

LAW REFORM, DRUGS AND CRIME PREVENTION COMMITTEE
**Inquiry into the supply and use of methamphetamines, particularly ice,
in Victoria**

Bendigo — 25 October 2013

Members

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Mr P. Noble, Coordinator and Lawyer, Loddon Campaspe Community Legal Centre.

The CHAIR — Welcome, Peter, to the joint parliamentary Law Reform, Drugs and Crime Prevention Committee. Thank you for making yourself available to present to this committee in relation to its inquiry into the supply and use of methamphetamines in Victoria, particularly ice. We understand that you are the coordinator and lawyer for the Loddon Campaspe Community Legal Centre. We look forward to hearing your submission.

I am going to read you the conditions around which you will be presenting to the inquiry. All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Parliamentary Committees Act 2003, the Defamation Act 2005 and, where applicable, the provisions of reciprocal legislation in other Australian states and territories. However, it is important that you note that any comments you make outside the hearing, including effective repetition of what you have said in evidence, may not be afforded such privilege. I understand you have received and read the guide for witnesses presenting evidence to parliamentary committees. It is also important to note that any action which seeks to impede or hinder a witness or threaten a witness for the evidence they would give or have given may constitute and be punishable as a contempt of Parliament. We are recording the evidence and will provide a proof version of the Hansard transcript at the earliest opportunity so that you can correct it as appropriate.

Peter, we have until 3.45 for this session. We are running a bit late, and I apologise for that. As you would have heard if you had sat through the previous evidence, whilst we do encourage people to give a small presentation, it is important for us to be able to ask questions in the session. We look forward to first hearing a brief presentation and then we will ask questions.

Mr NOBLE — Thank you very much for the opportunity to present again. I am Peter Noble. I am the coordinator of the Bendigo based Loddon Campaspe Community Legal Centre, which is one of approximately 51 community legal centres in the state, some of which are specialist and some generalist. Our particular centre operates between Gisborne and Echuca and roughly from Kyabram over to Boort and down to Maryborough. We also happen to administer the Goulburn Valley Community Legal Centre, operating between Seymour and Cobram and encompassing Shepparton. That service will be making a particular written submission to this inquiry, so I do not intend to labour things that they will go into more detail about, that are particularly peculiar to that area and that will be of particular interest to the member for Murray Valley.

I should also mention briefly that we are a member of the Federation of Community Legal Centres. It coordinates a coalition of organisations, some 23 in all, which comprise Smart Justice and includes members like VCOSS, the Salvation Army, Jesuit Social Services, Anglicare and the like. I intend to reference some material that they have produced this year regarding reducing drug related crime. If I could provide that to the committee, that would be of assistance.

Briefly, we are not Victoria Legal Aid and I would defer to them and other criminal practitioners on the criminal law impacts of methamphetamine use. Community legal centres are more akin to community health centres, just as Victoria Legal Aid, perhaps dealing with the more acute effects of crime, are akin to hospitals dealing with acute care needs in that environment. What I do not intend to do is bore the committee with general comments about the obvious damaging effects of ice or claim to have expertise on its health and social impacts or later points that will be made by the Goulburn Valley Community Legal Centre. Instead I will really flag issues that are of relevance to terms of reference 4, 5, 7 and 8.

Firstly in relation to term of reference 4, the links between methamphetamine — or ice, as I might refer to it — use and crime. As indicated in the Smart Justice report, really the key to reducing drug related crime is tackling its underlying factors that contribute to offending through increased investment and effective, tailored drug treatment and mental health programs as well as family support, housing, employment and education. The links between drugs and crime — obviously you can see that I am broadening my comments to drugs fairly quickly — are many. For example, people who are prosecuted for possessing drugs for personal use but are not otherwise involved in crime; people involved in drug dealing, trafficking, production or related offences; people who

commit crimes to support their habits; and people who use drugs and commit crimes but their activities are not causally related.

In the experience of our particular community legal centre, which, like most community legal centres, conducts only about 10 per cent of criminal law work, the areas of crime that we see related to methamphetamine use are typically matters that would either give rise to an application for an intervention order because they are family violence or similarly stalking offences or they constitute breaches of intervention orders. As I will come to in a moment, I think it is important to impress upon the committee that the legal effects of ice are not only in the criminal law context but impact on a range of civil law environments as well.

Mr SCHEFFER — Can I just get that right? I do not think I understood what you were saying. Were you saying that crime that is related to the use of methamphetamines is largely around intervention orders or breaches of intervention orders and stalking?

Mr NOBLE — Within the experience of our service, that is where we see the negative impact of methamphetamines: either offences that give rise to an application for an intervention order — so it might be an assault within a family environment — or a breach of intervention order, which is a crime in its own right.

Mr SCHEFFER — Just to get that clear, and I will be very brief, when the police talk about it being associated with burglaries, for example — and I would have got the impression from the evidence this morning that that was the big criminal issue relating to methamphetamines — does this fit into that?

Mr NOBLE — In my observation, that is correct. Yes, there is a big correlation between burglaries and methamphetamine use, but what I am communicating to the committee is that in our experience we see it in a number of other environments, including the family violence arena.

Term of reference 5 deals with the short and long term consequences of methamphetamine use. I wanted to expand upon the civil law impacts. In our experience these include the negative impacts of use on the cohesion of families, which leads to family breakdown; intervention orders; often the involvement of child protection authorities, which in its own right is a whole legal course; parenting issues, be they heard in the federal jurisdiction or in local magistrates courts; housing instability, which leads to rent arrears, damage to property or evictions from properties; credit and debt issues; and utilities disputes and fines. All those issues are core business of community legal centres. While legal aid authorities principally deal with crime and police deal principally with crime, these are the types of legal issues that we see that relate to drug use, and that includes methamphetamine use.

If I can give some examples. On numerous occasions we have assisted grandparents who have been left as kinship carers to pick up the pieces and look after kids who have been removed by child protection authorities, and quite often they are prioritised for that role. In a number of those matters the parents of the children who have been removed have drug issues, and in those methamphetamines are quite common. That has obviously contributed to the need for child protection to intervene to ensure the welfare of the children.

In another matter that I recently found myself in I was assisting a male who was seeking protection through an intervention order following the breakdown of his relationship with his female partner who had a methamphetamine addiction. He was at his wits end and fled to Bendigo, seizing her implements of use to try to arrest that use and to seek the protection of the police. That particular case also had a history of child protection intervention because of the drug use by the mother.

There are numerous intervention order matters where ice has been a present factor. The extent to which it is a causative or correlative factor, I could not say, but we can say that with a fair degree of regularity ice is present. However, I should say that the more common drug in those sorts of situations is alcohol abuse. That is the key inflammatory, I suppose you could say, or accelerant to those family violence matters.

Another example of a legal issue that we saw recently was for a young man, probably in his early 20s, who was undergoing drug detox in Bendigo, having travelled quite a few hours from a rural location for that purpose. His support worker identified that he had considerable debts through a personal loan to a bank and also unpaid court fines and infringements, all of which met him upon release from the detox and would have required a considerable amount of work to turn around. I think it is fair to say that through the course of becoming addicted, when drug use becomes out of control so too do those sorts of issues become out of control. There is a loss of capacity to deal effectively with the normal day to day demands of life, including keeping track of utilities, phone bills, personal loans, credit contracts and the like.

Next I will turn to term of reference 7, the adequacy of strategies to deal with methamphetamine use. Again I will be expanding to drugs more generally. Again, the Smart Justice report makes a number of comments in relation to existing strategies, be that a zero tolerance approach through policing or imprisonment to deal with those things. But what I should say is that the comments of the Smart Justice report are presently amplified in the context of pressure on correctional beds, police cells, community correctional staff, the parole board, supervision order systems and courts and their staff. I think what we have seen through recent media, most recently from the magistrate of Victoria's Drug Court calling for specialised drug treatment prisons, is the concern with which this is held by the magistracy, which recognises, for example, that in new data from the Victorian Coroners Court 120 prisoners have overdosed or died within months of being released from jail, indicating perhaps some of the ineffective approaches to drug treatment within that environment.

Further to the adequacy of strategies to deal with drug use, we have seen the growth of a number of specialist jurisdictions or courts. They include Collingwood's Neighbourhood Justice Centre; the Drug Court, which Tony Parsons is the presiding magistrate of; the courts integrated services program; and the CREDIT bail program. Each of those tries to provide more intensive support to people who are experiencing these types of issues. Do we have those sorts of courts in Bendigo? No. We have a Koori Court in Swan Hill and Mildura. There is a Koori Court in Shepparton, both in the adult and now the juvenile division, thanks to the recent launch the other day by Victoria's Attorney General, but as to the presence of those other problem solving jurisdictions and funding for them, no, we do not.

That is an issue that was raised in the 2010 Victorian parliamentary inquiry into the extent and nature of disadvantage and inequality in rural and regional Victoria. In that inquiry Richard Coverdale of Deakin University spoke to the unique problem of postcode justice in Victoria, leading to a two tiered justice system where you can expect quite different approaches by Victorian courts and magistrates because of the sentencing and support options available to them in those locations. People in those environments will get different outcomes and probably have different success in terms of addressing their drug use and their social issues just because of where they live.

Of particular concern to our service, the Federation of Community Legal Centres and the Smart Justice coalition is that not since 2005 have evaluations of those specialist jurisdictions been released publicly. We are unsure what the reason for that is. We think that the early indications of evaluations were extremely positive to show that they have merit, albeit that they are expensive jurisdictions to operate and therefore a difficult decision for any government to implement more broadly. However, we do not feel there is any justification for not releasing those evaluations publicly.

I should also return to the 2010 inquiry, which had as recommendation 7(p) that the state government examine and respond to concerns regarding the two tiered justice system in Victoria, or the effects of postcode justice, as it was labelled, and I commend that recommendation again to this committee.

In terms of term of reference 8 and the best strategies to address methamphetamine use and crime, including regulatory, law enforcement, education and treatment responses, again I commend the recommendations of the Smart Justice report to you and will not labour those by reading them. I again commend the benefits of therapeutic and problem solving courts that have been trialled in a number of locations in Victoria already and certainly nationally. I would also emphasise the need to understand the broader legal impacts, not just crime, in terms of legal issues encountered or

exacerbated, the impacts on legal service systems — for example, the debt and fine recovery process for infringements in Victoria — policing of family violence, the need for more child protection interventions and the need for more sophisticated legal assistance services for those disadvantaged and vulnerable Victorians immediately impacted by methamphetamine or other drug use.

Examples of those more integrated approaches can include the Neighbourhood Justice Centre in Collingwood, which brings together numerous social services, as well as legal service providers, including Victoria Legal Aid and the Fitzroy Legal Service. Another example is the drug outreach lawyers, which is a novel form of service delivery through the Fitzroy Legal Service and St Kilda Legal Service. The last is an emerging area of practice in Australia called Advocacy Health Alliances, that adopts a model of practice coming from the United States called medical legal partnership, which came out of the Boston Children's Hospital in the 90s. At that point, paediatrician Barry Zuckerman recognised that children and families were presenting with issues he could not deal with in terms of some sort of dose or prescription, and he saw the need to build a range of services around those particular individuals, including legal responses.

Just in the last week our service has begun a three year pilot at Bendigo Community Health Services within the child health invest team, focusing on kids — and their families — who are developmentally delayed. It is funded by the Clayton Utz Foundation, a private philanthropic organisation attached to one of Australia's largest law firms. It is seeking to implement a model of medical legal partnership, addressing those socio legal determinants of health that impact on the wellbeing of Australians. That particular program echoes three medical legal partnerships in the United States — in Chester, Pennsylvania; Washington, DC; and Compton, Los Angeles — where the legal program is located within Healthy Start programs that began under George Bush, Snr, to attack child infant mortality rates in the United States. At the particular time those services were first implemented crack cocaine was the major drug in those areas and contributed to child infant mortality. As of my trip last year to the United States to investigate this model, it had been replaced by methamphetamine as the leading drug in that environment.

I have spoken a lot and enough, and I am happy to answer any questions that might be helpful.

The CHAIR — Thanks very much, Peter, and thank you for responding to the clauses in the reference too.

Mr SCHEFFER — I think that was a fantastic presentation, if I can say. I do not think there is anything in there I would disagree with. But it seems to me that in a whole lot of ways the current is running the other way, in terms of the public debate, to a tough on crime agenda. Why do you think you are not winning the fight?

Mr NOBLE — I do not know if I would say I am not winning the fight, but we are not winning the fight.

Mr SCHEFFER — Why is the fight that is espoused in the Smart Justice document having the trouble it is having?

Mr NOBLE — I think there is a poor quality of debate. If you look to those areas where there is a more sophisticated debate occurring because people are more engaged with what the research shows, then you are getting a more sophisticated response. For example, the Sentencing Advisory Council has run a really innovative program to engage with the public about what appropriate sentences should be. It is called the You be the Judge program. Perhaps contrary to popular perception, once people who have participated in that have the full information regarding a person's background, they have imposed more lenient sentences on people than judges have, which indicates that if you can improve the quality of debate and you can understand what the contributing factors are and what some of the factors will be to change behaviour, then you will get a smarter response, not a 'lock 'em up' response, which by definition is simply going to be warehousing. The vast majority of these people are coming out. The vast majority of these offenders are not Adrian Bayley or others — they will be back on the streets. Unless you are giving them the environment in which to begin to address their behaviour, then it may make for

happier reading in terms of crime statistics or police responses, but fundamentally it will not change their conduct.

Mr SCHEFFER — To push you a little further on that, that case is compelling — what you have explained — but you did say it depends on the level of the quality of the debate.

Mr NOBLE — Yes.

Mr SCHEFFER — That level of the debate is a high level of debate and produces outcomes that have been demonstrated. But presumably from what you have said there are other quarters where there is a low level of debate?

Mr NOBLE — Yes.

Mr SCHEFFER — In your view why does that low level of debate seem to be commanding the current of policy direction across the country and in lots of parts of the world?

Mr NOBLE — I do not know if that is entirely true. I think we have seen some shifts in Australia, including in conservative areas, including New South Wales, with their trend towards justice reinvestment. This is where you have had governments recognising that they just cannot keep building more prisons and spending more money on these issues and that they have to be putting more money into the front end — into support options and diversion and so on.

We have also seen a number of leading advocates who have been the victims or secondary victims of significant crime who have said that. I can reference Sarah Cafferkey's mother not so long ago who was chiding a decision to fund appeals for perhaps marginal value of these offenders. Instead, she was saying, we should be putting our money into helping people who can be helped, not spending the justice dollar on fighting about those sorts of matters. I agree with that fully, but I think it shows in her an example of someone who is a secondary victim of a heinous crime who gets the need for reinvestment.

Mr McCURDY — Are the charges associated with your clients, the people you represent, more to do with use and possession or for crimes committed maybe as a result of drug use?

Mr NOBLE — As I said before, we do not do a large amount of crime. A point of distinction that is important for this committee, and perhaps particularly you, to understand is that the Goulburn Valley Community Legal Centre does do a higher proportion of criminal law related work. That is primarily because the principal solicitor there is Kaz Gurney, and she was formerly the lawyer at the Neighbourhood Justice Centre. This is a particular area of expertise and capacity for her in the environment. What I think you will find is a pretty grim picture in that environment of the extent of this problem.

Our practice is not to represent people on those sorts of crimes — possess and use or trafficking — because fundamentally that is what legal aid and duty lawyers are for in court. We come across these effects usually when representing victims of an assault in the first place — thus a crime by someone who is on methamphetamines — or where they have breached an intervention order, for example. That is where we would see the crime. It is not that we are defending the individual who has been using, but we might be assisting someone who has suffered the consequence of that.

Mr SCHEFFER — That is great.

The CHAIR — You have just covered off the question I was going to ask, so I think we are pretty well covered, thanks, Peter.

Mr NOBLE — All right. Thank you.

The CHAIR — Thank you again for a very good presentation that responded well to the reference itself. We look forward to getting your written submission, which I think you said you were putting in.

Mr NOBLE — Yes. Thank you.

Witness withdrew.