

# Media Release

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8 July 2024

## ODPP Statement in relation to media reports on 7 and 8 July\*

\* Due to the operation of section 15A of the *Children (Criminal Proceedings) Act 1987*, the ODPP has not named the family involved.

In response to recent media reports published by the ABC and Channel 7's Spotlight program, the Office of the Director of Public Prosecutions (ODPP) acknowledges the family's tragic loss and the horrific circumstances surrounding the death of their daughter.

Throughout our consultation with the family, the ODPP understood how difficult this criminal process was for them. Everyone at the ODPP is profoundly sorry for their loss and the circumstances surrounding it.

The Office had regular, ongoing contact with the family, answered their questions whenever possible and at every stage took their views into account.

The suggestion that the Crown sought to have the matter resolved urgently in July 2021 does not accurately reflect the consultation that occurred with the family at that time, noting that the matter was not listed in the Supreme Court until 15 November 2021.

By that time, the young person proven responsible for their daughter's death had been assessed twice by a psychiatrist at the request of the prosecution, and twice by a second psychiatrist at the request of the defence. Both psychiatrists considered that the young person had a mental health impairment at the time of the offending. The judge was satisfied that the evidence supported the reasoning of both psychiatrists. The judge consequently determined that the special verdict of "act proven but not criminally responsible", as provided by the legislation, was the appropriate outcome.

The different possible approaches and outcomes were discussed with the family before the Crown determined how to proceed.

The family told the ODPP they preferred to proceed with a special verdict, where the key issue for the court was whether the accused had a defence of mental health impairment available.

### Why a special verdict and not manslaughter?

If an accused person is sentenced for manslaughter on the basis of a substantial impairment due to mental illness, they serve a set non-parole period before their release into the community under monitoring.

For matters involving young offenders, sentencing principles include a focus on rehabilitation over other purposes of sentencing. The law also recognises that the younger a child is, the lower their moral culpability, which would further reduce the length of any sentence imposed.

When an accused is charged with murder, but their mental impairment leads the court to enter a special verdict of act proven but not criminally responsible, they are placed in the custody of the Mental Health Review Tribunal (MHRT) as a forensic patient until they are assessed as appropriate to release.

This involves consideration of a number of factors, including whether their release would endanger themselves or others. Similar considerations arise when the MHRT is considering day release. These are not decisions that involve the ODPP.

### **Release of sensitive material**

The Office has previously offered and continues to be willing to meet with the family to read the statement of agreed facts. They are welcome to be accompanied by a support person if they wish, with an ODPP Witness Assistance Service Officer available to support them.

This brief of evidence contains highly distressing and extremely sensitive evidence. It also contains evidence that is subject to statutory prohibitions against publication and material that was never tendered as evidence to the court. After close consideration of this matter, it was determined it was not in the public interest to release the brief.