



Secretary

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Dear Mr Doolan

**Re: Inquest into the death of Mr Barry Gray (COR 2013 2134)**

Thank you for your letter of 17 December 2021 concerning Coroner English's recommendations to the Department of Health and the Office of the Chief Psychiatrist (OCP) in relation to the death of Barry Gray.

I was saddened to read of this tragic situation, and I am committed to implementing the Coroner's recommendations.

The Coroner recommended that:

***The Department of Health should consider increasing its allocation of funding for Forensic Clinical Specialist roles attached to Area Mental Health Services, and training packages available to Area Mental Health Service clinicians to promote expertise in working with patients transitioning out of a forensic setting, including optimal ways to engage such patients in voluntary treatment.***

*The Coroner's recommendation will be implemented.*

The Forensic Clinical Specialist Program (FCSP) is part of a suite of community-based programs for people living with mental illness who have offended or are at high risk of offending. The FCSP received funding of \$1.72m from the 2009-10 Victorian State Budget and commenced in 2010, the funding enabling the engagement of six to eight forensic clinical specialists. Funding for the program increased to \$2.25m in the 2016-17 Budget, which enabled the statewide expansion of the program. There are currently 23 Forensic Clinical Specialists across metropolitan and rural Area Mental Health Services (AMHS), providing statewide specialist clinical, training and service development functions. The program's funding has been progressively increased, with a current statewide budget of \$3.96m in 2021-22.

The FCSP is centrally coordinated by Forensicare, through a dedicated senior staff member employed in the role of FCSP coordinator. The FCSP coordinator provides supervision, education, and training to Forensic Clinical Specialist staff, as well as secondary consultation for specific consumers as needed.

The Royal Commission into Victoria's Mental Health System (RCVMHS) recommended improving the forensic capacity of the Area Mental Health and Wellbeing Services by expanding existing programs and creating a new service that focuses on consumers who act in threatening or violent ways. The RCVMHS also recommended that the FCSP be expanded with extra funding to increase the workforce across AMHS. I am pleased that the new specialist behaviour response team will provide the forensic clinical specialists with support from Forensicare, increasing their capacity to work directly with consumers with complex needs.

***The Office of the Chief Psychiatrist should coordinate a forum with Corrections Victoria, Justice Health and Forensicare to review current discharge processes to ensure the timely communication of critical information about discharge plans for a prisoner with a serious mental illness who is being released to the community and includes:***

- (a) For the receiving Area Mental Health Service, details of any Community Corrections Orders entailing assessment for treatment of mental health; and***
- (b) For Community Correctional Services and its case managers, a system for notifying the Community Correctional Services of a mental health service or practitioner to whom the prisoner has been referred as part of any Forensicare Discharge Plan.***

*The Coroner's recommendation will be implemented, noting the legislative changes required to fully implement the recommendation are pending.*

The RCVMHS recognised a gap in which the Chief Psychiatrist is unable to maintain effective oversight across the correctional system. In Volume 4 of the final report (p.277) it is noted that:

*"...one adjustment should be considered as an immediate priority. As noted above, there is a gap in the current oversight arrangements for delivering mental health services in the correctional system. The Chief Psychiatrist does not currently exercise powers under the Mental Health Act in relation to prison based mental health services. This gap should be dealt with as part of the Commission's first wave of legislative reforms so that mental health service provision in correctional settings is subject to the Chief Psychiatrist's standards, oversight, monitoring and public reporting."*

The new Mental Health and Wellbeing Act (MHWA) will address this gap in oversight by designating that mental health service provision in correctional settings will be subject to the oversight of the Chief Psychiatrist. This will include monitoring of the quality, safety and clinical governance of mental health services delivered within the criminal justice system. It will also allow for improved links between the mental health and criminal justice systems when consumers transition between these areas.

The RCVMHS also acknowledged the need to improve information sharing between health services in prisons and community and mental health and wellbeing services when someone is released from prison. This will require prisoner mental health information to be shared as part of the new

custodial mental health oversight arrangement. The Royal Commission acknowledged this will require new legislation.

The Chief Psychiatrist supports information sharing with a consumer's consent, and without consent when there is significant risk to the individual and/or others and information sharing could reduce that risk. The OCP frequently provides guidance to AMHS when this risk has been identified and it is unclear about whether to share information and with whom.

Preparation for implementation of the expanded jurisdiction of the Chief Psychiatrist into custodial settings has already commenced, with the OCP working closely with the Department of Justice and Community Safety, Forensicare and AMHS to clarify the likely scope of these changes once legislation commences in mid-2023.

Formal governance arrangements are being established across the Department of Health and the Department of Justice and Community Safety, Forensicare and AMHS to support implementation of the RCVMHS recommendations. The specific issue of transition of mental health care for consumers between the criminal justice and community mental health systems, including consumers' consent to release information to other care providers, will be addressed once these governance arrangements are established. This is anticipated to include the development of specific agreements and processes, including in relation to data sharing.

This work will be undertaken alongside the implementation of a range of recommendations relating to the mental health and forensic interface, including recommendation 37: *Supporting the mental health and wellbeing of people in contact with, or at risk of coming into contact with, the criminal and youth justice systems.*

*"... establish a program for people in prison living with mental illness who require ongoing intensive treatment, care and support to transition the delivery of supports from correctional settings to the mainstream mental health and wellbeing system upon their release."*

In addition, there are a number of existing fora in which the OCP consults with Corrections Victoria, Youth Justice, and Forensicare regarding individual consumers and multiagency interface systems issues. It is anticipated that these discussions will expand and become more formalised in the light of RCVMHS recommendations and the proposed expanded scope of oversight by the Chief Psychiatrist in the MHWA.

I hope this has provided reassurance that the intent of the coronial recommendations above will be addressed. Please contact the Office of the Chief Psychiatrist on 9096 7571 or via email at [ocp@health.vic.gov.au](mailto:ocp@health.vic.gov.au) for further information and clarification.

Yours sincerely



**Professor Euan M Wallace AM**  
Secretary