agreed parole dates at the earliest possible opportunity. Currently determining when a person is to be released can be difficult and limited warning of an imminent release date can add a further layer of complexity to the transition and parole success of a prisoner with mental illness.

Role of Multi Agency Public Protection Arrangements in England

Multi Agency Public Protection Arrangements (known as MAPPA) were introduced in England under the *Criminal Justice Act 2003* to assess and manage the risk posed by certain sexual and violent offenders. The arrangements bring together police, and the probation and prison services, together with other identified agencies, including children's services, social services, health agencies, youth justice, local housing authorities and employment agencies. A major focus of MAPPA is to assess and manage the risk posed by the offenders managed and to share relevant information about the offenders.

The literature suggests that while MAPPA has proved beneficial in the management of parolees with complex needs, it is thought to work best when the panel does not function simply as a conduit for health information to be relayed to correctional agencies. Most success is reported with the model in regions where the MAPPA promotes the transfer of information between *all* participating agencies. With this outcome in mind, MAPPA may provide a model that could be incorporated into the parole system in Victoria, particularly when dealing with offenders with a mental illness.

CONCLUSION

In working with people with a mental illness, a period of parole is helpful. It provides a level of leverage which assists a person comply with supervising agencies during their parole period and frequently appears to apply constraints to their behaviour. It is a time, though, in which additional supports are required for people with a mental illness.

As an agency working to achieve successful parole outcomes for people with a mental illness, Forensicare has a history of working collaboratively with the Adult Parole Board to ensure these outcomes are achieved. It is the view of our clinicians that the parole system in Victoria acknowledges and works to accommodate the needs of people with

a mental illness on parole. The Adult Parole Board appears to be thoughtful about who to refer to Forensicare and appears to consider the recommendations made by our clinicians when making decisions.

Any move to statutory criteria for the granting or revocation of parole should explicitly take into account the issue of the mental illness of an offender. In this respect there may be Charter of Human Rights and Responsibility issues which are beyond the scope of Forensicare to provide comment.

We also note that the inclusion of statutory criteria would have resource implications which should not be ignored. These include costs to the mental health system which historically is not considered or funded by the justice sector, but should be recognised and funded appropriately.

Some ongoing enhancements to the parole system would ensure that people on parole with a mental illness are given the best possible opportunity to successfully complete their parole period and manage their illness. Forensicare would welcome the opportunity to provide input to the development of these enhancements.