T R A N S C R I P T

LAW REFORM, ROAD AND COMMUNITY SAFETY COMMITTEE

Inquiry into drug law reform

Melbourne — 5 June 2017

Members

Mr Geoff Howard — Chair
Mr Bill Tilley — Deputy Chair
Mr Martin Dixon
Mr Khalil Eideh
Ms Fiona Patten
Ms Natalie Suleyman
Mr Murray Thompson

Witness

Mr Tony Parsons, Magistrate, Drug Court of Victoria.

Necessary corrections to be notified to executive officer of committee

The CHAIR — I formally open the hearing this morning of the parliamentary Law Reform, Road and Community Safety Committee, where we are continuing our inquiry into drug law reform. With us today is the first person we are hearing from, Magistrate Tony Parsons from the Drug Court of Victoria. It is good to have you here, Tony. I understand you would like to address the inquiry in part in camera, so we might hear that part first. Then after that we can open for public hearings or extend it as an open inquiry at that point.

Mr THOMPSON — I so move.

Ms PATTEN — I second that.

The CHAIR — Just by way of background, you might be aware that since we opened the inquiry we have had 220 written submissions, we have conducted two public hearings now, one in Melbourne and one in Sydney, and today is the third. You would be aware that Hansard is taking note of everything that is being said this morning. So part of it will be in confidence still, but part of it when we go to public meeting will come back for you to make comment on whether it is accurate, and that will go on the public record. I think that is all I need to let you know. What is said in a parliamentary inquiry is covered by parliamentary procedure, and therefore you have parliamentary privilege. I think you understand what that means.

Mr PARSONS — I do.

Proceedings in camera follow.

The CHAIR — Tony, thank you for the submission you have made to us in regard to the Drug Court. If you would like to lead us through some of the key points in that submission, we will then continue on with some discussion around that.

Mr PARSONS — I did not think it was controversial, but the *Herald Sun* picked up the question of bracelets to monitor curfews and alcohol use, so I was pleased to get that exposure. I had a conversation with our specialist criminal lawyers, and the problem we have with the forensic science laboratory and the delay in testing is a very difficult one, because it adds months and months to the resolution of serious criminal cases.

The fact that the quantity of drug is the trigger point for various sentencing categories means that, if you are charged with a significant quantity of powder, you are always going to get it tested, because that will determine where you sit in the sentencing hierarchy. These delays are endemic and often people are in custody, sometimes unnecessarily; sometimes the testing comes back and it is not actually a drug. People can spend months in custody, and so they should if they are picked up with half a kilogram of what someone suspects is methamphetamine, but if it is just a cutting agent or something else, then they should not. That involves a huge cost for the community and an injustice for the person concerned.

This has been an ongoing problem. I am sure that FSL and VicPol have been coming cap in hand to the government for years to try to get the resources necessary to deal with this. We can certainly say to the committee that it is affecting the efficient operation of the courts.

The CHAIR — So resourcing is obviously the number one issue there for forensics.

Mr PARSONS — Yes.

The CHAIR — Are there other ways of mitigating some of that work?

Mr PARSONS — If they had a scientific spot test that gave an indication of concentration as well as the nature of the drug concerned — I do not know enough about their spot testing, but if there were a technical solution — that could be done on the spot rather than the significant mass spectrometry analysis that has to take place currently. That would be a quick answer, and that could be the subject of a very short amendment in the Criminal Procedure Act or the Drugs, Poisons and Controlled Substances Act, if there was a technical solution, but I do not know whether there is.

Ms PATTEN — I thought we had introduced legislation in the last few years that broadened the number of units that police could use for forensic testing and that it was not just the police unit, that they were enabled to go to private operators for spectrometer testing. Is that — —

Mr PARSONS — They may well be using pathologists, but it still takes time and the police report their delays on their website, and really it is unacceptable. The cost is massive just by leaving people locked up, and the delay is unacceptable.

Mr DIXON — Is that spot testing you are talking about, Tony, just an idea, or is it out there? Is it being used?

Mr PARSONS — They do spot testing to determine the nature of the drug. So police will pick someone up on the street, they will go back to the police station and they can do a spot test straightaway to determine whether it is heroin or amphetamines. I am not sure about the other families, but they can do that. I am not sure whether there is a technical solution that would allow them to give an approximation of concentration, but if they could, for the sake of a committal or a summary contest, that would at least in most cases square off the sentencing category and allow the proceedings to proceed.

The other concern is this question raised by the Supreme Court that in sentencing one should not as a judicial officer look to the nature of the drug. So as far as the Supreme Court is concerned — and they are a long way away from the street; their benches are very high — cannabis, heroin and ice are all the same. Magistrates are really at pains to follow that, for obvious commonsense reasons, but the law is the law and it would be useful, I think, to just knock that on the head if it were possible.

Ms PATTEN — So would that be trying to move something like MDMA or cannabis into a different category or a different class — creating a new class within the act?

Mr PARSONS — I do not think it needs to be that difficult. I think it can be a simple amendment to the Sentencing Act or the Drugs, Poisons and Controlled Substances Act that says that the courts are entitled to take into account not only the quantity of a drug, which is already in the schedules, but the nature of the drug. Just a five-word amendment would enable the courts to deal with that. I do not think it is a difficult problem. There is a body of research around all of the different drugs, and I think it would just allow the courts to do what they are probably doing anyway, which is having regard to, based on common sense, the difference between these drugs.

The other matter that I am not sure you might have heard a lot about is swift, certain and fair programs of compliance. It started off with HOPE probation in Hawaii. Judge Steven Alm there in 2003 was appointed to the bench as a district attorney. He was put into the probation compliance list where he saw that there was around about a 40 per cent failure of probation. What he saw happening was that people would breach and they would have a stern conversation with their probation officers and they would breach again. They would not turn up to supervision, they would not turn up to treatment and they would give dirty urine screens, constant low-level breaches, and they would essentially suffer no consequences until it got so serious and there were so many breaches that their probations were cancelled. In the States when probation is cancelled, it can mean 5 to 10 years imprisonment. It is a really serious consequence when you lose your probation, so often the response of the courts in the system was quite draconian relative to the breach.

He understood in the family situation that a family love their children and the family has rules, and when the rules are broken, notwithstanding the love, parents do something about it pretty smartly. So he introduced, with the cooperation of the police there and the probation service, a framework of swift, certain and sure penalties for low-level breaches of probation. He brought the probationers in — only the high-risk ones — and said, 'This is the way it's going to be. If you come back with a dirty urine screen, you're going to go into custody for 48 hours', because what they do is wee into a cup and the cup changes colour. It measures the five different families of common drugs — cannabinoids, opiates, amphetamines, cocaine and benzos. So if the person delivers the sample, but they deny they have used, it goes off to the lab and when the test comes back, if in fact it is fresh use of an illicit drug, they do not get two days in, they get 15 days in, because firstly they have lied and secondly they have put the cost to the community of getting that pathology test.

If they do not turn up to a supervision appointment, they get a day's jail. If they do not turn up to a supervision appointment, they have got three days to bring themselves in, and if they do not turn up then, a warrant will be issued and when they are eventually brought in, and the police prioritise the execution of the warrant, they go into jail for 30 days.

So there is a framework of penalties associated with low-level breaches — dirty tests, failing to turn up for supervision, failing to turn up for treatment, those kinds of things. It is also critical in the way that HOPE

probation works that there are supports and there is treatment. That is what the probation officer does. So it is a partnership between the probation team that provides the support and, where people need it, treatment and the court that supervises it, and they have just had remarkable results. It is in 30 jurisdictions now in the United States of America. Some of the programs that have been set up that emulate HOPE have been working really well. Some have tried to set up programs that simply provide the compliance structure — they provide the penalties but not the treatment — and they do not work anywhere near as well. So we know now that it requires a marriage of probation and judicial supervision.

We would love to pilot that in the Magistrates Court. We are in a conversation with Corrections about doing that, and we are working our way down, but it will require some change to the Criminal Procedure Act. Before someone can be brought to a court and dealt with for a breach you have got to serve them with a summons at the moment and give them 28 days. So there is nothing swift about the court's response there, and the trick is to make it as swift as possible — within 24 hours if possible.

The Royal Commission into Family Violence asked the Sentencing Advisory Council to explore 'swift, certain and sure' in the family violence context, and the Sentencing Advisory Council are working on that as well. I wanted this committee to be aware of it, because we see it as a really important possible breakthrough. It is not about replacing community correction orders; it is about driving much higher compliance with those orders. That is what Corrections is interested in as well. There has been a revolution in community correction orders recently. They are now focusing on high-risk and not so much on low-risk offenders. They are using much smarter tools to screen people who require the assets and resources than they used to. It used to be one size fits all, and that does not work. This would add an additional compliance tool to the system.

Our community correction orders have got about the same rate of failure — 30 per cent of unsupervised correction orders fail and 40 per cent of supervised correction orders fail — so there is a very high non-compliance rate. So this seems to be an opportunity that we could trial. They have been around now for over 10 years in Hawaii but in other jurisdictions in America for a long time as well. There has been a lot of research. We know with some certainty what works and what does not work, so I think we could set up a small, confined trial somewhere in Melbourne — maybe at Dandenong court or maybe at the Melbourne Magistrates Court. What we have in both of those courts is a urine-testing facility, which is part of the Drug Court, because people on our drug treatment orders do three supervised urine screens a week. So we could use those facilities in a HOPE-style pilot as well, and that is something we would love to do.

Ms PATTEN — You are saying for broad use — so not just people on drug treatment orders?

Mr PARSONS — Not at all for people on drug treatment orders — we have got our own regime of supervision, and it is much more strict than that — but people on community correction orders who are higher risk. There are some simple tools that Corrections apply to measure higher risk defendants, who we know are going to be the ones that, A, are likely more than any others to reoffend and, B, are likely more than any others to fail the correction order. That is simply by measuring protective factors. Do they have a job? Do they have family? Do they have a drug problem? That kind of stuff. Do they have a long criminal history? So they are the people we will be focusing on.

Mr THOMPSON — The nature of the sanction, again, was a short — —

Mr PARSONS — A short touch of the whip, a short jail term — one day or two days for a dirty urine screen if they are honest about the urine screen, but if they are dishonest and they have got to send that sample off to the lab, it becomes 15 days. They are told they have got to come in within 72 hours, and then they get their day's jail. If they do not turn up within those three days, a warrant is issued, and then it is 30 days in. So it is tough love, but people are aware of the sanctions, so they are certain. There is no judicial discretion — you dole out the sanction — and that keeps people accountable. When they make a decision not to turn up or when they make a decision not to tell the truth, they know what the consequences are. So that certainty provides accountability, and the swiftness associates the negative behaviour with the sanction.

The CHAIR — And in looking at Hawaii or any of the other jurisdictions where this has been practised, has that increased the jail population because of these additional sanctions, or does it balance out because you avert people from longer term sanctions later on?

Mr PARSONS — In the short term one is creating a busier set of cells at the back of the police station, but in the long term there are dramatically improved responses to probation and dramatically less offending whilst on probation, so the police and the district attorneys are massively on board knowing they have got to put in more resources up-front — you know, if a warrant is issued under the HOPE probation program, they have got to go and get them within 24 hours and no mucking around. They know that the benefits for them are at the other end — there is less offending, less investigative work and less jail time for those people.

Ms PATTEN — What sort of numbers are we talking about?

Mr PARSONS — Steven Alm just retired, but he was supervising 2000 people on HOPE probation, because what quickly happens is that the only time you have to spend with these people is when they breach, so he was able to actually have 2000 people personally on his program and he was dealing with just relatively small handfuls of people because they were the ones that were breaching.

Ms PATTEN — Is 2000 the sort of number that you would imagine?

Mr PARSONS — Not to start with, no; I would be thinking about a couple of hundred — just keep it a confined pilot, measure it really carefully.

Ms PATTEN — And not the ones that are already on drug treatment orders, because we have got very strict compliance through the Drug Court now for them. It is sort of expanding that notion —

Mr PARSONS — To people on correction orders.

Ms PATTEN — to high-risk offenders on correction orders.

Mr PARSONS — On correction orders, yes. Community correction orders are the last sentencing option before people go to jail, and they are meant to provide people with supervision and support — mental health, drug and alcohol, that kind of stuff. They have been too slow to respond to breaches historically, and I think Corrections recognises that. They have developed a pilot at Dandenong court to try and fast-track breaches there, which means a couple of weeks rather than several months. So Corrections get it; they understand that responding to negative behaviours has to be swift. If you let people breach, breach, breach, breach, what you teach them is that there are no consequences for non-compliance. So Corrections are getting there, but this is a targeted program just for higher risk people that would be nominated for it. The court would bring them in and say, 'All right. You could be at Dame Phyllis Frost or Port Phillip Prison, but you're on correction orders. You're higher risk. These are the rules that will apply to you'. If we were to get anywhere like the success that they are getting in Hawaii, I think it would be a great investment.

Ms PATTEN — I agree.

The CHAIR — We will come back to your comments in a moment in regard to legislation, but Khalil has got to go at 10.30 to another meeting for a short period of time. You had a question that you wanted to just follow up with?

Mr EIDEH — Tony, in your submission you recommend a specific power for the Drug Court to order electronic monitoring of curfews and alcohol consumption. Why are these powers required?

Mr PARSONS — Well, with people on a drug treatment order, they but for the drug treatment order would be in custody. We can only give someone a drug treatment order whose offending is so serious that there is no other sentencing option available but jail. So they are in the community only because they are on a drug treatment order; they would otherwise be at one of the prisons. We do not allow those people to use any drugs at all, and particularly alcohol, because whilst they might not have an alcohol problem, alcohol is a gateway drug. We all know people have two or three or four drinks, their resistance to temptation is reduced, their inhibitions are reduced, and that is when they are more likely to use the drugs that they do have a problem with or take up the behaviours that are dangerous, like offending.

The problem we have had traditionally is that it is very hard to detect. Breathalysers work, but the male body metabolises a standard drink in an hour, so we had people on our program who were drinking eight to 10 bottles of wine a week and we were not detecting them, because they would test at 10 o'clock in the morning and be in the bottle shop at 11 in the morning, they would be blind drunk by 4 o'clock in the afternoon and by the time

they came around to test at 2 o'clock the next afternoon there was no alcohol in their system. They would not remember much of the day, but they would be drinking like fish.

So one way to monitor this efficiently is with the SCRAM bracelet. It measures the alcohol 24/7. It detects the alcohol in perspiration on the surface of the skin. It would not be a tool I would use with everyone. I would probably start everyone who comes onto the drug treatment order on a SCRAM bracelet for a month, and if they did not have any alcohol readings, I would take it off them — maybe put it on them for a week every six months. We have got them on this order for two years. But just use it sparingly. But we do have people that come onto the order who are there because they are alcoholics who are committing serious alcohol-related offences. They would obviously have a SCRAM bracelet for more than just the first month.

There has also been some recent development of urine analysis for the detection of alcohol metabolisers. That has helped, and we are using those tricks as well, but a SCRAM bracelet would be fantastic. With the surveillance bracelets, the value of that is that when people come onto my order I require the first month of their drug treatment order to have a curfew. They have got to be in at 9 o'clock at night and be in until 6 o'clock in the morning. That is not to punish people. It is to give them a flying start to the order, to keep them off the streets at night in the first weeks of their order when they are likely to get into mischief. At the moment it is very clunky enforcing those curfews. Usually — —

Ms PATTEN — What do you do? Go and knock on their door?

Mr PARSONS — They do not really do that. They used to do it in Dandenong, but they disbanded the curfew checking squad. The Corrections teams are going to try and do it. What really happens is that people are picked up on the streets during their curfew hours, and then I will give them a couple of days jail. They will be sanctioned for that. But it is only when they are sprung.

They are developing an application for a smartphone much like Where's my iPhone. They are developing — —

Ms PATTEN — Where's my DTO?

Mr PARSONS — Yes. Where's my DTO. We are looking forward to that because that will work. We will be able to tell on Google Maps if their telephone is roughly where their house is, give or take 50 metres. We could ring them and if they pick up the phone, we identify their voice, then they would be compliant. That is coming but it is not available to us yet. Those surveillance bracelets are available, they are not that expensive and we would love to have them. But at the moment they are confined to serious offences. Clearly they were designed for sex offenders, to keep sex offenders away from schools and away from no-go zones — parolees, that kind of thing. But technology is wonderful, and we will always find other uses for this stuff. That is what I would like to have.

Mr EIDEH — Thank you very much.

Mr PARSONS — You are very welcome. Thank you.

The CHAIR — I do not know whether Tony might want to quickly just cover the other points that he has got on his summary.

Mr PARSONS — Very, very quickly. Thank you. There is a seven-day minimum for the sanctions that I impose. There is great evidence that suggests that it should be no more than six. That is an easy fix for us. When people abscond from a drug treatment order I will always issue a warrant for the arrest, but occasionally they are arrested on the warrant and they are released straight out on bail again. These are people who but for the drug treatment order would be in custody. They should not be released if they have absconded from the order; they should come back and be answerable to the court. So that would be a useful supportive amendment.

We have got a very clunky system when people do abscond to suspend their orders. The drug treatment order is a sentence served in the community. If it is not suspended, day by day by day the sentence over their head reduces while they are on the run. So it is very important for us to suspend that order so that when ultimately they are arrested they are accountable: they have to go and serve the sentence that is over their head.

Ms PATTEN — Yes, those days on the run do not count.

Mr PARSONS — Yes, exactly right. And so it is encouraging them to run further and faster.

Ms PATTEN — That is right, for as long as they can.

Mr PARSONS — Yes. So it should not be difficult to trigger the suspension with the issuing of the warrant; it just automatically happens.

The one thing that I do not have on my short list there is the cost of methadone, which I just want to raise with the committee. It costs people on methadone $5 a day to go to the pharmacy and use methadone. The methadone itself is free, but the pharmacists charge a $5 transaction fee. They have got to provide a little cup, they have got to dispense the right dose, they usually provide a glass of water and they usually put the stuff in some orange juice, because it does not taste very nice I am told. But it is $35 a week, and if people are on Newstart, which is slightly less than $270 a week, that represents 13 per cent of their disposable income. It is too much, particularly towards the end of the two-week social security benefits cycle. Often people do not have a bean, and then if they miss their methadone, they are going into withdrawal almost straightaway, and that is really serious. That is when they will try and shoplift some expensive perfume from David Jones to flog off for $20 so they can just get a hit to stop the withdrawal. It would be fantastic if we could find a way to provide methadone to people who need it free of charge.

It is a very, very fine treatment for heroin dependence. It is the gold standard. When people have the right dose of methadone, it not only stops them enjoying the heroin, it actually diminishes the cravings substantially. It is just a question of finding the right dose. But for people to have to pay for it and find themselves in that position on what is really scant money — if you are living on the dole, you have got to put food in the fridge, you have got to pay rent, you have got to have a myki card — it is a significant whack out of their pay. It is 13 per cent — more than one-eighth.

Ms PATTEN — And possibly if we subsidise the chemists, we might see more being willing to provide the service.

Mr PARSONS — Yes. People get debts to their chemists. Pharmacists are human beings. They are compassionate people, and they know what happens when people do not get their methadone, so they will often give them the dose but then the debt goes up and up and up and they do not get paid. I think $5 is not an unreasonable fee given all of the overheads of running a business, but it can be very hard for people.

Thank you. That does cover my submission. Thank you for that.

Ms PATTEN — I actually just want to get a general idea of the effectiveness of the drug courts, because it does seem like a really clever form of justice. Would you agree that they are going well?

Mr PARSONS — They are fantastic. They started off in 1989 in the United States of America in the face of Reagan's war against drugs, when they had a massive crack cocaine epidemic. In the States they tried to just build massive jails to lock people up, and that is how they dealt with it. History shows that in fact they could not even support the maintenance of those jails, let alone solve the problem. But drug courts are fantastic because they look at the reason why people find themselves in that cycle of addiction, jail, release, more drugs, more crime, back into jail, release, more drugs, more crime — it just goes around and around — and they deal with the problem; that is, they deal with the drug or alcohol issue. It is common sense, really, but it has been shown to work.

So in Victoria the model is that the drug treatment order is a jail sentence that is held over the person's head whilst they are on the program. It is a really intensive program that lasts for up to two years, unless people either breach their order seriously or graduate early. So it is a very intensive program. People on the program in the early months do urine screens three times a week, and they are supervised so they cannot be bodgie. They have a case manager from Corrections who sees them weekly and a clinical advisor who is a drug and alcohol clinician who designs the treatment and supervises them through treatment.

They have got to come and see me once a week. My role is a supervisory role and I motivate people along the right path. So I impose sanctions and rewards — sanctions for negative behaviours, which can include a day or two or three in jail, and rewards for positive behaviours, which can be anything from a round of applause or praise to a couple of tickets to a movie or the footy, as was reported after the launch, all of which by the way

were donated; we did not actually pay for those movie tickets or footy tickets. We do not allow people to go to Collingwood matches; that is criminogenic. We do allow them to go to other games.

KPMG did a review in 2014. Forty per cent who come onto the orders succeed. That is a massive number when you consider — —

Mr DIXON — What do you mean by succeed?

Mr PARSONS — They either graduate or they get to the end of the two-year order. So people who graduate get through the three phases of the order and are completely sober for the last 90 days of the order. They are huge success stories. They are crime free, drug free and usually employed. The children that were in the Department of Health and Human Services are returned to them. They are fabulous and they sail on and contribute to the community rather than being a burden.

The CHAIR — So that might be over a period of one year — obviously less than the two years, but they graduate.

Mr PARSONS — Yes — once they graduate. And it is technically possible to graduate after 12 months. We require people to be on phase 1 for three months, phase 2 for three months and phase 3 for six months, and if they nail all the phases and get to all the mile posts, they can technically graduate after 12 months, but it very rarely happens. People have relapses. Drug addiction is a relapsing condition. I will bring them down a phase, and they will work their way back up. There is another cohort that do not actually graduate, but they get to the end of the two-year order. The evidence shows that even if they are still using, their drug addiction is dramatically reduced and anecdotally it is more likely to be cannabis than heroin or ice, and even if they are still coming to the attention of the police, we know — it is measurable — that it is for offences that are vastly less serious and happening less frequently. Anecdotally it is more likely unlicensed driving or shoplifting, rather than trafficking in drugs or burglary at a private residence — so that is 40 per cent.

The other 60 per cent do not make it. You know, they abscond — and I will give them a chance as long as they do not rob a bank while they are on the run, but I will not give them a second chance. If they abscond a second time, they are sending a message that they are not interested. If they commit really serious offences on the order, I will lock them up and they will serve the sentence that they got coming into the order.

And there is a group that are compliant but non-responsive. They will be on the order for 18–20 months. They do everything we want them to do. They will do supervised urine screens three times a week. They will do everything. They will not commit any offences, but they will still be using drugs at the same rate as day one. If they have been on the order for 18 months, we know they are not going to change in the last six months and I will cancel their order, but I will try to find ways with those people to not lock them up. If they have been giving a supervised urine screen three times a week for 18 months, I will think they have done the hard yards, and if they have not committed any offences, we just have not had the right tools or tricks for them to get them to stop their drug use.

So 40 per cent succeed. People who complete the order, two years after that, demonstrate a 34 per cent reduction in recidivism compared to people who have gone through other kinds of court programs but not the Drug Court. Fifty-four per cent show measurable improvements in risks related to drug use, mental health and medical health. So the individual benefits substantially, and the program delivers a dramatic reduction in the burden of crime on the community.

Mr DIXON — That ongoing monitoring, is that a sample or everyone who has been through the program through the court?

Mr PARSONS — No. At the end of the two-year order, or when they have finished their drug treatment orders, we go back into the database and find out if they have come back before the courts in that two-year period. So that is how we measure it.

Mr DIXON — All of them?

Mr PARSONS — All of them, yes. KPMG did the study of everybody who came onto the order from 2010 to 2013 — 130 participants.

The CHAIR — The other thing I am interested to get a bit of a feel for is that we know the first Drug Court was in Dandenong and then more recently it has extended to Melbourne.

Mr PARSONS — To Melbourne. That is right.

Ms PATTEN — And Broadmeadows?

Mr PARSONS — No.

The CHAIR — So it is just Melbourne at the moment?

Mr PARSONS — It is just Melbourne. It is two and a half times the size of Dandenong. It is a super-sized drug court. It effectively will be two drug courts bolted side by side. I have moved from Dandenong to the city, and I am implementing the first of the two courts. We will introduce the second court by about August. Its catchment area is significant. It captures almost as far as Sunshine but not quite, certainly out to Maidstone. In the east it goes as far as Camberwell or Balwyn. We do not think we are going to get a lot of work from those suburbs, so we are going to try to push the borders further west if we can. It goes up to Thornbury in the north and goes way down to Brighton and Bentleigh in the south. So we cover the hotspots. We have got Yarra, Footscray, the edges of Sunshine, up north and we cover St Kilda as well. So it is a comprehensively large area, but we do not think we are going to get work out of Armadale, Glen Iris, Hawthorn, Camberwell or Balwyn, so we might be able to just, when we get them established — —

Ms PATTEN — Their lawyers are too good.

Mr PARSONS — That is true. That is right. They do not pull over the Volvos or the Audis.

Mr DIXON — They can afford the drugs.

Ms PATTEN — The PSOs are at the train station, not at the Lamborghini shop.

Mr PARSONS — At the train stations, doing a great job. We might be able to stretch those borders over to Sunshine, which would be fantastic. Sunshine has got the second highest remand rate in the state, second only to Melbourne, so we are focusing there but we will just roll it out first and see how we go.

The CHAIR — As time went by, would it be ideal to be able to have further drug courts in other locations?

Mr PARSONS — Definitely. We need to capture Sunshine if we cannot do it, but we definitely need a Drug Court in the Latrobe Valley, and a full-sized Drug Court would fit there very nicely. The Barwon region at Geelong could definitely have a drug court, and we think we could do half a drug court in places like Shepparton, Mildura, Ballarat and Bendigo, and we can scale it down and make it quite mobile and quite flexible, but yes, definitely we need to expand.

The good thing about the one in Melbourne is that it does cover a significant part of the population of the greater Melbourne area, and I think in Victoria we are lucky — our population is concentrated. It is cheaper I think to deliver these services here than somewhere like New South Wales that has got to worry about — —

The CHAIR — So under the present system you have then a catchment area identified for the court, whether it be Dandenong or Melbourne?

Mr PARSONS — Yes.

The CHAIR — If people are charged outside that area, are they ever referred on to your Drug Court or do they then only get dealt with in the courts in their region?

Mr PARSONS — They have got to live in our catchment area when the offences occur, and that is because we actually do test them three times a week. I see them once a week. They often have got three or four appointments a day, and if they lived on the other side of Melbourne, we would be setting them up to fail. It is also a way of managing demand, but I have been at Dandenong now for five years and I have never actually had to refuse anybody access to the Drug Court on the basis of demand. We have always kept the numbers right up but I have never actually had to turn people away, so it will be interesting to see how we go in Melbourne.

Mr DIXON — Do you physically have a separate courtroom that you normally use?

Mr PARSONS — No. It is at the Melbourne Magistrates Court. The Drug Court team at the moment is located in 555 Lonsdale, which is where Monash University is, and that is where the clinicians and the case managers all are, and it is only temporary. We are looking for permanent premises where we will also have the counselling and the drug-testing facilities, and we are just negotiating. We are just trying to find the right piece of real estate.

Mr THOMPSON — You mentioned before that there might be a 60 per cent failure rate of non-compliance.

Mr PARSONS — With the drug treatment order?

Mr THOMPSON — Yes, of the drug treatment court. What is the life journey prognosis for those people who are not successfully managed through the drug treatment court? Where do they finish up?

Mr PARSONS — We have not done significant longitudinal studies, but there is anecdotal evidence that suggests, even though people have failed, they often experience benefits from having gone through the program. It is anecdotal, but we have had people come back through the order and say, 'I blew my drug treatment order. I committed this offence. You locked me up, but when I got out of jail I went back to that counsellor, you showed me the pathway and I have been able to make real improvements in my life. I am now not committing offences or involved in illicit drugs'. So we do have that kind of anecdotal feedback, but we do need to do the longitudinal studies in Victoria just to measure the effect of the order.

There is good research that says that people who have got long-term retractable drug addictions often require a number of episodes of treatment before they are going to respond. So the drug treatment order is clearly one of those significant episodes, but they might require others before they respond.

Mr THOMPSON — You mentioned the term 'retractable' drug conditions. What does that mean?

Mr PARSONS — Retractable drug conditions?

Mr THOMPSON — You used the word 'retractable' just a moment ago, and I was just wondering what you meant by that.

Mr PARSONS — Did I? When people are on the order — I think this is what we are talking about — when people tick off the milestones of progress they go from phase 1 to phase 2 because they demonstrate control. So we are getting some clean urine screens from them — not abstinence but some. When they then consistently give clean urine screens and they have been on a phase 2 for three months or at least three months, they can go to phase 3, and as they move through those phases less and less is required of them — less supervision, less support. We teach people to be responsible for their own recovery, so that when they finish the order their recovery is sustainable, but if people have a relapse, then I can bring them back. I think that is perhaps what you heard when you used the word retractable. I can bring them back to an earlier phase. I can increase their supervision and support. I can impose orders and conditions on them that they did not have previously to try to foster their recovery. So it is a very flexible journey, the two-year drug treatment one: people will progress and sometimes go straight to the finishing line but sometimes they will have relapses and we respond accordingly.

Mr THOMPSON — Another question, looking at an altruistic approach, what might impact upon an offender's life in terms of housing, welfare, education, employment, family circumstances? Do you sometimes raise a 'What if?' scenario as you are looking at someone that is being sentenced in light of the plea material or the reference material?

Mr PARSONS — Yes.

Mr THOMPSON — Putting on another hat, is there any solution that you might otherwise propose with the wideranging contribution here?

Mr PARSONS — All of those important aspects of a successful life that you have mentioned are considerations in our measurement of people's likelihood of success on the order, so we have a stock of public housing, for instance, that we are able to use for people who come onto the drug treatment order. We are very

fortunate, but we know if people do not have safe, stable housing, they are not going to succeed. If everyone in this room did not have safe, stable housing, we would not be here having this conversation, so that is our starting point.

Then it is about medical supports, so physical health and mental health. People who have got a prolapsed disk or an abscess in their dental geography are not going to give up heroin, which is the best painkiller known to modern medicine, unless we deal with those. Then we will deal with issues such as relationships, families, links to the community. People sometimes have never actually negotiated our public transport system and do not know how to do it legally. People do not know how to navigate Centrelink. I have actually had a person who had never been into a supermarket to buy food. They had always stolen food but never known how to use the system to pay for it.

Mr THOMPSON — It is very hard at the supermarket with the new method.

Ms PATTEN — Do you find it is sometimes just easier to steal it, Murray?

Mr THOMPSON — I use the service attendant at the supermarket so that, one, I pay for my groceries and, secondly, I keep someone in a job.

Mr PARSONS — All of these things are really important, and they all have to be addressed under the drug treatment order. They are protective factors. We know if people are in good, supportive family relationships, then they are more likely to succeed than not. We know if they have got good housing, they are more likely to succeed than those that do not. We know if they have not got good medical and treatment support — it is what Patrick McGorry calls the scaffolds of supports, you know, in a mental health forum — if they do not have those scaffolds of supports, they are not going to succeed with their mental health struggles, and it is exactly the same for drug addiction. So the joy of the Drug Court is that we are resourced to provide those resources, and we do.

The CHAIR — I presume, therefore, you link in to a range of other agencies, although I am surprised that you have your own housing stock that is attached to the Drug Court.

Mr PARSONS — Yes, and it is managed by the Department of Health and Human Services, but they have given us a stock. That is for the Drug Court.

The CHAIR — But there are other services, I presume, you have linkages to that you are able to direct people to.

Mr PARSONS — Absolutely. We have our own drug and alcohol counsellors in house at Melbourne. We outsource that at Dandenong. We have got links with all of the service providers — with the local addiction medicine specialists, with the psychologists, the psychiatrists, Turning Point. Some of those are funded links and some of those are links that we established because we are in the same business of dealing with recovery.

The CHAIR — And amongst those services is there one in particular or a couple in particular where you think there is still a shortfall in the provision or availability of those services?

Mr PARSONS — The government has recently announced significant funding to increase the number of treatment beds in residential rehabilitation facilities, and they are doing that in the Grampians and a number of other regional areas. That is a critical increase in those service deliveries. It may not be enough. Time will tell, but the research says if someone actually needs residential rehabilitation — not everybody does, but some do and it is the only thing that will work — they need to get to it when they say they want it.

The CHAIR — When they are ready.

Ms PATTEN — Now means now.

Mr PARSONS — Now means now, yes, and if you lose that window of opportunity, you lose the motivation and people can get back onto the treadmill. That is something that we need to look at, but Windana, Odyssey — they are all fantastic. Turning Point does a fantastic job. There are some great agencies in the community.

Ms PATTEN — I have just got a quick question, because it is being raised in lots of the submissions we are receiving. Looking at the Portuguese model, where they have really changed the focus of drug use particularly, not any of the trafficking or distribution, but do you have an opinion on the Portuguese model?

Mr PARSONS — I do. I think like a number of models throughout Europe we need to understand why it is successful, and we need to import policies that we see are successful. The question is: how do we measure success? If success is measured by the message that our government sends the community, then Portugal might not be relevant, but if it is about saving lives and saving the cost to the community of the health bill, which is massive — the policing bill, the justice bill, which are massive — then I think we have got to look at all of these places and see what we can learn, see what we can set up in our own backyard.

The CHAIR — Can I just follow that up, just to get a bit of a sense on cases that would come before the Drug Court. Would there be many cases of people who have been found in possession of small amounts of cannabis that could clearly be argued might be just for personal use?

Mr PARSONS — No. The people that come to the Drug Court have to have committed offences that are so serious that there is no option other than an immediate term of imprisonment and that is the sentence they get, but it is held above them and they get to serve that in the community. So small amounts of cannabis, police still prosecute them but often enough they do not. They confiscate the drugs and put them into some diversion program, but they are not offences that attract jail terms. Small amounts of drugs do not put people behind bars and have not done for many, many years.

The CHAIR — They would get a criminal conviction, though.

Mr PARSONS — Yes, they get a criminal record, which sticks for life, whereas in South Australia they deal with that problem with on-the-spot fines, and as long as the on-the-spot fine is paid there is no criminal record. That is smart for young people. Young people make all kinds of stupid decisions, and there but for the grace of God might I have gone. I am not going to make any confessions, although I am subject to parliamentary privilege. The fact is that young people make silly decisions. It would be a tragedy to mar their lives forever with a criminal record, and South Australia seems to be sensible about that.

Mr THOMPSON — Yesterday I had occasion to write to the treating psychiatrist and head of the emergency department at St Vincent's Hospital, and my letter went:

> Dear Sir/Madam,
>
> I write on behalf of a constituent family. Their son confronts massive threats to his health. He has had multiple emergency department admissions, including within the last 48 hours at St Vincent's Hospital, and while we are still to work through the ambulance record there would have been over 20 ambulance admissions to emergency departments in metropolitan Melbourne.

I went on to note:

> I urge that reliance be placed upon the Severe Substance Dependence Treatment Act 2010 and compulsory treatment be arranged for my constituent. His parents can document threats to his wellbeing and also to others. It is a tragedy that a person with his presenting condition is unable to access life-saving support services.
>
> He was discharged over the weekend. There is video footage of him being almost in a position to collapse on the street. He wandered downtown to pick up some more synthetic cannabis, and he has been readmitted twice in the last 72 hours to St Vincent's Hospital, where there is great difficulty in accessing any support services that might help save his life. He has come off 60 days of treatment …

including at DayHab, I think, as one support agency in Melbourne.

His parents are at their wits' end. He is harming himself massively. What prospects are there for him to have effective treatment when there was a suggested reticence on behalf of psychiatrists to go before a magistrate and obtain a section 81 order?

Mr PARSONS — It is very difficult. Magistrate Jennifer Bowles just came back from completing a Churchill Scholarship on the question of a secure treatment facility — a compulsory secure treatment facility. In New South Wales there is a compulsory treatment facility. It is a 40 or 50-bed prison not far from Parramatta. I think there is a very powerful case that Ms Bowles articulates very well that says we should be considering the establishment of a similar facility in Victoria, particularly for youthful offenders, particularly for young people

who are completely out of control. Even exercising the authority of that legislation you quoted, as I understand it, it is a 10 to 14-day period of incarceration — and that is all the powers that the system has under that legislation. I think there are very powerful grounds for arguing the application of compulsory treatment in the very worst cases.

The CHAIR — Thank you, Tony. We have had plenty of time and we appreciate it, but we better keep on moving now.

Mr PARSONS — I am very grateful for the opportunity. Thank you, Mr Howard.

Witness withdrew.