

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

**Melbourne — 17 February 2014**

Members

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Mr W. Muir, Chief Executive Officer, Victorian Aboriginal Legal Service.

Ms A. Vickery, Deputy Chief Executive Officer, Victorian Aboriginal Legal Service.

**The CHAIR** — I welcome Mr Wayne Muir, chief executive officer, and Ms Annette Vickery, deputy chief executive officer, of the Victorian Aboriginal Legal Service as witnesses this afternoon to the Victorian Parliament's inquiry into supply and use of methamphetamines, particularly ice, in Victoria. My role is to read you the conditions under which you are presenting evidence to this inquiry this afternoon. On behalf of the committee I would also like to pay our respects to the traditional custodians of the land we are meeting on today and to pay our respects to elders past and present.

Welcome to the public hearing of the Law Reform, Drugs and Crime Prevention Committee. 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. 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.

Have you received and read the guide for witnesses presenting to parliamentary committees?

**Mr MUIR** — Yes.

**The CHAIR** — 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 contempt of Parliament. We are recording the evidence and will provide a proof version of the Hansard transcript at the earliest opportunity, so you can correct it as appropriate. Wayne, are you going to make an introductory statement?

**Mr MUIR** — A very brief opening statement. Firstly, thank you for the opportunity to present before the committee today, and I would like to acknowledge the Chair and the other members of the committee and support staff. I too should acknowledge the elders past and present of the land that we gather on, particularly the members of the Kulin nations on which we gather today. I do so as a person who is an Aboriginal person of Yorta Yorta and Barkindji descent.

For those who are not aware, I will provide a little bit of background about the Victorian Aboriginal Legal Service. We were established in 1972 and formally incorporated in 1973, so we have been operating as an organisation for over 40 years. We provide referral and advice, information and legal representation to Aboriginal people in the areas of criminal, family and civil law. We also provide broader advocacy in a range of areas including education, employment, economic development, homelessness, mental health and the intersection with the justice system and its impact on Aboriginal Victorians. The reason I mentioned all those areas is because they all have an interplay somewhere in the justice system, and what we are attempting to achieve through our presentation today.

We are a member of many state government and related forums, including the Aboriginal Justice Forum, the human services Aboriginal Roundtable, the Indigenous Family Violence Forum, as well as a range of other relevant reference and advisory groups within Victorian government departments. This engagement today is further evidence of how we attend a number of forums with community, police and service providers, which are not always directly related to Aboriginal-specific forums, but in which it is believed we have a role to play or may be able to inform and influence the proceedings.

The demand for our services is rising. In 2013, as is stated in our paper and I am sure you have read this, we provided advice and information to around 9000 people, and this included support for approximately 3000 cases. This is in fact an 11 per cent increase in the last 12 months in relation to the business that we conduct in this jurisdiction. The reason we provided the submission to this inquiry is that since 2010, drug-related arrests notified to VALS has increased by approximately 38 per cent. We come to this, in terms of the evidence and the methodology we use, from internal reviews of arrest notifications. For those who are not aware, we have a custody notification system in this state in which Victoria Police notify us of any Aboriginal person who is taken into custody and has identified as Aboriginal. That has seen a 38 per cent increase in drug-related arrests,

specific to that date. We have also done some random case-file reviews, just to see what is going on, and we surveyed our solicitors and what we call our 'client service officers' — broadly speaking, they are paralegal-type roles for those who are not aware of what our client service officers do. We found that ice was having an overwhelming impact on our community, and that drove our belief that we needed to put a submission before this inquiry.

I have some more information, but I thought I might wait to see what some of the questions cover, rather than be repetitive.

**The CHAIR** — Thank you. Does Annette want to make any comments at this stage?

**Ms VICKERY** — No, thank you.

**The CHAIR** — Thank you for your written submission. We have a summarised version before us here.

**Mr SCHEFFER** — Just on the last point you made, Wayne, about how you looked at the arrest notifications and then you did some case analysis, only to find there is an overwhelming impact from ice. Could you unpack that a bit for us and tell us what that impact is? What we are also concerned about is how ice is getting to Indigenous communities and young people, and why now? What is your sense of what is going on?

**Mr MUIR** — I will go to my prepared responses. You have covered off on a couple of points so I will jump around a little if that is okay.

**Mr SCHEFFER** — Yes, of course. That is fine.

**Mr MUIR** — We are not actually sure. In fact we think it is a little bit hard to pinpoint the exact time the increases occurred, but it was certainly in terms of reviewing our arrest data over the last period of time that we said, 'Okay, there's something happening here'. I could not definitively say, 'It was this month or this particular year'. However, we are using the point of reference in terms of the data that we reviewed. I am not saying there were no concerns or issues prior to that, this is just in terms of the time.

We also believe that along with this — and I raise this because I think it is a multiplier effect, which I will go into that shortly — that it is alcohol and other drugs. It is not just methamphetamines, particularly ice; it is alcohol and other drug abuse that creates a multiplier effect for what we are talking about here. We think ice is accessible, it is affordable and this makes it a very attractive drug of choice for a young Aboriginal population that has experienced high levels of socioeconomic disadvantage, including high levels of unemployment, mental health issues, disability, homelessness and lower levels of educational attainment.

There are a range of historical and contemporary factors which contribute to the disadvantage, but I do not intend to go into those now; I think they are probably well-trodden areas and you probably have enough of that information anyway. Suffice it to say that these multilayered issues contribute to trauma and grief, leading to what we believe is post-traumatic stress disorder, and that goes to some of the treatment options that we will go to later on.

The overwhelming disadvantage creates an environment of vulnerability. We know that people who sell and distribute this evil look to target vulnerable people. People are looking for quick fixes to their pain and suffering, and some see ice as a cheap and quick way of addressing some of the challenges before them.

Michael Bell, the CEO of Winda-Mara Aboriginal Corporation in the south-west, recently said that boredom is a big issue behind why people are experimenting with these types of drugs. At a recent Aboriginal forum on ice, which was held in Melbourne on 6 February this year, we heard from both Aboriginal community members and Victoria Police about the ease of production and equipment being found in the back of motor cars and in backpacks. We were given the specific example of a couple of people being arrested in a park in regional Victoria and drug manufacturing

equipment being in their backpacks. That gives an indication of not only its mobility and how difficult it is to detect but also the ease of its production and distribution.

Then there is the deliberate targeting of vulnerable people, particularly the young. We believe outlaw motorcycle gangs and organised crime groups are involved amongst others. This is anecdotal evidence provided by community members; it is not hard research, so to speak. These things combine with a lack of prevention and diversion programs — and this was re-emphasised by both — —

**Mr SCHEFFER** — This is conjectural — it is just a sense — but do you think that people say that because it is in a feedback loop through the media or do you think they say it from direct experience?

**Mr MUIR** — No, they say it because it is a direct feedback loop to their own family experiences.

**Mr SCHEFFER** — Fine.

**Mr MUIR** — I will come to that example in a minute. There is a lack of prevention and diversion programs. Both community and police have indicated to us that this is an issue that is confronting them particularly in regional and rural Victoria. There are also high unemployment rates and vulnerability, as well as nothing to do. Boredom will contribute to this issue, as Mr Bell noted. In October last year the chief commissioner and I toured some Aboriginal communities in regional Victoria. We were told directly by families of the impact of ice and the level of suicide impacting those communities. They indicated to us a significant prevalence of outlaw motorcycle gang involvement. It was direct family involvement, if you like, in that space, particularly in Mildura.

Client information suggests that ice is cheaper than other illegal substances and is being introduced amongst smaller communities and households and is sometimes being distributed by affected family members. It seems ice, more than any other substance, leads people to violent offending, particularly whilst affected by the ice rather than when people are coming down. There appears to be a greater nexus between the use of ice and criminal behaviour.

**The CHAIR** — I tried to challenge our previous witness in relation to the use of methamphetamines particularly and its relation to crime. Are there specific crimes that are more noticeable now because of the greater prevalence of crystal meth?

**Mr MUIR** — Lovely segue to another piece of evidence. I will go to that as soon as I find the particular quote. I have a quote from a regional coordinating magistrate. Effectively her quote talks about the prevalence of offending across a range of offences, particularly pertaining to violence-related offences, and family and domestic violence areas. She also gave commentary on the fact that she has come across people as young as 12 years old. It concerns her that there is a prevalence in the Aboriginal community and particularly in young people down to the age of 12. Our evidence would suggest that it is across a range of different offending types. I will just wait for the particular quote if you do not mind.

**The CHAIR** — That is fine. Mr McCurdy might like to ask a question in the interim.

**Mr McCURDY** — In terms of the Drug Court in Dandenong, do you refer people down there?

**Mr MUIR** — There is a problem with the Drug Court in the way it is currently constructed in terms of it operating in a particular jurisdictional arena and postcode area and its eligibility criteria. For example, not all of our clients fall into the eligibility of the Drug Court based on their postcode and jurisdictional areas — —

**Mr McCURDY** — The location.

**Mr MUIR** — And offences. If you have a look at the eligibility criteria, it talks about offences needing to be committed in the postcode areas. There are eligibility criteria and jurisdictional boundaries which in fact limit it.

**Mr McCURDY** — With that aside, would you say that there could be opportunities if that was not a restriction?

**Mr MUIR** — Potentially, but I might put a flipside to that. As the Koori Court is being rolled out and expanded, it provides us with an avenue for restorative and therapeutic approaches that are more culturally appropriate than what the Drug Court currently provides.

**Mr CARROLL** — On that, Wayne, can you apply to have a matter transferred to the Drug Court?

**Mr MUIR** — Not under the current criteria.

**Mr CARROLL** — Okay, but from what you are saying, in terms of specialised courts, the Koori Court does seem to be the way to go with justice reinvestment and things like that — for drug offences anyway.

**Mr MUIR** — It is one of the mechanisms, yes.

**The CHAIR** — Mr Scheffer, did you have another question?

**Mr SCHEFFER** — Yes, the quote. You might want to put that in.

**Mr MUIR** — So the regional magistrate says that a huge concern is the infiltration of methamphetamines into Aboriginal society and its use by young children. There is another part to that where she talks about it being across a range of offending types. That would be true of the feedback we have also received from our own solicitors in terms of their representation of our clients. Remember, we represent the majority of clients who are charged with criminal offences in this state, but we do not represent every client. I qualify the evidence that we put before you on the basis of the clients that we represent and the other evidence in terms of media commentary and commentary by others in this space.

**Mr SCHEFFER** — Did you want to continue with what you were working through?

**Mr MUIR** — There was a bit there about young people. Could you just re-emphasise that particular part of your question?

**The CHAIR** — That was my question, and we have already received evidence to suggest there are people as young as 12 actively using crystal meth, and not just Indigenous people.

**Mr MUIR** — The difference for us and the challenge for us in our community — as you may well be aware and you may have received this evidence already — is that our median age is younger. Our population age breakdown is younger than the general population; on average our median age is about 21 compared to 38 for mainstream Australia. We have a higher youth population, and given that there seems to be a particular targeting of young people, we see that as a particular problem for the Aboriginal community.

**The CHAIR** — The other part of my question was more trying to relate the crime to the drug use. Was there an increase given the prevalence of the drug to family violence, armed robberies or other things? I thought you might have had something on that.

**Mr MUIR** — Given the impacts that this particular drug has on people — for example, as I raised before, whilst they are on a high people can be more agitated and predisposed to aggression — we have things such as violent irrational offending such as assaults, threats, public irrational behaviour, erratic driving and reckless conduct. Generally there is an absence of premeditation and planning. As opposed to heroin or other substance-affected offending, ice-affected offenders do not seem to have a particular intention but rather seem to be acting irrationally. That is evidence provided by our solicitors and their experiences in dealing with our

clients. Criminal matters include things like theft, assaults, family violence, child neglect, neighbourhood disputes and even, to some extent, debt matters. If you combine that, for example, with things like erratic driving and fines, that turns into a fine situation that becomes a debt situation if they are not making rational decisions. We know this in terms of the side effects of this drug, and, as I said, with the multiple use of other drugs and alcohol and the multiplier effect, people are not making rational decisions.

**Mr SCHEFFER** — Coming back to that first cluster of issues around who is using it, you talked about younger people using it. Who is using it? What is the impact it is having on families? Then, segueing in, I guess, how is the legal system picking it up, given what we all know about high representation? I am sorry this is going on a little bit, but you talked about how the Koori Court might be able to pick up the deficit in the drug court. It seems to me we are hearing that the legal system has got a lot of improvement before it to fix up this problem. Can you talk about that a bit after describing who the groups we are talking about are?

**Mr MUIR** — Yes, no problem. In some of the data we have got in terms of our clients, we do not seem to be able to discern between male and female in terms of a higher portion or otherwise. It is about 50-50. But what we do see is the younger age bracket being affected from around 12 to 30. There are instances of some older people being picked up in our system, but the largest proportion of people is in that 12 to 30-year age bracket. That will give you a sense of it. The gender base is about the same, but it is more 30 and under in terms of the types of clients we are experiencing. What was the next part?

**Mr SCHEFFER** — Just going on with that a bit, how do they use the drug? I mean, in the city you hear stories that it is through the night economy, the night venues. We also hear stories of it being through the internet, home deliveries, so it tends to be private networks that are hard to detect. Do you know much about that sort of thing?

**Mr MUIR** — We do not have that specific level of data or intelligence. Suffice it to say, as in the commentary I made before in terms of the cheapness and readiness, it is available and it seems to be by criminal elements and sometimes by family members. I know that I am speaking to the converted, or the informed; however, from our perspective — —

**Mr SCHEFFER** — We are not feeling like that. The more information we get, the more confused we feel.

**Mr MUIR** — We come from the angle that even though we operate in the legal sphere, we actually believe that people who are victims of dealers need to be treated from a health perspective, not a criminal perspective. Even for those who end up being incarcerated we believe there need to be greater therapeutic approaches. Our concern is that if we do not provide therapeutic approaches to resolving the issues going on for these people, we are simply allowing them to be released back into society no safer or better prepared in terms of their resilience or ability to cope with the challenges that might be confronting them. If they simply get locked up with little or limited therapeutic or restorative justice approaches or justice reinvestment approaches, they come out and their behaviours have necessarily adjusted or amended. One of the things lacking in the prison system in terms of the way it deals with people is what we would call the after-care or post-release stages. We think there is a real gap there. If you want to think about therapeutic approaches and making our communities safer, I would much rather invest some money in making sure that Simon here is not regressing back into the same sorts of behaviours or networks or that we have done some work around the family to strengthen some family resilience.

**Mr SCHEFFER** — Where are the points in the pathway where the justice system, the crime-fighting authority — the police and that area, basically — and the courts, can make decisions other than the ones they are making to keep a largely young cohort out of the prison system?

**Mr MUIR** — On the basis that the people they are dealing with are what I would call victims of drug dealers we would like to think that Victoria Police and similar have a broader range of options available to them.

**Mr SCHEFFER** — Such as?

**Mr MUIR** — Our evidence, again directly from discussions with community members and police members, is that there is in fact a screaming lack of diversion and prevention programs, particularly in rural and regional Victoria.

**Mr SCHEFFER** — Is that because the court does not know where to send them because there are not any detox — —

**Mr MUIR** — That is a combination. They do not even have to get to court first. One of the things the police want to be able to do in terms of early intervention and diversion is send people off before they become an issue for the courts, but the police do not have those options available to them.

**Mr SCHEFFER** — Because the services do not exist?

**Mr MUIR** — That is right. Where they do exist the resources are extraordinarily limited. Again, that is in rural and regional Victoria. Unless we do something about expanding the types of services that police can refer to, we are going to continue with the same sort of problems. We have had that articulated and supported by actual community members. I have got to say that in touring regional Victoria with the chief, hearing that directly from the police and then having it verified by the community without us actually asking the question was a wonderful thing to witness. The police and the Aboriginal community are sometimes on very much the same page.

**Mr SCHEFFER** — Just to press that a bit further and to put words into your mouth for a minute, is it fair to say that we know what to do in the services and treatment centres but we do not have enough of them, or are there two problems in that we are not getting it right in the — —

**Mr MUIR** — There are two problems. One is the lack of provision and the other is that the provision is not always adequate.

**Mr SCHEFFER** — Can you talk to us about what is not adequate about the delivery of the actual treatment services.

**Mr MUIR** — I have covered off on the fact that I do not think, and we have certain evidence to suggest, that there is not enough service provision, particularly in regional and rural Victoria. Secondly, we do not think, necessarily, that all the programs are adequate. Talking to some of the providers, the current models seem to be more constructed around the need to meet certain economic realities as opposed to quality treatment. People will tell you that off the record. They will not necessarily come and tell you officially.

**Mr SCHEFFER** — Do you mean like throughputs?

**Mr MUIR** — That is right. Often people will talk about something between a three and five-day detox program. Not everyone is the same. We are all different. Why are we talking about a three to five-day detox program? To get my system totally clean and detoxified so that I can make any sense of rehabilitation might take me 10 days. Why are we fixed? You can talk to some of the practitioners and review some other programs internationally and even some of the programs in this country. I talk about individual care plans which take up the fact that we have differences and we have various coping mechanisms. I think what we should be talking about is something akin to individual care plans. Some of the providers do that, but they still do them within a particular model. My rehabilitation may take shorter or longer.

Only the high-end, very expensive rehabilitation programs provide anything that you can describe as decent after-care, such as ongoing outpatient ongoing counselling. Very few of them, if any, actually provide case support in terms of regular visitation which tapers off over a period of time. By that I mean a case manager or caseworker who actually does an on-site visit to the person's place of residence, acting as a support, making sure they are linked in to the appropriate agencies and that they are following up on their various appointments. That tapers off as they continue to build their capacity and resilience.

**Mr SCHEFFER** — We have been told by a previous witness who had evidently done costing on it that to put a person with a drug issue in a residential care facility is cheaper than having them in the prison system.

**Mr MUIR** — Have a look at our submission. We actually extracted a Deloitte assessment of that, and it saves the taxpayer around \$111 400.

**Mr CARROLL** — It is \$111 458.

**Mr MUIR** — There is a significant saving to the taxpayer. We go further to say that if you take on some of those other areas, there is an additional \$96 000 in savings to taxpayers. To put people in non-prison-related programs, particularly first-time offenders and those sorts of people, you would get a greater return on your investment and it would be cheaper for taxpayers. But it is about ensuring that you have got the service model and that that service model is not exclusively metropolitan based. I live in regional Victoria, so I will support the need for programs to be pushed out to the regions. If I reflect on my discussions with my community and with members of Victoria Police, the need is very clear. I had three solicitors in the last six months come to me wanting me to advocate for more programs because police are asking them for help in regional Victoria.

**Mr SCHEFFER** — Different witnesses from Aboriginal organisations have said it would be a really good opportunity to move people who were willing to go out of their communities into residential care somewhere else. They said that would be good because it would take them out of the context and imprisonment. Others say, 'No, it's very important to keep them linked to their communities and families'. Is there evidence around that? Do you have a view?

**Mr MUIR** — I go back to the original point I made about treatment approaches. Each person is an individual. You need to think about how you approach the individuals in terms of being able to create strength and resilience not only in them — even if you move people out of the community, you have got to make sure that your approaches do something about family and community resilience. If you merely take them out, it is like taking them to prison and then releasing them back into the same environment. If you have done nothing in the environment, you are not changing any circumstances, or they are going back into the same sorts of challenges. Regardless of whether they are in the community or outside the community, my point is simply that not only do the treatment programs need to be adequate for the individual but they also need to be adequate for the environment to which they may return. If we do nothing about that and we simply put them back into those same environments, the same challenges that got them into strife in the first place will still be there and prevalent.

**Mr SCHEFFER** — Lastly, and then I will shut up, what is your take on the quality of the skill set that doctors — medical people and psychologists — in the treatment centres have in working with Indigenous communities?

**Mr MUIR** — I do not think a lot of non-Aboriginal services per se understand the issue of intergenerational trauma and grief as it pertains to Aboriginal people and, as I mentioned before, the potential for post-traumatic stress disorder. As a result they are not necessarily providing what we might call culturally safe service delivery. We believe where possible those service responses need to be delivered by Aboriginal organisations or at the very least in strong partnership with Aboriginal organisations to ensure that there is an element of cultural safety in what they do and how they do it. We would like to think that prior to them accessing or treating clients there is something done around cultural safety from that practice agency.

**The CHAIR** — We might have to leave it there, Mr Muir. We are controlled by time just a tad, because we need to end the committee meeting before 4.30. I appreciate you are giving us some questions and that you have substantial notes. Are you happy to table them for the committee?

**Mr MUIR** — I am happy to table the notes for you in support of our original written submission which will go into a little more detail for you.

**The CHAIR** — Annette, is there anything you would like to say. You have been very quiet.



**Ms VICKERY** — No, thank you, I am just here to observe today.

**The CHAIR** — Thank you both very much, firstly, for the written submission and for the responses that you have made to our questions and to the questions that have been posed to you this afternoon. We appreciate it. Thank you.

**Mr MUIR** — Thank you very much.

**The CHAIR** — I will formally close the public hearing now.

**Committee adjourned.**