

On the Fourteenth of July 1985 our daughter Lisa-Marie was murdered in an act of appalling family violence, by her husband Elliot Max Maguire, who in a frenzied attack stabbed her twenty one times with a large kitchen knife.

Lisa-Marie had been married to Maguire for a year, he was a close friend of my eldest son, and had visited our home many times. During the period of her marriage Lisa-Marie had become very unhappy and had returned home on several occasions, she would not give us details of the problems except to say Maguire was not acting very well towards her.

She returned home in late June 1985 and told Maguire she would not be returning to him and it appeared he had accepted the situation.

On Saturday July the 13th he rang Lisa-Marie and told her he had been injured in a football accident. and asked her to return to their apartment to help him. Unfortunately she agreed to stay overnight to make sure he was OK, but by the morning she was dead brutally murdered by him.

The ensuing emotional and psychological effect at the news of Lisa-Mare's death was devastating to the family, and continues to affect us, the memory of the loss of our beloved, gentle daughter and sister and the awful manner of her death continues to haunt us to this day causing depression and other mental health issues.

In the aftermath of her death I was faced with her identification, and then her funeral a truly traumatic experience for my family.

Maguire's trial was the following year which my wife and I attended so that Lisa-Marie would be remembered as a loving daughter, and not just another victim.

I was called as a witness and cross examined by Maguire's QC who was part of Maguire's legal team of QC, and two other solicitors. one from Legal Aid. I was questioned by the QC whose intent was to show that I and my family were to blame in part for Maguire's actions because we had not accepted Maguire into our family, which was absolute rubbish.

We were also subjected to Maguire's unsworn statement in which he made untrue and filthy statements about my daughter's character, so false were these statements that the trial judge commented on them and that they indicated a lack of remorse for his actions.

Maguire was found guilty by the jury taking less than an hour to arrive at the decision.

At his sentencing he received twelve and a half years with a minimum of ten and a half years, the first person to be sentenced in Victoria under the new Act of having to serve the full minimum with no remissions.

I wrote to the DPP as I was unhappy with the sentence which I consider was inadequate for such a brutal crime. I received a reply which is attached to this submission which had the intent to explain that family Violence offences did not warrant the same sentences as a more serious range of murder types this was my first contact with the Judicial System in this State at that time.

My next contact with the System was after I requested Maguire's release date, this was given to me with a paragraph advising me the Maguire had been on temporary leave since late 1992 on the Community Custodial Permit Program CCPP.

On contacting the Correctional Services Division responsible for the control of the CCPP, I was told that Maguire had in fact been allowed unsupervised leave on weekends.

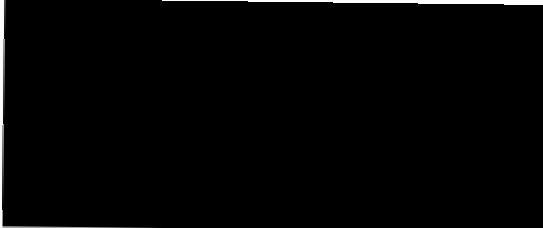
In response to my written inquiry I was given the information about the scheme, which is in the attached correspondence. I sought an interview with the manager of the CCPP scheme M/s Debbie King, and explained to her my concerns, that it was possible that I and other members of my family could in our suburb be faced with a confrontation with Maguire with catastrophic results and that I was outraged that this situation could occur.

My correspondence with this department is attached but I have to say that I was virtually given a lecture on the prisoner's rights, and was given little information about the rights provided to victims and their families.

In fairness I should point out in later correspondence with the CCPP Department special conditions were imposed on Maguire to minimise any contact with him by my family.

In closing I have attached correspondence that highlights the lack of consideration that victims must endure from the Judicial System. The correspondence from the Parole Board and from the Policies and Executive Services Branch clearly indicate that justice was not served in my daughter's case, and has left us with a sense of outrage, anger and grief since Lisa-Marie's death, in what is to us a flawed Judicial System.

Signed: Del and Veronica St Clair





DIRECTOR OF PUBLIC PROSECUTIONS
VICTORIA

JOHN COLDREY Q.C.

1st Floor
Old Mint Building
280 William Street
Melbourne 3000
Telephone: 67 8804

October 20, 1986

Mr. Del St.Clair,
[REDACTED]

Dear Mr. St.Clair,

R v Elliot Max Maguire

On the 29th August, 1986 the Acting Director of Public Prosecutions, Mr. Len Flanagan, Q.C. acknowledged receipt of your letter in which you expressed concern at the sentence received by Elliot Max Maguire. Mr. Flanagan indicated that he would fully examine the matter. I have also had occasion to consider the issues raised by you.

In examining cases such as this one I cannot help but feel the frailty of the criminal law as an instrument able to reflect both the sense of sadness and of outrage at the tragic death of a loved one. Indeed, it would be understandable if you felt that no sentence would adequately compensate for the loss you and your family have suffered.

I understand that the Crown Prosecutor, Mr. Michael Hugh-Jones, has explained to you that any appeal against a sentence imposed by a Judge must be considered in accordance with legal principles which have been laid down by the Full Court of the Supreme Court of Victoria. These principles include the proposition that for any particular offence (and this must include murder) there is a range of penalties which may be imposed. Not only will the penalties vary depending upon the circumstances of each case but there will also be some variations dependent upon which particular Judge passes sentence. Consequently, when a Court of Appeal considers the adequacy of sentences, such Court examines the factual and mitigating circumstances of the offence and decides whether the particular sentence falls within the range of appropriate sentences for such a crime. It is fair to say that an Appellate Court will not interfere with the sentencing discretion of a Judge unless that Judge was manifestly in error and the penalty imposed was clearly outside the range.

In the present case the Judge, Mr. Justice Brooking (who is a senior and most experienced Supreme Court Judge) approached his task by obtaining information as to the average sentence served by convicted murderers. That average had varied in the last 20 years between 13 years 5 months and 13 years 11 months. Because it was an average, it follows that a number of persons

- 2 -

convicted of murder served sentences longer than that period whilst a considerable number had served periods of lesser duration. One would expect that the spectrum of sentences would involve, at the more serious end contract killings, killings involving cold blooded pre-meditation and killings involving sexual indignities and torture. At the other end of the scale would fall killings that were impulsive, involving a spontaneous loss of control. Furthermore, indetermining an appropriate sentence a Court would take into account any relevant prior convictions a convicted person may have.

In arriving at the sentence imposed, Mr. Justice Brooking accepted that, at the time of the offence, Maguire had completely lost control of himself and was in a very disturbed state. No doubt he took into account his subsequent attempt to commit suicide and his need of psychiatric treatment. Further, His Honour was obliged to give weight to the fact that Maguire, having no prior convictions, was to be regarded as a man of previous good character.

On the other hand His Honour commented adversely upon Maguire's unwarranted attacks on your daughter's reputation and was well aware that it was the very decency and kindness of your daughter that lead to her death.

The process of sentencing is an extremely difficult one. A Judge is faced with the complex task of taking into account and appropriately reflecting in his sentence elements of punishment, deterrence, and rehabilitation. This is what Mr. Justice Brooking has sought to do. From a legal perspective it cannot be said that the sentence imposed is outside the range of permissible sentences and hence may be characterised as manifestly inadequate which, as I indicated, is the test applied by the Appellate Court.

I appreciate that you personally disagree with His Honour's decision. All I can hope to do is explain to you the legal implications of the case. I hope I have been of some assistance.

I understand you wished to be advised if Mr. Maguire appealed. He has not.

Yours sincerely,



JOHN COLDREY

DEPARTMENT OF
JUSTICE
VICTORIA

CORRECTIONAL SERVICES DIVISION
FINANCE & ADMINISTRATION BRANCH

25 June 1993

Mr Del St. Clair


Dear Mr St.Clair,

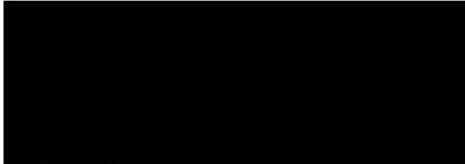
I write in response to your letter to Inspector Dainton at Frankston Police regarding Eliot Maguire. This matter was referred to me for action.

Under the Declaration of Rights of Victims of Crime I am able to advise you that the earliest release date of Mr Maguire is January 1996, when he becomes eligible for parole. *WAS NOT CRIMINAL*
Whether he is released on parole is a decision of the Adult Parole Board. For information *TO SERVE ANY PAROLE* concerning his possible release on parole you should write to the Executive officer of the Board at 353 Spencer Street Melbourne 3000. In the interim I have forwarded a copy of your letter to the Board for its information.

!!! I should also advise that Mr Maguire has been eligible for temporary leave from the prison, and in fact has received leaves, since late 1992 under the Community Custodial Permit Program (CCPP). If there is anything you consider that the CCPP Committee should be aware of you should write to the Secretary of the CCPP Committee at this address. !!!

Please write to me again if you have further concerns about this matter.

Yours sincerely


Joe Erftemeyer
Victim Information Manager

c.c. Executive Officer Adult Parole Board
Ref:je4777mg.ltr 92/124

DEPARTMENT OF
JUSTICE
VICTORIA

CORRECTIONAL SERVICES DIVISION

Mr Del St Clair
[REDACTED]

Dear Mr St Clair,

I refer to your facsimile of 5 July 1993 regarding Elliot Maguire's participation in the Custodial Community Permit Program.

You understandably express strong objection and concern to not being informed of Mr Maguire's participation in the above program. I sympathise with your position and regret that you were only informed of this after making inquiries about his release date.

However, experience shows that many victims of crime and their families do not wish to know of the pending release of the perpetrator of the crime, as their particular way of coping with the experience is to attempt to put it behind them. It is important that for these people their rights and wishes are respected and they are not given information which they do not want or know what to do with.


However, it is also recognised that there are victims of crime and their families, like yourself, who do wish to know when the offender is released from custody. Accordingly, there is a provision under the Declaration of Victim's Rights that allows information about release and participation in the Community Permit Program to be given to victims if they request it.

In relation to Mr Maguire's participation on the program, he is eligible for the program because he is a long term prisoner who is in the final third of his sentence. Correctional Services' policy is that prisoners should be given the opportunity to prepare themselves for constructive and non-offending participation in community life upon their release. The Custodial Community Permit Program is aimed at preparing long term prisoners for release by enabling the re-establishment of family ties and support networks and other activities which assist in the re-adjustment to community life. Mr Maguire's successful reintegration will largely be dependent on his success on the Custodial Community Permit Program.

The Custodial Community Permit Program is regularly monitored, by a Community Advisory Committee comprising representatives from the Police, VOCAL and prisoner support organisations. The Committee is chaired by The Hon. Walter Jona A.M.

I hope this has been of some assistance.

Yours sincerely,



DEBBIE KING
Manager, Program Development and Implementation



DEPARTMENT OF
JUSTICE
VICTORIA

CORRECTIONAL SERVICES DIVISION
PRISONS BRANCH

Mr Del St Clair
[REDACTED]

26 July 1993

Dear Mr St Clair,

I refer to your further letter of 15 July 1993 regarding Mr Maguire's participation in the Custodial Community Permit Program.

I understand your concern about a possible confrontation between Mr Maguire and your family whilst he is participating in the program. Accordingly, any further approval for permits will have a special condition attached that he not make contact with you or your family. Such a condition cannot prevent an accidental meeting from occurring, however, your concerns about a possible confrontation will be relayed to Mr Maguire. *no recognition of our rights*

As I indicated in my previous letter, the aim of the Custodial Community Permit program is to assist long term prisoners prepare for their successful reintegration back into society. Applications are approved on the basis that the activities proposed for permits are directly related to their rehabilitation needs. Correctional Services has a responsibility to ensure that offenders have access to services and programs that assist in their integration into the community. However, the needs of the community, in particular that of victims of crime, are also recognised and duly considered when approving participation in community based programs.

If you do experience any problems in relation to Mr Maguire whilst he is participating in the program, please do not hesitate to contact me on 698 6636.

Yours sincerely,
[REDACTED]

DEBBIE KING

Manager, Program Development and Implementation

CORRECTIONS - PROTECTING THE COMMUNITY AND REHABILITATING OFFENDERS

20 Albert Road, South Melbourne 3205 • DTS 2564 • Telephone (03) 698 6666 • Facsimile (03) 698 6643



DEPARTMENT OF
JUSTICE
VICTORIA

Mr Del St Clair


CORRECTIONAL SERVICES DIVISION
PRISONS BRANCH

Dear Mr St Clair,

I refer to your letter to the Attorney-General which has been forwarded to me by the Adult Parole Board for reply.

I have noted that you have previously written to Ms King, Chairperson of the Custodial Community Permit Program Committee and the Director of Correctional Services, Mr Van Groningen, regarding Eliot Maguire's participation in the Custodial Community Permit Program.

In your correspondence you have requested that Mr Maguire not be permitted to participate in the Custodial Community Permit Program because of fears that he may contact or confront you or your family whilst on a permit. You also express concern that he was allowed to participate in the Custodial Community Permit Program without your knowledge. In relation to the latter issue, there are many victims of crime and their families who do not wish to know when the perpetrator of the offence is released from prison, therefore we may be further victimising these people if we automatically provided them with this information.

The Custodial Community Permit Program Committee understands your concerns and is attempting to address them by imposing strict conditions on any future permits approved for Mr Maguire, in that, he is not to make contact with your family and he is not to enter the Hampton area whilst on the permit program. I understand that Ms King has suggested that you make a personal appointment with her if you wish to further discuss your concerns.

I recognise that you must feel that your families' rights are being disregarded in this matter by our allowing Mr Maguire to remain on the program. However, Correctional Services has a responsibility to protect the community by rehabilitating offenders so that they return to the community as law abiding citizens. The Custodial Community Permit Program provides the opportunity for prisoners to prepare themselves in a realistic and purposeful way for their release, so that they are better equipped to pursue non-offending lifestyles. I have enclosed a copy of the Director General's Rules on the Custodial Community Permit Program which may assist you to better understand the purpose and criteria of the program.

Yours sincerely,


JOHN GRIFFIN
General Manager, Prison Operations
Ref:ek16345

CORRECTIONS - PROTECTING THE COMMUNITY AND REHABILITATING OFFENDERS



DEPARTMENT OF
JUSTICE
VICTORIA

CORRECTIONAL SERVICES DIVISION
PRISONS BRANCH

Mr Del St Clair

Dear Mr St Clair,

Thank you for your letter of 18 August 1993 in relation to Elliot Maguire's participation on the Custodial Community Permit Program.

As indicated in Mr Van Groningen's letter to you of 9 August 1993, the Custodial Community Permit Program Committee has now imposed special conditions on all leaves it approves for Mr Maguire in the future. These are:

- 1) The prisoner is not to make contact with any of the victim's family,
- 2) The prisoner is not to enter the Hampton area whilst participating on the leave program.

In relation to your request to be informed on each occasion that Mr Maguire is released on leave, I would be happy to discuss this further with you. If you contact my office on 651 6631 we can arrange a convenient appointment time.

Yours sincerely,



DEBBIE KING

Manager, Program Development and Implementation

**CORRECTIONAL SERVICES DIVISION
PRISONS BRANCH**

9 AUG 1993

Mr Del St Clair


Dear Mr St Clair,

I refer to your letter dated 29 July 1993 regarding the participation of Mr Elliot Maguire on the Custodial Community Permit Program.

In relation to Mr Maguire's eligibility for the Custodial Community Permit Program, all prisoners serving a sentence of three years or more may apply for a Custodial Community Permit in the final third of their sentences. Mr Maguire has a maximum sentence of 12 years 6 months with a minimum term of 10 years 6 months at which time he will become eligible for parole. He entered the final third of his sentence on 17 August 1992 and has participated in the program since December 1992.

In response to your concerns about you or your family meeting up with Mr Maguire whilst he is participating on the program, the Custodial Community Permit Committee have arranged to interview Mr Maguire in a few weeks time at which time your concerns will be raised with him. Any further permits will have a special condition imposed that he not attempt to make contact with you or your family and his general movements will also be restricted.

I understand the concerns you have raised, and we are attempting to address them. However, Correctional Services also has a responsibility to assist prisoners to adopt law-abiding lifestyles by providing them with opportunities for rehabilitation, such as through the Custodial Community Permit Program.

I hope this has been of some assistance.

Yours sincerely,
**JOHN VAN GRONINGEN**
Director, Correctional Services

Ref: 86/1932 ek



DEPARTMENT OF
JUSTICE
VICTORIA

CORRECTIONAL SERVICES DIVISION

20 Albert Road, South Melbourne 3205
Tel: (03) 698 6666 Fax: (03) 698 6643
DTS 2564 * DX 21

19 July 1994

Mr Del St Clair
[REDACTED]

Dear Mr St Clair

I refer to your correspondence dated 13 July 1994, in which you request information about the participation of Elliot Maxwell Maquire in the Custodial Community Permit Programme.

As I have indicated to you previously, Mr Maquire was allowed to rejoin the abovementioned programme, albeit with considerable restrictions. However, recently Mr Patrick McNamara, Minister for Corrections, has reconsidered the eligibility criteria for the Custodial Community Permit Programme for rehabilitation/reintegration purposes.

Mr McNamara has now directed that only prisoners who are;

- Minimum security rated;
- Serving 3 years or more in custody; and are
- in the final 12 months of their sentence (calculated on the parole eligibility date or effective sentence date, whichever is applicable),

will be eligible to participate in the programme for rehabilitation or reintegration purposes.

This directive has resulted in Mr Maquire being removed from the Custodial Community Permit Programme until at least mid January, 1995.

Should you wish to discuss this matter in greater detail, please do not hesitate to contact me.

Yours sincerely
[REDACTED]

[Signature]
Kelvin Anderson
A/Superintendent of Classification

REF: KA77BG



Our Ref:

Contact
for further
information

ADULT PAROLE BOARD
VICTORIA

353 Spencer Street
Melbourne
Victoria, 3000.
Telephone (03) 321 4333
Fax (03) 321 4313
DTS 0667

Please address all correspondence to:
The Secretary

7 February 1995.

Mr Del St. Clair



Dear Mr St. Clair,

I refer to your correspondence of 20 October 1994, in which you expressed concern about the possible release of Mr Elliot Maguire from prison on parole and prior to the expiration of his sentence. I apologise for the delay in responding to your letter, the contents of which were discussed by the Adult Parole Board at its meeting of 18 January 1995.

Briefly expressed, the position is simply that the Adult Parole Board has no jurisdiction whatever in this case and the release of Mr Maguire will occur not as a result of any Order which it makes but by operation of law. In order that you may understand the situation, some explanation of the legal framework surrounding the sentence of this offender is required.

In May 1986, amendments to the *Crimes Act 1958* and the *Penalties and Sentences Act 1985* removed the then mandatory sentence of imprisonment for the term of natural life, following a conviction for murder, and gave to the Supreme Court the ability to impose maximum/minimum type sentences for this crime, and also stated that the "... person must not be released from prison before the expiration of the minimum term".

Unfortunately, due to a Parliamentary oversight, the legislation which introduced this change made no reference to the sentence (or maximum) imposed by the Court and accordingly, save to the extent mentioned above, existing legislation relating to the effect of remissions on sentences generally remained applicable to such sentences.

2.

The effect of this oversight was to create a serious anomaly in the law, as the sentence imposed upon Mr Maguire demonstrates. Whilst he is required to serve the minimum term imposed in its entirety, he is nevertheless able to claim the remissions which remained available to him.

As you are aware, Mr Maguire was sentenced, in August 1986, to 12 years 6 months imprisonment, with a minimum term of 10 years 6 months to be served before becoming eligible for parole. He was, therefore, required to serve this minimum term from the date of sentencing, less the time spent in custody awaiting trial (approximately 13½ months). That term will be satisfied on 15 January 1996, however, the remissions he has earned whilst in custody will have reduced the maximum term sufficiently so that the sentence will also be satisfied. As earlier indicated, the Board therefore has no jurisdiction in this case and Mr Maguire will be discharged from prison on this date, having completed the sentence in its entirety.

In May 1987, further legislative amendments resolved the anomaly for future cases by stating that the sentences for persons convicted of murder, and any minimum terms imposed on these sentences, are not to be reduced by remission. However, no attempt was made by Parliament to address the position with respect to those who had been sentenced in the interim.

The Board has discussed this matter with Mr Maguire, who has expressed concern about being released without the assistance provided by parole and has indicated a desire to avail himself of the support and reintegration programmes which parole would ordinarily provide. Whilst Mr Maguire will not be under the Board's jurisdiction, naturally the Board is concerned to do what it can to facilitate the reintegration of this prisoner into a law abiding lifestyle, not only for his benefit but also for that of the community. Accordingly, it has undertaken to provide post-release support and programmes on a voluntary basis.

Should you have any queries concerning this matter, or desire to have the situation more fully explained, please do not hesitate to contact me on the above number. Mr Justice Vincent has authorised me to tell you that he understands your position and that if you would like him to explain the situation to you personally, an appointment can be arranged.

Yours sincerely,



Des Slater
Secretary

DS555LTR



DEPARTMENT OF
JUSTICE
VICTORIA

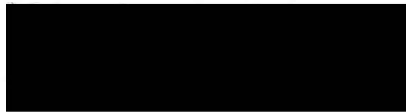
POLICY & EXECUTIVE SERVICES BRANCH

Level 20, 200 Queen Street, Melbourne 3000
PO Box 4356QQ, Melbourne, Victoria 3001
Tel: (03) 603 6777 Fax: (03) 670 0097

Our Ref: jac

13 July, 1995

Mr Del St Clair



Dear Mr St Clair

Thank you for the copies of documents you sent to me after our conversation. As I indicated I have looked at the basis on which you were advised by the Adult Parole Board and the Correctional Services Division that Mr Maguire would be released on parole.

The information that Mr Maguire would become eligible to be released on parole was provided to you before either Correctional Services Division or the Adult Parole Board became aware that the situation applying to Mr Maguire was different to the circumstances applying to most prisoners. This did not affect in any way the sentence being served by Mr Maguire as he is still serving his minimum sentence. In responding to you, Correctional Services Division and the Adult Parole Board relied on the prisoner database system which was not capable of taking into account the particularities of the sentence applying to Mr Maguire's conviction.

As you are aware, Mr Maguire was sentenced to twelve and a half years imprisonment and a minimum term of ten and a half years was fixed. At the time, prisoners were entitled to remission on sentences. The general effect of the application of remission was to reduce the term of imprisonment, and the minimum term when fixed, by up to one third. The legislation passed just prior to Mr Maguire's conviction enabled the Court to specify that Mr Maguire's minimum term could not be reduced by remission and, therefore, he could not be released from prison before the expiry of the minimum term. However, the remission still applied to the maximum term of twelve and a half years, which would thereby be reduced to some eight years and four months. The maximum term would therefore be absorbed/satisfied during the period of the minimum term of ten year six months he was required to serve in prison.

Once the period of a sentence is satisfied the Adult Parole Board has no role and the prisoner in this case when released from custody is not liable to a period of parole.

2.

Mr Maguire's case was relatively unusual in that the minimum term set by the Judge exceeded the maximum term when the latter was reduced by remission. In other situations, the difference between the two terms as set by the Court is greater, which means that once the maximum term is reduced by remissions, it still exceeds the minimum term. In such situations the minimum term would be served and parole would be considered for the period in between the minimum term and the reduced maximum term. This did not happen in Mr Maguire's case and was the aspect of his situation that is unusual.

I hope this information clarifies the doubt in your mind about Mr Maguire's situation. Please call me if you need further information. If your query relates to matters handled by the Adult Parole Board, you may wish to contact instead Mr Dick Lucas on 321 4301.

Yours sincerely,


JENNIFER CHAMBERLIN

Manager
Executive Services