

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Homelessness in Victoria

Melbourne—Wednesday, 12 August 2020

(via videoconference)

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Dr Samantha Ratnam

Ms Harriet Shing

Mr Lee Tarlamis

WITNESSES

Magistrate Pauline Spencer, Head, Specialist Courts Division, Magistrates Court of Victoria; and

Mr Marius Smith, Chief Executive Officer, and

Ms Sarah Hughes, Program Manager, ReConnect, VACRO.

The CHAIR: Hello, everyone. Welcome back to the Standing Committee on Legal and Social Issues public hearing for the Inquiry into Homelessness in Victoria. Thank you all who are joining us, and in particular I would very much like to thank our witnesses who are joining us here today, Magistrate Pauline Spencer from the Specialist Courts Division of the Magistrates Court and Marius Smith and Sarah Hughes from VACRO, another tremendous organisation. As part of the committee, we have here today Lee Tarlamis, Kaushaliya Vaghela, Catherine Cumming, Tania Maxwell and Wendy Lovell. To all of the witnesses: all of the evidence taken at this hearing is protected by parliamentary privilege as provided by our *Constitution Act 1975* but also the standing orders of the Legislative Council. Therefore the information you provide during this hearing is protected by law; however, any comment repeated outside the hearing may not be protected, and any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament. As you can see, this is being broadcast. It is also being recorded, and our terrific Hansard team will be transcribing this hearing. They will provide you with a transcript. Ultimately that transcript will be made public by the committee's website and as part of the final report that this committee will deliver to the Parliament. We will have the opening statements at the beginning, and then we will open it up to committee discussion. Magistrate Spencer, maybe we could start with you if you would like to make some opening remarks.

Magistrate SPENCER: Yes, thank you very much, Chair. My name is Pauline Spencer, I am a magistrate and Head of Division of the Specialist Courts Division of the Magistrates Court of Victoria. I would first like to acknowledge the traditional owners of the various lands on which we are all joining this broadcast today and pay respects to elders past, present and emerging, and also to thank the honourable Chair and the honourable members for the invitation to speak today. As a judicial officer, I will not be commenting on government policy or the laws made by Parliament; that is not my role. I do hope, however, that I can shine a light on the day-to-day experiences of our courtrooms and provide some insight into the role the court can play in improving the lives of individuals and supporting community safety.

Courts have changed over the last few decades. In the past a person might have come before a court, their legal issues would be dealt with and then that was it. Over time it became clear that people who are involved in the justice system—whether they be offenders or victims, people seeking protection, say from an intervention order, or people subject to an intervention order—often had other, non-legal needs. So courts must first and foremost apply the law. At law a magistrate might be required to consider decisions relating to bail or consider conditions that might manage risk while a person is on bail. At law a magistrate in sentencing may in appropriate cases be required to set the conditions to facilitate rehabilitation and to consider community protection. In discharging these legal obligations it is often necessary to have supports in place to deal with the underlying causes of offending and to support victims to be safe and to recover.

The crisis of a legal process can often be an opportunity for positive intervention. The Magistrates Court now has a range of specialist courts and programs, including our mainstream court support program which operates in most headquarter courts, which is called CISP, the court integrated services program—it is a bail support program. We have family violence workers for applicants and respondents in our courts across the state, and then in some communities we have specialist courts, such as Koori Court, drug courts, the assessment and referral courts for people with mental illness and cognitive impairments and also specialist family violence courts that are now being rolled out in some areas.

These mainstream and specialist court programs have some common features. They assess needs, so they look at, 'Well, what are the needs of the person? What might be causing the offending?', for example, and come up with a plan to help that person to support them to change direction in their life. We do not provide direct service—we are like a bridge between the justice system and the services—but then we work with the person over time to case manage, to make sure they are engaging, to make sure the right services are following through and also interestingly using the accountability and relationship with the magistrate, with the bench, who has a

role to encourage and motivate engagement as well as monitor compliance. So they are the types of features that are in our specialist and mainstream court programs.

CISP operates for a short period of time, three to four months. It is a bail support program. The person comes before the same magistrate over time and they engage in services. Specialist courts, as their name suggests, provide more specialist assistance—so people maybe with more complex needs, more entrenched issues. They have more intensive and specialist staff who work with the magistrates in those courts and might work with the person over an extended period of time. Then we have Koori Court, which is a specialist court which provides a culturally appropriate response, with elders sitting with magistrates and Koori services involved.

So if I think of an example just from my day about how CISP works, I had a young man who was coming before me in the mainstream court. He was addicted to methylamphetamine. His parents were good, working people. They were at their absolute wits' end. They could not have him in the home anymore. He was homeless, he offended and he ended up in jail. He came before me for a bail application. He agreed to go on the CISP program. We got him got in touch with some short-term housing, he attended treatment, he was getting the right services. He would come before me at first every couple of weeks to monitor and encourage his engagement. He had a few wobbles along the way, but over time, over about six months, he re-engaged with his family, he started working, his drug use was gone. His family started coming to court with him, and it was very rewarding for me to see the smiles on the faces that were previously very worried. So that is the sort of work we are now doing in the court, and that is the mainstream court and the specialist courts. So specialist courts and programs act as a bridge to support services in the community and, where necessary, to provide that monitoring and motivation to engage in those support services.

Now, homelessness is a key issue for people coming before our courts. It is about one-third of our CISP participants, and about 60 per cent of our drug court participants report being homeless upon referral. It has three main implications that I would like to touch on today.

The first is that homelessness can increase the chances of a person coming in contact with police and the courts. I think the committee has probably heard from a range of organisations who have talked about this, so I do not need to go into it much further other than just from our observation as magistrates sometimes there are matters coming before us in the courts that we think, 'Maybe there's a better pathway for this person; maybe something more effective could be put in place that diverts someone away from the justice system'.

The second implication of homelessness is that it can have impact on justice outcomes and also the efficiency of the overall justice system. An example of this is in bail decisions, where without appropriate accommodation, often in combination with other factors, participants may present as an unacceptable risk of reoffending, resulting in a refusal of bail and a person being remanded in custody in circumstances where if there had been adequate housing a person might have been able to be held safely in the community.

An example of this comes from regional Victoria—a young man, Andrew, with schizophrenia. He had a lapse in his mental health. There was difficult behaviour at home. Police were called to his home by his father, and he was removed from the house and an intervention order was imposed that excluded him from the home to protect the family. Andrew had nowhere to go, and of course he returned to the family home in breach of the order. So he was subsequently remanded in custody for charges of contravention of the family violence intervention order. He applied for bail. However, the magistrate at the time with no housing in place felt that he was an unacceptable risk of continuing to breach the intervention order without a stable address, and bail was denied. Andrew was remanded in custody for a period of 28 days. He ultimately pleaded guilty, and because of the impact of his mental health and other sentencing factors it was determined the right sentence was a good behaviour bond, an adjourned undertaking to be of good behaviour, with the condition that he engage in services. So arguably Andrew spent time on remand, which is in terms of the justice outcome but also where we are using our resources in the system—that maybe if he had had a housing option, that was not necessary.

The third implication of homelessness in our courts is that homelessness can make rehabilitation much more challenging. So our data shows that participants that are homeless are less likely to successfully complete our court support programs—our mainstream CISP program and our assessment and referral court program. Conversely, our Drug Court program has an excellent housing program attached, and that, I think, is one of the keys to the success of Drug Court.

If I maybe reflect on a case, again, that came before me where a woman had been shoplifting. She was homeless because of family violence and experiencing poor mental health. She did not have many housing options at all—was staying with friends. Often it is the case—you are staying with friends who are using drugs. It is not the best environment. She started using, which is not uncommon when people become homeless and particularly if they are experiencing trauma. She was moving from house to house and sometimes sleeping rough. She got caught shoplifting, and when she came before me she agreed to come on our CISP program. She was trying very hard to get to her appointments. I was so impressed. She would diligently come to court, dressed as well as she could, even though she often just did not know where she would be sleeping that night, and she was putting her best foot forward. She would go to the local housing service every couple of days to check in: ‘Is there anything available?’. It was really only quite unsafe rooming houses. I remember once she came before me in court and she was just exhausted looking. I asked her how she was, and she said, ‘Look, everything is just too hard without somewhere to stay’. It was very difficult because at the time all I could really offer was that she was doing the right thing by going to the housing service: ‘Just keep going there. Something will come up’. But it was too hard for her and she lost hope. Her drug use spiralled, her mental health deteriorated and she offended again and ended up back on remand.

So they are the implications that we can see from homelessness in our court. In our submission—and I want to thank actually our staff member Bridgette Thomas for her excellent work in pulling together the submission of the Magistrates Court—we have raised a number of recommendations. Generally the Magistrates Court would like to see the continued expansion of our mainstream and specialist programs. Mainstream programs do not exist everywhere—neither do specialist court programs. Some people do talk about postcode justice—that if you are in a particular area you might get better services than others. So we would like to see the expansion of those programs across the state. But specifically in relation to homelessness we have made some recommendations, and they are firstly around the triage and assessment function. We think that we could do better. Look, it happens in the health sector very effectively where someone comes into the system and there are some very skilled people who look at this situation and go ‘What does this person need right now?’ and actually make recommendations. It might be that person does need the court support programs or that we could make links at that point into the community sector so that the bridge can be much more managed up-front—that early intervention getting people with the right level of support at the right time.

The second thing we have suggested is establishing a specialist court housing support service. We do have an initial assessment and planning service that currently operates in four locations, but really this would be looking at taking that statewide—so having that specialist housing knowledge embedded in the courts. So right when someone is making their bail application we have got people there, you do the assessments and get the clear pathway into the housing services.

And the last thing is intensive outreach for clients who may have complex needs. And actually what that means is at the moment we expect people to come to us for their appointments and for coming to court. We think there is much more we could do with people if we were able to go out to them, particularly in those first crucial few months when they are released from custody. So that is not everyone, but it would be targeted at people with complex needs. So that is like strengthening that bridge between the court and the sector, but of course it all relies upon the need for there to be adequate—sufficient supply of safe and affordable housing, because you have to have something to bridge to. And so that is obviously a matter for government.

From my observation, what I have seen work best is where court programs have dedicated housing access and that that has some sort of wraparound support programs for justice-involved people. And I think about the Drug Court program, it is called DCHAP, and also recently the Corrections Victoria pilot of the Atrium Housing and Support Program. So those types of programs are very effective and very useful. And given the inextricable link between the justice system and the housing system, I am of the view that improvements to one area will lead to improvements in the other.

So I thank the committee for the opportunity today and for your efforts in examining this important issue, and of course I am happy to answer any questions.

The CHAIR: Thank you very much, Pauline. And, yes, I think you saw the whole committee nodding as you were speaking. Marius and Sarah, is one of you going to speak, or would both of you like to speak?

Mr SMITH: I will do the opening statement and then we will both be free to answer questions.

The CHAIR: Great. Thanks.

Mr SMITH: I would like to begin by acknowledging the traditional owners of all the lands not only where we are meeting but all the lands throughout Victoria where VACRO works. VACRO is Victoria's oldest and only specialist service provider to clients of the correctional system and their families, having been established in 1872. It provides reintegration, employment and family support to people at all stages of their journey through the criminal justice system.

In this statement I will describe the post-prison housing support we provided through our two key reintegration programs, ReLink, which is delivered pre release, and ReConnect, which is delivered post release. And I will identify the gaps that we see in homeless services and the opportunities for improvement. And I will also provide an update on how COVID-19 has exacerbated homelessness for our participants.

So we know from the available research that people who are homeless are over-represented in the prison population and that prison further exacerbates the chances that someone will end up homeless, post release. So in the most recent financial year 30 per cent of our ReConnect participants were released into primary homelessness and another 54 into secondary homelessness. And that is even higher than the numbers for the general prison population, which are already very high. This is not surprising, because society's most disadvantaged people are over-represented in prison—those with mental health conditions, people with intellectual disability and our First Nations people, to name a few—and ReConnect walks alongside only the most disadvantaged members of these generally disadvantaged groups.

And the current pandemic has made things worse for our participants. Stress on the system is so high that last week two of our recently released participants were offered tents by the housing entry points in their regions. For the people we work with, COVID-19 is an immediate crisis piled on top of an ongoing crisis, and I will give a bit more detail about that shortly. But first I will detail the lessons we have learned from operating ReLink and ReConnect.

ReConnect is a voluntary post release program funded by Corrections Victoria and we deliver it in the Barwon, south-west and Grampians—broadly speaking, the western part of the state. It is delivered in the other regions by Jesuit Social Services and ACSO, with whom we collaborate closely. Participants receive ReConnect support for between one and 12 months post release. So most participants are referred to the program by ReLink, which is the equivalent pre-release program, delivered by VACRO in most Victorian prisons, so it is a through-care model. ReLink and ReConnect support participants in seven critical domains, including employment and addiction, but the two domains most commonly nominated by our participants as the ones where they need support are mental health and housing. Two of the biggest challenges for our case managers are finding housing for people and helping them to maintain it, and these two tasks can take up the bulk of a case manager's work with a participant.

ReConnect participants are automatically eligible for priority application for public housing; however, because of the stress on public housing very few of our participants will secure a place before the end of their ReConnect package. When a person is exiting a prison into primary homelessness, our first step is to take them to the housing entry point in their area. At this point we normally arrange for initial accommodation in a motel by combining funds from ReConnect and the housing entry point, and this buys us some time to start a participant's search for appropriate accommodation. Ideally we would place the participant into time-limited crisis accommodation. They should then move on to a transitional housing property for up to 12 months, by which time they should have moved into public housing. However, the lack of public housing means that no-one is moving on from transitional housing and no-one is moving on from crisis housing, so the entire system is blocked up.

The harm caused by this problem can be illustrated by the case of two people we work with. We will call them 'Keith' and 'Mark'. We applied to put both men into the same crisis accommodation. Keith received a place, which set him on a path to a prosocial life and reunification with his children, while Mark did not. After a month in hotel accommodation Mark moved back in with a partner with whom he had a history of antisocial behaviour, and soon after he returned to custody. Now, these stories are not as simple as whether housing was available or not, but the availability of housing played a considerable role in their different fates.

As I mentioned earlier, these problems have been exacerbated by COVID-19. There appears to be more pressure now on the housing entry points, resulting in the situation last week where our clients were offered tents rather than financial support for crisis accommodation. Luckily in one of those situations we were able to secure motel accommodation using ReConnect funds, which had been bolstered by an extra \$50 000 from Corrections Victoria to assist with this latest crisis. Our participants are generally now spending longer in motel accommodation, and we are witnessing greater issues with mental health as a result. They are effectively in limbo, and they cannot execute the plans that they developed in ReLink pre release. We know that the first few weeks and months post release are vital. It is when participants are motivated to change, and if they are not able to start a new life, the risk of reversion to past harmful behaviours increases.

Because of the chronic lack of public and social housing we are looking at other options to support our participants. For example, our case managers create relationships with some real estate agents, because many ReConnect participants are capable of holding down private rentals, often with the support of the private rental assistance program. Many agents do have stock available for low-income tenants, but our participants carry a significant stigma, so we need to build strong relationships with agents. However, VACRO is stretched beyond its capacity, providing ReConnect to 80 per cent more participants than envisaged under the program. As a result, setting up a network of connections with real estate agents in towns as far away as Geelong and Warrnambool and Ballarat and Horsham is currently beyond us.

On another note, for those who are able to work, employment can be a solution to the housing crisis, and there is an acute need for a greater focus on this opportunity. We run two social enterprises focused on employability, and we are currently planning a program to link people leaving prison to jobs in the community.

Our other housing-related role is to help our participants to maintain housing once they find it. Living with prosocial family members or friends can be successful, but as I said earlier, our participants are some of the most complex clients in the correctional system and they need help to navigate the often fraught circumstances of living with others while coping with the trauma of returning to the community and dealing with multiple problems such as addiction, mental health and unemployment. Recent Victorian research shows that the risk of homelessness increases approximately six months after release from prison as unstable housing arrangements often come to an end. This finding is very consistent with our experience, but unfortunately the vast majority of VACRO's ReConnect clients have been transitioned out of the program by then. They often therefore lack any reintegration support at the moment when they most need it.

In conclusion, ReLink and ReConnect support people leaving prison by providing assistance in seven critical domains. However, the housing crisis is so overwhelming that it consumes vast quantities of our case managers' time and resources, often for unsatisfactory results on the housing front, all while leaving them with little time to provide the holistic intervention support required to facilitate successful reintegration. The increasing case loads have further hampered our case managers' ability to provide the intensive support needed by many of their clients. Considering the many positive outcomes that our ReLink and ReConnect participants currently achieve under these difficult circumstances, including in the housing domain, we know that a better funded system would result in better outcomes for many more of them. Ideally that support should be available to many more people. The vast majority of people leaving prison receive no formal reintegration support, according to a 2015 Ombudsman report, and since then the number of prisoners being released every year has only increased.

Successful reintegration results in improved community safety, and that improved community safety requires, first, a much larger investment in public and social housing; second, greater access to the private rental market; third, considerably greater resources for post-release reintegration services like ReLink and ReConnect; and fourth, more employment options for those who can work post release. The solution to the problem of people leaving prisons into homelessness is a whole-of-government responsibility. Corrections Victoria is a great source of specialist knowledge and a vital part of the solution, but it cannot solve the problem without significant cooperation across government.

I will stop there and just add that I have referred to a number of specific cases during my remarks, and our ReConnect Program Manager, Sarah Hughes, can elaborate on these cases and many others and answer any other questions about the problems that our participants and case managers face. Thank you.

The CHAIR: Thank you so much, Marius. Sometimes it seems like the justice system is actually providing some of the housing solutions, and that is a terrible indictment when the only place that some of your clients are safe to live is back in jail. Certainly, Pauline, you have mentioned that as well—that when people have not got the support outside the justice system, it just of course sends them back into it.

Pauline, if I could start with you, you mentioned that the drug courts actually have got quite a good housing program. Could you tell us a little bit more about that? I assume that it is a model that we could expand more generally in the court system.

Magistrate SPENCER: Yes, it is a supported accommodation model when someone comes onto a drug treatment order. People on drug treatment orders are people who would otherwise be in custody who are being released into the community on a drug treatment order, which is quite a rigorous order that provides intensive support. Part of that intensive support is an assessment of their housing needs. The Drug Court DCHA program actually provides transitional housing properties and then support with the workers that are attached to that to provide that housing support, looking at immediate but also medium and longer term housing needs and what the pathway out of transitional housing might be.

The CHAIR: And do they have access to some of the HEF funding or some of the other private rental funding?

Magistrate SPENCER: Yes. I understand there is designated housing stock that they have access to. What I can do, if the committee is interested, is provide more detail about DCHAP.

The CHAIR: Thank you, because I think if there is a model out there that can be expanded—

And it is obviously much more beneficial to the community and to people's rehabilitation if they are outside the prison walls rather than trying to go through rehabilitation within them. Just following on from that, that is sort of to avoid people going to prison. We certainly have heard about the discrimination that people with a criminal record experience, particularly in the housing market, and we heard this in our spent convictions inquiry last year. Marius, have you done any costings based on providing you with more funding and on providing you and ReConnect with more PRAP funding and the savings that that would provide to the community and to the government?

Mr SMITH: We do not have exact numbers. We do know that the cost of imprisoning someone for a year is well over \$100 000, and the cost of the ReLink and ReConnect programs is comparatively a fraction of that. In terms of specifically more housing support and what benefit that would have, I do not have exact figures, but we can see if we could provide you with something. The benefit of housing support is that, to put it perhaps into just a bit more context, it is a sort of foundation on which you can build. It is really kind of one of the most important factors for reintegration. It allows you to then address the other physical needs and, you know, factors that affect your reoffending, allowing you to then build your life and to desist from crime, which then has an effect of reducing recidivism rates, which has the effect of reducing future victims of crime and improving community safety. But I might throw to Sarah. Did you want to add anything about the very practical effects that you see from the provision of housing in ReConnect?

Ms HUGHES: Yes, sure. I think Marius pretty much summed it up. It is providing that stable base. We know that having that unstable housing and not knowing whether your basic human need for shelter is going to be met every night is retraumatising for people, and that does not make it conducive to implementing steps and plans and strategies to obtaining stable housing. So it all sort of just is a bit of a nasty cycle. But I suppose giving someone a base means that, I guess, it is one less thing to worry about. And it is about then refocusing on those other domains that we can support people in and moving to the next step of, you know, employment—and then from employment needs to improvement in independent living skills and being able to be self-reliant and move away from those community services and public housing and really becoming more independent and less reliant on services. So it just becomes a very practical way of being able to support someone, and it opens up the opportunity for services like ours to support people with their other goals and not spend, you know, three to four months just trying to get a roof over somebody's head.

The CHAIR: We have heard that, you know, it is hard to get parole without secure housing, so sometimes people do not qualify for parole so then are released straight out without parole. Does ReConnect work with paroled people as well as people who are released without parole?

Ms HUGHES: Yes, so we will work with people who are a straight release—so no reporting requirements with community correctional services—but we will also work with people who are coming out onto community correction orders or parole. And yes, you are right—it is actually impossible, I would say, to get parole without an address.

The CHAIR: Yes. Is there something that you would recommend to us—and I apologise; I was trying to find your submission and I could not find it—around housing for people going out on parole or enabling more people to go out on a more structured exit from prison that parole might provide? Are there some housing initiatives in that area?

Mr SMITH: There are a few different things. One is just the general improvement of the housing stocks that are available to anyone through public housing and social housing. There are a limited number of houses available to our clients through Corrections Victoria, which has a stock of housing. And then beyond actually improving the availability of housing stock, the two things that we are probably focusing on are the two things I mentioned in my opening statement. One is improving employment outcomes for people coming out of prison. There are a few things here. You kind of mentioned that there is discrimination that people have to overcome, and you mentioned that in the context of spent convictions, which is a great initiative but will not stop discrimination against people. But there is an opportunity with employment because of the social procurement framework, and I believe you have heard from Wade Noonan about that, so I will not go into too much detail except to say that we think it is a really great possibility for the government to direct organisations that have contracts with the government to employ very disadvantaged jobseekers, including people coming out of prison. Then the other thing that Sarah might want to expand on is that idea of: there are people who can get into the private housing market but stigma and discrimination can provide a barrier again to that. We do see some potential for us to do that with some of our very disadvantaged participants. Did you want to very briefly describe how that works, Sarah?

Ms HUGHES: Yes, like Marius said, there is quite a significant number of our participants who would be able to manage private rentals, both from an independent living skills perspective and also financially, and it is a great option for parole. We have done a lot of really good work, particularly with Ballarat community correctional services, around how we can get people paroled into private rentals. The biggest barrier is that because of parole those properties need to be assessed by community correctional services and then up through the adult parole board for final approval, and real estate agents will not hold properties if you are not paying for them. So that is pretty much the biggest barrier that we have. I have got one example of where we went through a real estate agent who, because the town is quite small, was actually happy to hold it because the property market was not exactly booming. That person who had been in prison for, I think, almost 10 years, after being eligible for parole for the last two years was able to actually get out on parole and complete his parole, and he still remains in the community to this day. So where we have that flexibility it has been fantastic, but obviously that is not the current approach, and whether there is something we can do around addressing that barrier, I think that would open up a lot of opportunities, particularly for long-sentenced prisoners.

The CHAIR: Thank you, Sarah. That is great. Lee.

Mr TARLAMIS: Thank you, Pauline, Sarah and Marius for your presentations and your submissions. I do not have any questions at this stage.

The CHAIR: Thank you, but feel free to jump in later if you do, Lee. Kaushaliya.

Ms VAGHELA: Thanks, Chair. Thanks, Magistrate Spencer, Marius and Sarah for your presentations and submissions. My question is for Magistrate Spencer. It is regarding one of the recommendations that is there in the submission that has been made, regarding the establishment of a triage and assessment function. Earlier we had another presenter who was talking about the different cohort of people in terms of gamblers. The theme was similar, as in: we need to do the early detection, early screening, because once we determine that, then we know what the actual issues are and that would help, in a way, as a preventative strategy. Again, the theme is the same. The recommendation that you have put here is more or less similar. So this one, the one that you are talking about, has no-one thought about this? Because in a hospital setting, we cannot imagine a hospital without triage and assessment, right? So in all these different settings that we are talking about, and especially in the court system, have we not thought about this before? Or is it not working? What is it? Is there any model existing somewhere that we can replicate, if it is working somewhere else?

Magistrate SPENCER: Yes, so thank you for the question. The CISP program does this to an extent, but it was not designed to do this. So what we are wanting to do is develop up a triage function in itself that is actually staffed by quite senior, experienced people who can actually do that very quickly. Say, someone is in the cells or someone is on the floor of the court, and it is like, 'Okay, this is what this person needs. This is the trajectory of where this person needs to be going, what their pathway is'—so what the issues are and where they need to be going. What has happened is that the programs have been funded, but the up-front triage function has not been funded, so that is something that the court would like to have. Certainly we have developed up some ideas of some models that we would like to pilot. But as you say, there is a lot of experience from other sectors as well, the health sector particularly, about how these functions work.

Ms VAGHELA: In terms of your experience in the homelessness sector, do you think there is overlap between different providers, or is there a way it can be improved so there is effective use of resources and funding?

Magistrate SPENCER: Probably a little bit outside my expertise, I must say. But I should say that I think what we are proposing in our submission, particularly around the court housing support service, is to have some expertise in the court. We have generalist workers who are across alcohol and drugs and family violence and other areas, but housing is a specialist knowledge, and you have to be kind of aware of the whole sector and how it works and how to get people in. So to have that expertise actually in the court would, I think, really strengthen that bridge so we are not just chasing our tail some of the time.

Ms VAGHELA: Yes. I will come back if there is more time, yes?

Magistrate SPENCER: Thank you.

The CHAIR: Yes, thanks, Kaushaliya. I think that navigation of the housing sector is something that has become incredibly stark to us during this inquiry—how complicated it is. Tania?

Ms MAXWELL: Thank you, Chair. Thank you, Sarah, Marius and Magistrate Spencer, for coming today and allowing us your time. Magistrate, I just wanted to go back and have a quick look at CISP. Given a lot of our rural and regional areas find it very difficult to have that recruitment, that availability of staff who have that specialised experience, I just want to go back and relate that back to some of the evaluation findings from the Drug Court of Victoria. Of the 38 per cent of people who completed the program only 19 per cent successfully graduated and 61 per cent of the clients who were no longer active failed to complete the DTO and were sanctioned with a term of imprisonment. Now, we know that recidivism, drug use and the lack of available homes to support these people are all contributing factors to them eventually being reincarcerated. How can we provide extra rehabilitation programs as opposed to placing some of these offenders? And I do not say 'all'. I mean, that was a lovely story about that young man and his family eventually coming to court. Now, it would be fabulous if that was how all our offenders ended up, but obviously they do not all have such a great outcome or great story.

I know in some of the areas across northern Victoria it is so difficult to be placed into a drug and alcohol rehabilitation centre. So if that is not available, we are almost contributing through this lack of homelessness support to the only other option being reincarceration again. I think that homelessness is not a standalone issue and there are so many factors that create homelessness, so I would really appreciate your feedback on: do you believe that we need more drug and alcohol rehabilitation centres? I also know that some of them will not take clients until they have actually detoxed, and a lot of our rural areas have nowhere for these people to be detoxed, so it just becomes this revolving door. Would you say that in order to decrease the probability of somebody becoming homeless they could go into drug and alcohol rehabilitation while a specialist homelessness person is working with them as they get closer to leaving that facility?

Magistrate SPENCER: Thank you. There is so much in that question—so many great observations. The issues for rural and regional Victoria are much more challenging than the challenging issues that exist in metropolitan areas. I regularly have sat in Mildura particularly, and I think there are some hearings tomorrow for the Mallee, where you will hear about the issues there. I think what you have hit on is really key in that all of this is interlinked, and so it is not justice, mental health, alcohol and drugs and homelessness in individual silos for the person; if we think about the person, they are all intersecting and compounding, and what we are understanding, particularly for people with disability and people with, say, acquired brain injury, is that that

compounding nature of all those areas and the disadvantage then results in them ending up in the justice system. So definitely whatever can be done to strengthen those community supports will lend to better outcomes in the justice system, in my view.

Ms MAXWELL: Thank you, Pauline. I had heard from a corrections member saying that somebody put on a CCO, whilst corrections are looking for suitable housing, can often be mandated to attend a DTO, but it is the one thing that they often do not attend, which then increases that probability that they will become homeless. And it is just that circle, isn't it? We need that circuit-breaker to be able to not only allow people to have a roof over their head but upskill them and instil some pride and some hope and empower them, and whether that is through the justice system, psychologists, whatever professionals, I think it is imperative that these people are empowered and have a safe roof over their head.

Magistrate SPENCER: Definitely. One of the things about how we can work now is that the *Sentencing Act* allows for a number of options where a magistrate can bring a person back before us over time certainly pre sentence but also when someone is on a community correction order with what is called judicial monitoring. And many of us find that that process of bringing people back both in terms of accountability—I call it the Weight Watchers check-in; you know, you are actually having to go face the magistrate and say that you have been to your appointments—but more importantly the power in that, and it comes from behavioural change science, is that the relationship is built where you are actually encouraging and motivating someone to engage in services and giving them hope and praise when they do well. You can see people over time who are at their lowest ebb in that process actually building their confidence to change and going to their appointments and being proud of their achievements, and it is very powerful. But this is what the science tells us; the law is just catching up.

The CHAIR: Thank you. Catherine.

Dr CUMMING: Thank you, Fiona. Magistrate, my question is to you, and it is a question that I actually raised in Parliament last year on 28 August. I raised this question to the Attorney-General, but it is pertinent for you, because I would like this information. My question for the Attorney-General was:

Will the government commit to the reinstatement of the special circumstances list? The special circumstances list has functioned effectively for over a decade through the Magistrates Court. The list applies to those who have broken the law but could not control their behaviour or did not understand they had broken the law. Reasons include mental or intellectual impairment, addiction, homelessness or being a victim of family violence. Commonly there are multiple fines, which complicate obtaining proper representation. The list allows cases to be heard in the context of the special circumstances in one place, with proper representation. The list is vital for fair, effective and rehabilitative sentencing for tens of thousands of highly vulnerable Victorians.

And then I asked a supplementary question last year:

Will the minister advocate for the special circumstances list to sit less frequently, rather than be abolished, where the volume of matters is lower than expected? I understand that a concern of the court may be that the volume of offences being prosecuted post fines reform is not sufficient to justify the continuation of the specialised list.

But the response that I received, Magistrate, was that:

The Magistrates' Court of Victoria established the Enforcement Review Program/Special Circumstances List to assist members of the community who have 'special circumstances' and outstanding fines that were lodged with the Infringements Court for enforcement.

And the minister's response was that she understood, but there were changing laws around enforcement review which meant that the court is considering different ways to assist this section of the community—which is the most vulnerable, I consider, in my community.

So the Victorian government, it says, considers the Magistrates Court is best placed to manage its lists and processes as the court operates independently, obviously, of government. She felt that it was appropriate for her not to comment on or to intervene with the court's processes; however, she said that the Victorian government is committed to supporting vulnerable Victorians and ensuring the court operates effectively and fairly. Then she gave the example that:

... the 2019/20 Victorian Budget invested more than \$267 million to support and expand specialist courts and programs designed to reduce reoffending, improve community safety, support victims and provide better court services for regional areas.

She also stated that the Victorian budget in 2017–18 provided only \$22 million more for mental health supports in courts. But she also said that the government has invested \$130 million through the budget to family violence in the areas of Ballarat, Frankston, Shepparton, Moorabbin and Heidelberg. And I will make note that there was none in the west. So, Magistrate, is there a problem with the special circumstances list? Because this was raised with me last year, and obviously I know that a lot of vulnerable people—especially in my area—when they have multiple needs, multiple fines, they are the ones that, due to their complex needs, homelessness and the like, need that additional support within the court system.

Magistrate SPENCER: Yes. Thank you for your question. I might need to take that on notice in terms of where we are up to with the special circumstances list. I am aware that it was operating in Melbourne and that it is around fines, so infringement warrants, and that special circumstances can be considered in terms of infringement warrants, which can happen in all this. So that power exists under the *Fines Reform Act* to look at those fines. But it was putting a lot of matters together in one list so that they could be dealt with in that way. So I understand it operated successfully. I know there have been some delays in infringement warrants being listed, so I am not sure whether that is the issue, but I am happy to take that one on notice and get you some more information on where that is all up to.

Dr CUMMING: Thank you.

The CHAIR: Thank you, Magistrate. Just in the quick time we have got, the Law Institute of Victoria made a recommendation to us about a homelessness court. Again, looking at, Marius, in your presentation and your submission, and certainly in the Magistrates Court submission, the number of people who are coming to the courts experiencing homelessness or being remanded experiencing homelessness, do you think this warrants consideration for us to look at a specialist court such as a homelessness court?

Magistrate SPENCER: It is interesting, because I am kind of new in this position, and in thinking about where we go from here in terms of our courts, the challenge is, I think, that sometimes we design the court and then we put the people in. Then if there are a lot of people, you have delays. So there is a need for specialist work and specialist lists at times in terms of how we organise our work, but there is also a lot we need to do in the mainstream court, where people are coming in. So I am kind of thinking along the lines that we design the system around the person's needs—

The CHAIR: Wouldn't that be wonderful!

Dr CUMMING: Yes!

Magistrate SPENCER: rather than creating a whole lot of lists. I think about a third of the people in our CISP program are experiencing homelessness, and that is across the state. So then you start to create separate courts. Or do you actually improve what you do in mainstream court or do you do a bit of both? I think there is a role for specialisation, particularly with people with more complex needs. But if you think about it, a lot of people come into the court and they can be given a service and then diverted out, and then they are gone and on their way and operating safely. Then you have other people who need a little bit more support, and in the mainstream court we can provide that little bit more support. And then you have people with more complex needs who really need that more intensive, really highly skilled work. So that is the way I am kind of thinking about it. I think traditionally we think, 'Oh, let's make a court'. But we just end up with a whole lot of courts and not thinking about how it all works together as a whole.

The CHAIR: I think that is a very good point, and I think looking at expanding CISP and looking at, as you touched on again, the triage. Marius, has this come across your idea file before?

Mr SMITH: We operate at the other end of the system, I guess. So we have not sort of turned our minds to whether there should be a different court, although we have run programs in the courts in the past, including a program for families that was available at the Geelong Magistrates Court. And we do certainly support from that experience the notion of providing more services that are needed around the people who are appearing in the Magistrates Court as they are there.

We know that there is a role for services. I mentioned the word 'through-care' in our initial submission, and that is the idea that you get the same service in prison that you get in the community, and in fact that those services should pick up at the court and preferably before the court. There might be alcohol and drug programs

in the community, but then you want to carry that through the prison and back in the community. And in other cases the court provides a really good space at the moment to address needs, as Magistrate Spencer has been talking about today, and to then start to address those needs, whether the person then goes into prison or back out into the community, whichever way they are going. You mentioned the idea of designing the services around the person, and that includes having the ability for those services to move through the different parts of the justice system.

The CHAIR: Yes, and as Tania picked up on, the struggle in regional areas is of actually providing that in those numbers. Kaushaliya, I think you flagged that you might have one more quick question.

Ms VAGHELA: Yes, just a quick one to Marius. Marius, you mentioned the impact of COVID-19 on some of the people who are suffering homelessness. Of course the government has housed them right now in temporary accommodation, and also we do have the moratorium on residential tenancy evictions. Once that comes to an end, what do you think will happen? What are the impacts you think you will see more in terms of the people who are suffering homelessness?

Mr SMITH: Yes, thank you. I might throw to Sarah for that one, but before I do I will just really quickly say that the problems are sort of different in different parts of Victoria. You know, we have got a bit of a different response say at the Maribyrnong centre in the urban area, whereas we are dealing with services in regional areas, predominantly post release, and the different issues that arise. Sarah, did you want to sort of jump in?

Ms HUGHES: Sure. I think the change to the *Residential Tenancies Act* has been a real blessing, so I thank the government for introducing that. It has certainly allowed us to provide some really good support to people while still maintaining their housing. I think the housing entry points continue to be overwhelmed, despite the additional funding. We are still getting feedback from our clients and my case managers that people are being turned away and told, 'We've run out of money for the day' or 'We've run out of money for the month' or 'Here's a tent'. So I worry for what things will look like post pandemic, given that so much money has been put in and those services are still extremely overwhelmed. I guess I predict, then, that there is going to be a real lack of that crisis accommodation. And if people are not able to get into something quickly to then build on to the next step of those more medium-to-long-term housing options, we are going to see people turning to the streets or turning to antisocial peers to couch surf and then from there those antisocial behaviours are going to start coming out, which ultimately will lead to a return to custody. And it is not uncommon for us to hear our clients tell us that things were easier in prison and, you know, 'If this is how it's going to be in the community, I would rather be back in there'. I think we get that about once a month at least.

The CHAIR: Thank you. That brings us to the end of our time today. Thank you all. Thank you, Marius, Pauline and Sarah. This has been, again, just another really illuminating conversation, and it certainly will play a significant part in where we finally land in our recommendations. To the committee, thank you all for your energy and input today. Again, thank you to the witnesses. Your transcripts will be with you shortly, and please do have a look at them because, as I say, ultimately they will go onto our website and form part of our final report. For everyone who has been watching online, thank you for your interest in this area. Please come back tomorrow. We will be investigating a little bit more around regional Victoria, and in particular the Mallee and up in that north-west part of our lovely state. I now call the public hearing to a close. Thank you, everyone.

Committee adjourned.