T R A N S C R I P T

LAW REFORM, ROAD AND COMMUNITY SAFETY COMMITTEE

Inquiry into drug law reform

Melbourne — 18 September 2017

Members

Mr Geoff Howard — Chair
Mr Bill Tilley — Deputy Chair
Mr Martin Dixon
Mr Mark Gepp
Ms Fiona Patten
Ms Natalie Suleyman
Mr Murray Thompson

Witness

His Honour Peter Couzens, Chairperson, Adult Parole Board of Victoria.

Necessary corrections to be notified to executive officer of committee

The CHAIR — We might continue on then with our hearing of the parliamentary Law Reform, Road and Community Safety Committee, where we are about to hear from His Honour Judge Peter Couzens, who is the chairperson of the Adult Parole Board of Victoria. Welcome, Peter. We have certainly undertaken a number of public hearings now over the last 12 months with this inquiry, following being open for written submissions, and we are pleased to have had a submission from you. You will be aware that Hansard is recording our conversation, and a transcript of our discussion will come back to you in a couple of weeks to just check that it is technically correct, and then that will go on the public record. I welcome you and invite you to make some general comments about the adult parole board and issues in association with this inquiry that back up the submission that you have made to us, and then we will ask you some questions.

Judge COUZENS — Yes. Thank you, Chair. Formally, if I can state, my name is Peter Couzens. I am chair of the Adult Parole Board of Victoria and have been since 9 June 2015. Prior to that appointment I was President of the Children's Court of Victoria, a County Court judge and, prior to that appointment, a magistrate for 22 years, sitting throughout Victoria both in metropolitan and rural Victoria. I was resident in Wangaratta for two years and the regional coordinating magistrate in Ballarat and the associated district.

We welcome the opportunity of making a submission, and I thank you for that invitation. I welcome the opportunity to be able to speak generally about parole to you, and I will be very careful in trying to confine my remarks to a suitably brief period, although given my likelihood of going on, as may be attested to by my colleagues, constraints need to be put on me. I am delighted to say that I am accompanied by Stuart Ward, who is the CAO of the adult parole board — Stuart was previously a senior officer of the Office of Public Prosecutions — and also by Stephen Farrow, who is one of our full-time members and who was previously chief executive officer of the Sentencing Advisory Council.

As you I am sure remember, in 2013 the then government requested Ian Callinan, QC, former High Court Justice, to conduct a review of the adult parole board and more generally the parole system in Victoria. The catalyst for that request was a number of tragic cases, the most well-known of course being the rape and murder of Gillian Meagher. But there were two other cases of a like type, equally tragic but which did not receive the same publicity, that happened in the six months or so after Ms Meagher's death and several that occurred before that. So the request for the review, if I may say so, was timely and necessary, and we do not need to go into those reasons.

But I am delighted to say that the review was timely, expeditious, thorough and extremely constructive. Twenty-two of 23 recommendations were adopted and have been implemented. One is in the course of implementation; that is a technical recommendation. The report led to significant legislative and administrative changes, both in terms of the role of the board and also Corrections Victoria, and it was supported by an investment of over $84 million over four years. If I may say so, it is a classic example of the value of bipartisanship, because the process was initiated under the Napthine government and has been continued with enormous support by the current government, and we should acknowledge that.

The result has been extremely positive. It is clear in my view, and the statistics support this, that the risks that the community are exposed to at the hands of parolees have been significantly reduced. That is reflected in a 92 per cent reduction in the number of serious violent offences and sex offences committed by parolees on parole. In 2013–14 there were 60 parolees who were convicted of serious violent offences and sex offences whilst on parole. The following year it had reduced to 22; the year after that, 13; and in the last financial year, five. It is a dramatic reduction, and it is largely reflective of the reforms that were introduced and which have applied.

Similarly, I am pleased to say, the success rate of parolees has been significant. In the last financial year 75 per cent of parolees were discharged. In other words, they completed their sentence without cancellation. Now, although that leaves 25 per cent, nevertheless historically that is a very significant achievement. Similarly, there has been a marked reduction in the number of cancellations that have taken place in terms of parolees and a marked reduction in the number of arrests by police in terms of breaches of parole.

Please do not think I am trying to tell you the system is perfect. It is not, because we cannot eliminate risk. What we can do and what we endeavour to do is reduce the risk to a level which is acceptable in terms of application of conditions of parole et cetera. Without conceding that it is anything other than imperfect, because there has always been the likelihood of terrible cases occurring — and they have — that risk has been greatly reduced. It is also I think relevant to note that in the course of determining an application for parole the board is appraised

of all matters relevant to the prisoner who is applying for parole, and under the reformed system there is now what is called a two-tier system to deal with applications by people whose index offending is defined as serious violent offences or sex offences. Sex offences are obvious; there is a whole range of sex offences, but in terms of serious violent offences they include those which attract the most concerns I think in the community, other than the obvious, such as murder, manslaughter, death by arson, armed robberies, aggravated burglaries, threats to kill, threats to inflict serious injury, kidnapping and so on. These are the most serious and those that so often attract media attention in terms of news footage, the armed robberies and aggravated burglaries.

Under the new system, the two-tier system involves a board comprising a judicial member, a community member and a full-time member, and they determine the application as if it was the final hearing. They make recommendations to a second tier, which comprises myself and a full-time member. That is a recommendation of Mr Callinan's, and that is one we adopted, so we have effectively five heads determining each application for the people whose index offending comprises the nature of those offences which I have described.

In the course of those hearings that I am personally involved in I read a wealth of material that is produced to the board that comes via Corrections, and they include, most importantly, the sentencing remarks of the sentencing judge, victim impact statements that have been tended at the plea hearing, reports from clinicians who have conducted offender behaviour programs, victim submissions that are made in addition to victim impact statements, and a whole welter of information. It is the sentencing remarks that really are so important, because they detail not just the nature of the offending and the circumstances that related to it but the backgrounds of the offenders.

It is palpably obvious when one reads those sentencing remarks and looks at the background, including the criminal history, which is also part of the material that is tendered, that so many of these offenders in what I will describe for want of a better term as high-profile crimes are either addicted to drugs at the time of the offending or are offending in order to finance an addiction, and the drug which is so frighteningly obvious and relevant to these matters is crystal methamphetamine — or methamphetamine. I was reminded of this when I walked into this building, as there is a big banner just at the entrance detailing reference to a parliamentary inquiry into the use of that drug.

This drug has a frightening relevance to criminal offending and also obviously to the health of those who become addicted to it, and that really is one of the trigger points for our interest in coming before you, firstly, to confirm the relevance of drug abuse in criminal offending, particularly violent offending, and, secondly, to inform you of the ongoing concerns that people have in relation to that drug despite being incarcerated, despite undergoing very effective and helpful programs that Caraniche run in terms of alcohol and drugs, and despite the very close monitoring that parolees are subjected to upon release on parole.

If I could explain that to you, when a person is first released on parole they undertake what is called an intensive period, and that period usually is three months — it can be four months — and that is intensive. It involves two visits a week to a parole officer, one drug test, as well as random drug tests, and thereafter, if the parolee can escape that period of time and proceed, the supervision continues, although not at the same level, and drug screens are still required. What the board has found is that the difficulty of continuing to refrain from drug use, particularly of methamphetamine — or crystal methamphetamine — is extremely difficult, so the bulk of cancellations that occur in terms of parole occur in the first six months. The younger the parolee the more likely it is that there will be a breach. An explanation is I think fairly simple. Their offending relates to drug use; their drug use has preceded the offending. Often the offending for which the sentence is imposed is just one of a number of offences for which the person has been dealt with. Release back into the community, no matter how carefully structured and supervised, is filled with temptation.

I interview many of the parolees, particularly young ones — I am very concerned about young people — and warn them after they have been granted parole but before they are released of the challenges that are ahead of them, and I emphasise the need for them to be very strong in refraining from drug use and particularly ice use. Time and time again they will tell me (a) they are very confident, that their time in custody has taught them a lesson, and they feel well — they feel better. They are obviously detoxified. There may be a little irritation, if you like, in custody, but they feel confident, and many of these young people are articulate, rational, logical and good people. They have just fallen victims, often, of disadvantage and drugs, but commonly they will inform me and my board members, quote, 'It's everywhere' and of how easy it is for them to acquire that drug.

Ms Suleyman, I am sure in your electorate this is a problem that causes great concern to you and others in your community. So the board is frequently faced with recommendations from Corrections that a person has produced positive tests for drugs.

Ms PATTEN — While in prison?

Judge COUZENS — No, after prison. This is whilst they are on parole, and that comes through the drug tests, the drug screens, which Dorevitch Pathology are contracted to do, and the recommendation so often is that, because of their drug use — the resumption of drug use — there is an escalation of risk to the community and that the offender, or the parolee, therefore sadly should be cancelled and returned to custody. And that does happen, and it happens, as I have indicated, earlier rather than later.

In the first three months of parole, particularly if the parolee is young, the percentage of cancellations is quite high. It lowers a little bit in the next three months, but over 50 per cent of cancellations occur in the first six months, and that is because of drugs, largely. The vast majority of cancellations arise from drug use, as opposed to reoffending. So we are confronted with this object.

There is a fundamental consideration the board must always have regard to. It is now enshrined, thanks to Ian Callinan, in the legislation — section 73A of the Corrections Act. The paramount consideration whenever the board considers an application for parole, a variation of parole or a cancellation is the safety and protection of the community. So where the index offending is drug-related, where there is a history of drug addiction and there is a re-engagement in drug use, despite all the supports that exist, the board must be mindful of the risk to the community, bearing in mind that consideration.

Although the board does everything — as do Corrections, for which I have the greatest respect in this regard — to caution or warn, at the corrections level directing people to the board, given corrections' concerns, often we are asked to warn or to require the parolee to show cause as to why parole should not be cancelled. Nevertheless, sadly, the re-use can often continue, so cancellation becomes the ultimate and the inevitable sanction. Cancellation, albeit it serves the purpose of removing an escalating risk from the community, is extremely damaging for loss of self-esteem, loss of self-confidence, losing opportunities that might otherwise have existed in the community, home, employment et cetera, and it can be crushing to self-esteem. So that is why corrections and the board will do everything we can to facilitate ongoing involvement in the community by tightening conditions — by requiring, for example, beyond the three months intensive, more drug screens. And we are very open, because every two weeks at the very least, parolees come before the board — every week, that is, every Thursday, and I sit every second week so as to try and maintain a relationship with parole officers and see for myself what is happening.

We cannot be clearer about the risks: that the strength of the drug and the strength of the addiction is such that sometimes it just does not succeed and we have to cancel. Last year, for example, we cancelled 204 parolees, sending them back to custody. Approximately 70 per cent of those, or 142 of the 204, were cancelled due exclusively to drug use or drug use was one of a number of reasons. For 61 per cent of those the drug use was crystal methamphetamine or methamphetamine. The year before we cancelled 387 parolees; 65 per cent of those, or 250, were because of drug use, or drug use was one of a number of reasons. Other reasons can be breakdown in discipline in terms of attending appointments, not attending for drug screens, presenting with what we call 'dilutions'; often people will attempt to flush out the drugs by having copious quantities of water, and it has happened so often that we are not so silly as to think that this is the purpose of it. I might say, without being flippant, the number of gym junkies that we are now seeing — people who say, 'I'm going to the gym; I'm having to drink copious quantities of water' — is just beyond belief. But that is one the consequences of it.

We have recommended to Corrections — and one of the thrusts of our coming before you today is that we would like to look at an alternative to cancellation in appropriate cases, and that alternative is suspension. It is our view — and I have made this very clear to a number of ministers who are very sympathetic, I think, the ones I have spoken to on this subject — that cancellation can be just too dramatic.

We do not expect that there would be many people who would fit within the category who would be best served by suspension. Those who breach through drug use early would not be appropriate, because it is just too soon. But we are particularly mindful to those parolees who are on long periods of parole who do exceptionally well — and many do, as reflected in the 75 per cent who got through their parole last year — but for one or a combination of reasons lapse. It can be a breakdown of a relationship, it can be family breakdowns, it can be

loss of employment, it can be an inadvertent reassociation with negative peers. Those people, we would like to think theoretically at least, are in the range of people who would benefit from a circuit-breaker. Albeit it does involve loss of liberty, but only for a relatively short period of time.

What we have in mind is initially a period of one month, which could be extended out to three months. But in an ideal world that should take place in conjunction with programs within a prison environment which is less threatening than, for example, Barwon or Port Phillip. The community is going to be very well served, we predict, with the new facility that is about to open called Ravenhall, just out in the Lara area.

Ms PATTEN — So you are saying we would send them back to Ravenhall but into a drug treatment area in Ravenhall?

JUDGE COUZENS — Ms Patten, I would almost die for it. It is so important that we are able, if it can be done, to deal in a relatively short term with these people; many of whom are young. It might be a sign of my age, but I regard anyone from 30 down as young. The fact is, and it is very interesting, if you have the opportunity of looking at a report from the Ombudsman that was furnished in 2015, there are very many valuable statistics that appear there, not the least of which is that at that time the average age of an adult prisoner was 35.

Now, you have to consider that average is reached after taking into account, for example, historic sex offenders, who can be 70 or 80. I think the real mean is around about 30. When one considers life expectancy for adult males is reaching 80 — I hope that is true — these people have got a lot of living to do. If not already parents, they will become parents. So it is absolutely crucial that we do what we can to address these underlying issues.

The other frightening statistic that emerges from that report, and I was not aware of this and I do not know what the basis for it is, but the child born to a prisoner is six times more likely to become a prisoner than a child who is not. It makes sense. The children are without a male role model, they are obviously being brought up, often, by mothers who are on benefits and who may themselves have issues.

We have to adopt, I think, in this relatively small number of cases — there might only be 20 or 30 a year — a more therapeutic as opposed to punitive approach. I use those words deliberately. Corrections, of course, will have the onus of trying to develop programs, and — can I say this — I would acknowledge the problems that they may have in doing it. The prison population is continuing to grow. It is now in excess of 7000 people, and that number will continue to increase due to, amongst other reasons, the toughening up of bail. Over 30 per cent —

Ms PATTEN — And parole.

JUDGE COUZENS — You are right. Can I just come back to that. The toughening up of bail has been very significant. Over 30 per cent of the prison population are on remand. At Dame Phyllis Frost, and this is a matter which causes me great concern, it is 42 per cent. The problem with that is that most of those women, when they eventually get to court, if they are found guilty and sentenced, are being sentenced to time served. They are the very people for whom parole would be most beneficial.

Ms PATTEN — Or bail.

JUDGE COUZENS — Precisely, on programs. No, that is exactly right. So I can understand — I hate to use this word — the clamour for tightening up of bail, because when I was on the bench I was very sensitive to these issues, but it has a counter result. As far as parole is concerned, you are quite right; the numbers of people on parole have reduced markedly. I will remind you that in 2012 and 2013 there were 1646 parolees in the community. Last year there were 841. I do not shrink from what is often described as tougher parole, I much prefer to call it more demanding.

Ms PATTEN — But our concern is that then people are not getting the benefit of parole.

JUDGE COUZENS — That is true. There are other reasons, though, that are associated with that fall in numbers. Firstly, amendments to the Bail Act, and more and more people being remanded and sentenced straight.

Ms PATTEN — Yes.

JUDGE COUZENS — The Sentencing Advisory Council submitted their report, I think, at the beginning of last year which signalled that more and more people, but even in the higher court, the County Court, are being sentenced to straight release. That is often because the period of time on remand is regarded as time served, and the argument traditionally has been — and I know; I used to put this and I used to hear it all the time — that it is hard time, particularly if it involves being sent, from time to time, into police cells. So that is taken into account, and there is authority to say it can be.

The other significant change which markedly affected the number of people on parole was a decision of the Court of Appeal, a guideline judgement called Boulton in 2014, which immediately followed amendments to the Sentencing Act, which removed suspended sentences, community-based orders and intensive corrections order, and gave courts the opportunity of sentencing serious offenders — the Court of Appeal said these things could be done in serious cases which would normally be dealt with by way of imprisonment — to community orders in association with imprisonment. So up to two years with a community correction order for well beyond that period of time. Now, that had a marked impact upon parole figures.

In Victoria if a person is sentenced to a period of imprisonment of two years or more the Sentencing Act provides that the court must impose a non-parole period, unless it is inappropriate to do so because of the nature of the offence or the criminal history of the offender. Up until the Cardamone case, which was very recent and is being appealed, it was extremely rare, no matter how long the sentence, no matter how serious the offending, for a prisoner, even convicted of murder, not to be given a non-parole period.

The classical case is Sean Price, who murdered Masa Vukotic; a horrific offence. He pleaded guilty, he was sentenced to life with a non-parole period of 38 years. Many people would say, 'Oh, that's as good as life'. But can I remind you that at the time of sentencing he was 32 — life expectancy up to 80. He might well and truly live to be 80, many in the prison population do. I am as certain as I am sitting here before you today, that should he survive, he will, unless there is legislation introduced.

So that is two years and above, but the law also provides that whenever a person is sentenced to less than two years the court has a discretion to impose a non-parole period. That is rarely done today, and it is rarely done because of those amendments and Boulton. Earlier this year, however, the law was again changed, and the capacity to sentence for up to two years with a combined community correction order has been dramatically changed to one year. If I may say so, I applaud the Attorney for doing that. But the reality therefore is that the likelihood is that more and more people will be sentenced to non-parole periods in that range of one to two years.

In the last financial year there has been a 7 per cent increase in the number of offenders who have been sentenced to non-parole periods, and because of that change and the reduction in the capacity of courts to impose joint sentences, that is going to continue. So we think, and I have said so in the annual report which will be tabled probably in the next month or two, we are expecting that figure to plateau and start to rise again.

That is really what I wanted to say to you today. One, to remind you of the ongoing risks that drugs play to offenders and converting into parolees; and two, the need, I believe, for there to be a step just before cancellation that will facilitate the community being protected by taking people back off the street but giving them the opportunity to receive ongoing counselling and treatment in a custodial environment — not Barwon, not Port Phillip, but in a prison such as Ravenhall. I do not know if you have had the opportunity of hearing about this new prison.

We received a presentation recently. It really is extremely positive as to what is being planned. More mental health beds, almost than in the community, because mental health is such an issue; often associated with drugs, often not. A whole range of very progressive programs including a program called Turn around, which is aimed at, particularly, parolees who have been cancelled. Those programs can often take longer than what we have in mind, which should be a maximum of, say, three months suspension. If you extend beyond that you really undermine the whole process; it cannot be longer than that.

Ms PATTEN — That is right.

Judge COUZENS — We are hopeful, with initiative and goodwill on the part of corrections, which there is — it might need more funding directly associated, but in the end it will not just be the prisoner or the parolee who is going to benefit; it is going to be the community, because those people will have more opportunities to

complete their parole, be law-abiding citizens and be constructive and good parents. That is often ignored, but these young people have become parents. In my experience in the Children's Court we are only too aware of the impact, in the child protection jurisdiction, of drug abuse on the part of young parents, many of whom get themselves involved in the criminal justice system. So we hope, and I hope, that I have been able to convince you of the need to address that issue.

Mr DIXON — Just a process question, and forgive my ignorance, on the drug testing of all parolees: is it all parolees that have to undertake that or only those who have offended because of drugs, or it was a drug offence?

Judge COUZENS — No, no.

Mr DIXON — All parolees?

Judge COUZENS — Yes, and especially those who are in that category of serious violent offenders. That is crucial, that testing.

Mr GEPP — Thank you, your Honour, for your evidence. I see that you say in your submission that the legislative amendment that you are seeking exists in many other jurisdictions.

Judge COUZENS — In other jurisdictions.

Mr GEPP — Any domestically, or is it —

Judge COUZENS — In terms of Australia?

Mr GEPP — Yes.

Judge COUZENS — Yes, and it exists in particular in those states where there is the capacity for courts to impose parole. In New South Wales, for example, where a sentence is three years or less the court can make an order for parole. Queensland is the same. Now, that is quite different to here; parole is exclusively the domain of the adult parole board, and if I may say so, that is the way it should be.

Sentencing judges, as wise as they are, do not have a mortgage on foresight. They cannot predict with certainty — nor can the parole board, quite frankly — but judges, in particular at the time of sentencing, cannot predict with accuracy what is likely to be needed at the time of release.

When the board is considering a parole hearing we not only have the benefit of the past in terms of sentencing remarks, criminal history and all those reports that come out through offender behaviour programs, we also have a largely contemporaneous parole suitability assessment which comes from Corrections and is drawn up by a parole officer, which details the history, the way in which a prisoner has coped within the prison system and what — and this is very important — is in mind for that prisoner as far as accommodation and pro-social supports. A judge, no matter how wise, cannot have that, because there can be two or three or four years before the release occurs; nor can a judge predict with accuracy how a prisoner is going to behave in prison. Is that prisoner going to engage in drug use? Is that prisoner going to engage in violent behaviour? Sadly that often occurs, and when it does occur and it occurs close to the release date, the board will be informed of that behaviour and the board will, at the very least, postpone consideration of parole. We do that frequently. But a judge of course has signed off on the sentencing remarks and cannot do it. So in states where courts can impose parole, corrections officers, management of corrections, have the power to suspend parole where those sorts of things happened.

Mr GEPP — Just so that I am clear: what you are asking us to do is provide that legislative amendment so that where somebody on parole uses drugs, tests positive, has not reoffended and then goes back to the parole board — am I clear about this? — they are sent back to prison.

Judge COUZENS — Yes.

Mr GEPP — You are suggesting Ravenhall. They enter into programs and then the parole is revisited.

Judge COUZENS — Exactly. And throughout that process it will be vital that Corrections continue to be engaged with that person so that throughout that period of suspension the parole officer or a substitute within

the prison system can continue to monitor the progress of that prisoner in terms of compliance with behaviours and compliance with any treatment program. We would envisage speaking with the parolee who comes before the board to tell them what we have in mind as the last step before cancellation and seek their willingness to undertake programs aimed at addressing their issues.

Mr GEPP — But if they were refused, Your Honour, is that parole cancelled?

Judge COUZENS — It would almost automatically be cancelled if it is has got to that stage. We have gone through cautions, we have gone through warnings, we have gone through further mitigating risk by imposing further conditions. If they continue to cease to refrain from drug use, we may have — I would never say 'must always' — no alternative but to cancel, and it would be put very clearly in that scope.

The CHAIR — And would it be the parole board that sets the time of the suspension?

Judge COUZENS — On advice. We would start off. We would receive a report from Corrections — the parole officer in particular — informing us of their concerns and the problems that that parolee has presented with.

Mr GEPP — Can I pose a question here? I am on parole: I am out there, I am working and I have had a relapse in terms of I have used crystal meth. But I might have only failed one drug test. What is that going to do to me if I have tested positive and then I am reincarcerated?

Judge COUZENS — No, you will not be.

Mr GEPP — Right, okay. I just want to be clear about —

Judge COUZENS — Can I just say I am really glad you asked that question. There is a lot of scuttlebutt within the prison system — bushfires, if you like. Judges up until recently have often been told by counsel during the course of pleas, 'Don't set a non-parole period. My instructions are that my client will only need to produce one positive drug test and he'll be cancelled'. It is completely false. Can I put it this way: in the immediate aftermath of the Jill Meagher case risk adversity grew exponentially, and I cannot tell you that one positive test to ice would not have led to cancellation. But that does not happen now, and it has not happened ever since I have been on the board.

That understandable level of risk adversity has to some extent moderated so that the scenario that you have painted, Mr Gepp, would not lead to cancellation — quite the opposite. If the person were referred to us by corrections, who had, for example, decided not to impose a warning or a caution but wanted us, the board, to see, I know any board that I chair would be extremely complimentary of that person's progress on parole. Employment is vital to rehabilitation in youth justice, just as education is to young people — absolutely crucial. At the very least we start perhaps to have a discussion, see what we thought about that person — what is the reason?

Often drug use is a palliative if you have lost everything, if you are driven into despair. I always remember this from my days dealing with young people. So many of these people have extremely disadvantaged backgrounds. Only 5 per cent of the adult prison population — males — have finished their secondary schooling. Fifty per cent are unemployed at the time of index offending. As the Ombudsman reported, most prisoners come from a small number of postcodes.

Ms PATTEN — Yes, five or six postcodes.

Judge COUZENS — All of them economically and socially disadvantaged. We cannot lose hope. The criminal justice system: that is a word that is not used enough. You must have hope, particularly when they are young — and, as I said, I regard 30-year-olds, 35-year-olds now as young. We must, otherwise we consign them to a life of disadvantage and highly likely recidivism.

Ms PATTEN — Can I just jump in? We have obviously had lots of submissions saying that drug use should be treated as a health issue and that criminalising someone for using drugs does not do anyone any good. But in the parole system we set that position up — that in fact it is far more criminal for a parolee to use drugs when also they are on parole. We have restricted their ability to gain employment. They may have lost contact with their families. Just by incarcerating them we have set the bar a lot higher for them to achieve so much more. Is it absolutely crucial that parolees maintain abstinence?

Judge COUZENS — As I said in response to Mr Gepp, in this case this man was not cancelled, and yet he had three positives to crystal methamphetamine. Why was he not cancelled? Because the risk of his reoffending in the relatively short time that he had remaining on his parole was minimal. Can I just remind you of this: with the greatest respect, whilst people are on parole they are still serving their sentence. I heard you the other day on Neil Mitchell, I might say, talking about Portugal and decriminalisation. I was very interested to read this. This is not an area that the parole board has anything to do with. In terms of drugs and the relevance to us, it is because of the involvement of illicit substances in the lead-up to and the occasion of the criminal offending — the fact that they are re-engaged in drug use while serving their sentence and the risks that that poses to re-offending. That is our concern. That is our statutory concern because our paramount consideration is the safety and protection of the community, so many of whom have been badly affected by ice-fuelled offenders. I can tell you that very few of those soft-target armed robberies — 7-Elevens, petrol stations — are committed by people who are not using ice. I read the sentencing remarks; I cannot remember one which does not involve that type of behaviour. Yet we cannot lose hope.

I have often said one has to have the discipline of an abstemious sergeant major to strictly comply. It is difficult, but it is better for him to be in the community because he is a fine young man. You see he potentially is a candidate. If he were to lapse, if there were to be a breakdown in his family, if he were to have a relationship that broke down, if he were to find difficulties in getting employment because he has a CRIM number — we are hearing this all the time — he may be thrust back into despair. He may try and get relief through drug use. It would be terrible if he went back into prison for two years without having at least the opportunity of receiving further assistance to deal with that underlying issue.

Mr GEPP — Very briefly I have one final question. It relates to evidence, and I did not get to go to Portugal and others, so some of these issues may well have been covered over there. A couple of weeks ago at a hearing we received some evidence about needle exchange programs in the prison system. I was just wondering whether, Your Honour, you have any views about whether or not the —

Judge COUZENS — Within?

Mr GEPP — Yes, within the prison system.

Judge COUZENS — I would rather not comment on that, if I may. That is an issue for corrections, which — it might provide you with some comfort — is exceptionally well led. Jan Shuard is an outstanding commissioner. She is very well assisted with her hierarchy — Brendan Money, Rod Wise, Larissa Strong. They are excellent. Can I just mention this? Because it is never really publicly acknowledged. One of the

recommendations — one of the many — was the establishment of a specialist stream of parole officers. That has been done. It has been enormously successful — engagement with prisoners before their release. It is a fantastic idea — developing a rapport and understanding and then close monitoring, without being deflected into community corrections situations. It must always be maintained. Although the numbers are down, I am always frantically worried that there will be a challenge to that — 'Why don't they do other work?'. But they are doing an outstanding job, and that is one of the reasons why the system is working so well.

With that, I thank you very much. It has been lovely to see you, and thank you for listening to me.

The CHAIR — Indeed. Thank you for your contribution. You have led us through that very well indeed.

Witnesses withdrew.