LAW REFORM COMMITTEE

Inquiry into warrant powers and procedures

Melbourne — 19 October 2004

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Ms I. Collins, director, Victorian Mental Illness Awareness Council; and

Ms E. Crowther, chief executive, Mental Illness Fellowship Victoria.

The CHAIR — Thank you very much for joining us and taking the time to present to the committee. Our work as the Law Reform Committee is governed by the Parliamentary Committees Act, which means that anything you say here, which is recorded by Hansard, is subject to parliamentary privilege. I do not know whether at any time you would want to give any evidence in camera, but if you wish to, you can indicate that you would. Otherwise your evidence is public. We will give you a transcript to correct in the next week or so. After that has been done, we put it on our web site and it will be available as a public document. We would love to draw on it in terms of our recommendations and conclusions. Perhaps to start off you could talk just generally to your submission and then we might get into some questions.

Ms CROWTHER — Thank you very much for accepting our late submission. We have three issues which you highlighted in your letter back to us. The first of the issues we raised and have been concerned about for some time is the PERIN court procedures where somebody may have accumulated traffic fines or offences that are quite small but build over time, and too often we have family members ringing us to try to do something about it. I had the opportunity to meet with some judges of both the County Court and the Magistrates Court some weeks ago and raised this issue at that time. At least one judge in that setting said that he came across this situation with some regularity.

Isabell and I have been speaking about it, and there are some potential ways that payment plans could be arranged if the person is willing to participate. However, very often the calls that we get are from the relatives — the mother, father or partner — and they cannot actually bring the person into contact with any treatment authorities, so the person just keeps on doing the inappropriate thing.

If somebody did come up with such a history we wondered whether or not there could be some mechanism where that person could be highlighted and brought forward for an assessment, because very often the person is so unwell that the pressure is put on the family member. The family member knows that the person is unwell, and it leads to situations in the family that just escalate anxiety and at some times demands. The family thinks they have nowhere to go. Leading to the families paying and accruing debt themselves, or equally dreadfully it actually leads to family breakdown and a great deal of anger and hostility within the family and the person without mental illness just being further isolated. That is one issue.

The second issue we really struggle with. We get calls from family members saying that the best thing that happened in their lives is coming in contact with the CAT team, that it has been a marvellous experience and had that not happened they do not know where they might be. We equally get telephone calls from other people to say CAT teams will not come to them, they will not respond, and that has meant that they have had their loved one apprehended by the police and being in custody when some other outcome would have been much better.

I am looking to put some pressure within the system so that if there is a call to a CAT team and the CAT team is worried that they may need some law enforcement assistance, the CAT team in fact must attend. There is some capacity when the call comes in and violence or drugs are raised that referral to the police means that both police and a CAT team attendance. I am trying to get the two linked up. Then there needs to be a capacity for the police to write a report that is mandated where a CATT did not attend if they asked a question such as, 'Could it have been better dealt with in other ways via CAT teams?' or 'Was it really necessary for us to attend?' which is reviewed by an external body.

I do not know whether that is for the Parliament but there needs to be a bit more pressure put between the systems. What happens at the moment is that those calls just get lost, and the CAT team says it is the responsibility of the police and the police say it is the responsibility of the CAT team. I think we would be much better off if there were a link between both systems.

The last issue we have raised is around police training. We get exactly the same response I raised with you about the CAT team, with people saying the police were absolutely marvellous; they were truly fantastic. We get others saying quite the opposite. We have done a little bit of training with some police in some areas, and those police members that we have seen say to us, 'We just do not understand mental illness. We do not have enough information about it. We want some very practical knowledge of how to deal with mental illness'.

We have been presenting some training around that, which has been valued. I am not saying we should be the presenters of the training, but rather than some of the training just being focused on containment, some of the training needs to be focused on understanding. What that means for somebody who is unwell and who has a psychotic illness — and that is really where I am focusing my comments — is if somebody has voices in their head, that person's response is perfectly understandable if you understand what is in their head, and with just that small amount of knowledge it actually changes the police approach to that person, which often has a much better result than straight containment. That is the reason why we are submitting that we would like to see additional education within the police force available, that it be further than containment and that it go towards understanding.

The CHAIR — In relation to that issue, the Mental Health Legal Centre in its preliminary submission to us raised two issues associated with the experience of the CAT teams. One was that the CAT teams rely on the police too often without weighing up the threat to the client as a result of having police involvement. The second issue it raised is that too often police are, if you like, executing warrants for arrest under the act without having the appropriate personnel present. Have you any comments on that view?

Ms CROWTHER — That is part of my earlier submission, where very often the CAT team response is a gate keeping out rather than a gate keeping in, and the feedback that we receive — and I might say, from some CAT members themselves — is that where somebody has a mental illness and needs to be contained under the act or assessed, that it is the responsibility of the police to bring that person in. There is a developing response that police do that front-line work rather than the skilled CAT team personnel.

Mr MAUGHAN — Just following up about police involvement in these sorts of incidents and, if you like, babysitting where a person has gone to a casualty department of a public hospital and has been certified for admittance to a secure facility. In several instances that I am aware of Rural Ambulance Victoria chooses not to transport that person until at least the following day, and because there are no secure facilities in country hospitals police are kept there in a babysitting role, which seems to be an inappropriate use of police time and resources. Have you any solutions to that problem?

Ms CROWTHER — We have tried advocating a number of times in one rural area and have not been successful. Country hospitals without psychiatric units seem quite unprepared to take people in overnight who are waiting for transport from Echuca down to Bendigo or somewhere else. We have been singularly unsuccessful. There was a project, I think it was in Broken Hill, that was running for a while, but again it seemed to be dependent on individual staff members rather than a systems approach. The rural issues are very difficult.

Mr MAUGHAN — They certainly are.

Mr LUPTON — Isabell, did you have something you wanted to talk through?

Ms COLLINS — Sure. I got a letter from Merrin Mason asking a number of questions, one of which was:

> What are the VMIAC's views of the particular needs of people with a mental illness?

It is an Australia-wide problem, but access to services is the major difficulty. If services were more easily accessible, whether they be clinical services or non-clinical services, we would have less consumers actually in the justice system.

Liz has talked about the difficulty with the CAT team. From the consumer's point of view, they refer to the crisis assessment and treatment team as the cannot-attend-today team or the call-again-tomorrow team, because they have a statewide reputation of just simply not responding to calls for assistance. For argument's sake, somebody who is aware that they are mentally deteriorating may ring up and say, 'I am becoming unwell, I need admission to hospital', and the CAT team member will say, 'If you have that much insight you are clearly not sick enough to be admitted'. That may very well be fair enough, but what happens is they are not then referred to somebody to get some assistance to intervene and to prevent them from deteriorating, and they are basically left to deteriorate to the point where the police have to be involved. That is a real difficulty.

You talk to psychiatrists, and they say they find themselves in this constant ethical dilemma where there is somebody in hospital who is still unwell, but you have somebody outside hospital who is desperately needing admission, and you have to try to juggle. Is it going to be safe enough to discharge this person because the one that needs admission is a bit sicker? So there are those constant tensions.

There have been dire consequences as a result of that lack of services. I totally agree with Liz that there seems to be no rhyme nor reason for when the police are involved and when they are not — for example, I have met with numerous CAT team members and asked, 'What are the criteria you use?', and somebody will say, 'We got a call the other day and somebody was suicidal, so I rang the police and they did not attend'. Somebody else will say, 'We got a call to say that they were brandishing a knife at their mother in the kitchen', and they attended with the police.

While there is this view, which I support, that people ought to be able to use their professional judgment, it seems to me that professional judgment is being overridden by attitudes rather than necessarily doing the right thing. I totally agree with Liz that CAT teams should attend with the police and that a database should be kept and presented to Parliament, including statements from the police about whether they believe that it was essential for them to be called. From my conversations with individual police members, they believe that in many instances they are unnecessarily called and that they are doing the jobs of the CAT team members. Part of the difficulty is that when you talk to the CAT team they say they are so short of staff they cannot cover the areas they are required to cover.

One of the major problems is certainly access to services. In the clinical situation we have patients who are literally being discharged to the streets. As you would know, many people with a mental illness are homeless. There is very limited affordable accommodation for them. They are on a disability pension. Getting accommodation in the private sector is also very difficult. When people have a mental illness that is chronic in nature, many of them need support to live in the community, and again the services are just not there. The service is there, but there are not enough of them to provide the assistance that people need in some instances to keep out of trouble.

Poverty is a major issue. I think part of the reason for the escalation in crime is the incredible poverty. We get calls all the time from people saying, 'I have got $40; my medication is going to cost $38; and I have not got any food. What should I do, because my pension is not due until next week?'.

To sum it up, the major problems are access to services, whether they be clinical or non-clinical; certainly homelessness; and unemployment runs at something like 75 per cent for people with a mental illness.

I guess the other thing is that we do not tend to take account of the fact that young people might have their life plan. They might want to be an architect or, heaven forbid, a politician, or they are off at university studying; they develop schizophrenia, and that wish that they have had ends because in many instances they cannot continue with their studies. They lose friends, they are going to be relegated to a disability support pension, and in many instances they will be tortured with the voices for the rest of their lives. They do not get any counselling or assistance to help them work through those issues either, and in many instances there is a lot of unresolved grief and anger about those sorts of things that I do not think many people take into account. It is the human factor of what it is like to live every day with a mental illness and to endure the stigma, the attitudes and all that sort of stuff.

The CHAIR — In terms of the interaction of people with a mental illness with the justice system and particularly this reference on warrants — going back to the PERIN system and the PERIN warrants for a while — you referred to the enforcement review program as being meant to take into account people with special circumstances. To what extent is that working? What changes would you like to see made to that system if it is not working as well as you would like in relation to people with mental illness?

I also note you state in your submission that a lot of the people who have a mental illness which is having a catastrophic impact on their families — you give a nice little case study there — may not be diagnosed as having a mental illness. How should the system take into account such cases in the administration of PERIN?

Ms CROWTHER — I have really thought about that, and I do not quite know. I can identify the problem, but I do not know the solution.

Ms COLLINS — I just wonder whether there could be a section that deals with people with a disability that is open to either consumers or their carers ringing in — maybe a disability office or something like that — where things can be worked out. For example, not so much with the PERIN court, but people ring us all the time wanting advocacy because they have issues around electricity bills, gas bills or telecom bills, and we contact the services for them and have been quite successful in working out payments that can be done with Centrelink or whatever. One of the difficulties, as Liz said, is that when people get official-looking mail they tend not to open it. That is one problem.

The other problem is that, depending on the level, one of the side effects of medication is blurred vision, so there is a difficulty for them to read and comprehend some of the things, not because they lack intelligence but because the medications have such a devastating impact on them. If there could be a special section that was open for either support services or clinical services that they could ring, it would be helpful. Obviously you will miss a lot of people because a lot of the people who are out there wandering around the streets and things like that are not in services, but maybe it might reduce the stress for a lot of others.

The CHAIR — What about the undiagnosed, where the parents, for example, as in your case study, do not know if their daughter or son has a mental illness and do not fully appreciate the extent to which it is creating problems for them, they just think they have behavioural issues or other problems? How does a family in that situation or the person pull themselves out of the inevitable progression of the PERIN system which inevitably leads to court action?

Ms CROWTHER — Some of the things that we try to support parents to do is to go to the Guardianship and Administration Board to get at least some contact, which then means they are often referred out. But just that process in itself causes so much family tension. In cases like this one, where the person is high, it is easier to actually pay because of the concern for family violence .

I do not know. Thinking magic thoughts, and PERIN being a computer, I was wondering whether there would be something that could go into the software that would trigger some points when there were these odd occasions of people getting these parking fines or some other minor offences — whether it would trigger something, an alert, and whether that could generate some process. Look, I really do not know.

The CHAIR — You would be amazed at the unusual circumstances that are attached to those who are regarded as normal.

Ms CROWTHER — Yes.

Ms COLLINS — Has there been any thought about contacting Centrelink, which has a high proportion of people on its books who have a disability? Centrelink has the most incredible computer system. I read about it in *Oscar*. Their computer system is quite mindblowing, and they might be able to offer some advice about what could be put into it in the special notices they do for people with disabilities.

Ms CROWTHER — That would certainly pick up on those people who are on psychiatric disability pensions.

Ms COLLINS — It would pick up people with head injuries and a lot of people with disabilities.

The CHAIR — Have you any comments to make about the application of search warrants or warrants for arrest and how they affect people with a mental illness?

Ms CROWTHER — We have not had that as an issue coming through our phones with some regularity. There may have been some, but that has not come through our phones.

Ms COLLINS — We have had limited experience, and certainly my experience in advocating for people is that, once you explain to the police about the individual, they have been very good. Again, though, we have heard horror stories where we have not been there, but I guess it is like any profession; you have good people who are sensitive to individuals and those who are far less sensitive. I agree with Liz. One of the things that the police told me is that they are absolutely terrified of people with a mental illness; and I can assure you that people with a mental illness tell me that they are terrified of the police!

From our point of view, we do not think there is anything to be terrified of. We think that part of it is a lack of education around dealing with people with a mental illness. There needs to be much more focus on dealing with people and what they are going through from a humanistic point of view. Like Liz says, if you have somebody with a diagnosis of paranoid schizophrenia and they actually think you are coming there to kill them, the paranoia is not real but, by God, the feeling side of that is very real to the person going through it.

If we could teach the police to spend a bit more time identifying with the person — because it certainly works for us when people come into us and they are not feeling well if we say to them, 'This must be awful for you', depending on what the person is going through, demonstrating that you have some understanding of what they are going through, that you have some empathy and you provide them with constant reassurance that you are not there to hurt them, that you want to help them and to get some guidance from them.

The other thing is that a few months ago — it might even be more than a few months — the police developed a program for aged people who have, say, dementia or something, where information could go into a computer, so if they got lost there was a database. They talked to me about whether it would be something we should consider for people with a mental illness, and certainly I think it is. One of the difficulties for people with a mental illness is the way they are treated, so they would

be very cautious; but the beauty of this program is that it is the person who controls the information and who has access to that information.

We could, as a slow process I guess, work on gaining consumers' confidence where they could go to the computer. We talked about having the computer at the local community health centre, where they could go in, tap in the information that they think would be relevant. If they become unwell to the extent that people needed to know or the police or someone else needed to know how best to handle them when they are unwell, that sort of thing could be invaluable. It is not a quick solution, but it is certainly a long-term one.

The CHAIR — Is there anything else you would like say that you have not had the opportunity to say?

Ms COLLINS — There is the importance of education. I guess the other thing I would like to talk about is child protection issues and where the police might have to come to a home and things like that. Certainly women who have a mental illness talk about this. As a very good analogy, we held a focus group for child protection and over 50 consumers turned up, all of whom have had experience of having their children taken away from them. I think one of them articulated it better than anyone. She said that if you fall over and break your leg, child protection are not notified; but if you become mentally unwell, child protection are notified immediately.

I guess from that police may become involved, and we need to be mindful — maybe there needs to be some education around that too — that because somebody has a mental illness it does not automatically make them a bad parent. Sometimes just ensuring that people can get the support and help that they need at the time can be a bit less traumatic than people coming in with the police and taking kids away and all that sort of stuff as well.

Ms CROWTHER — I would just like to make one last comment about rural families. Very often there are no CAT teams available, and the police take on the CATT role. That is a double stigma for people because they have the police rolling up to the farm gate identifying the problem far and wide to the community. My push around this is to try to get broader CAT support within the community that will support the police as well.

Ms COLLINS — Just one other thing about police sitting with patients while waiting: there used to be such a thing as specialling, where a nurse sat with the patient who may have been at risk. Obviously that will not work in all situations if the person has the potential to harm other people, but if people who are at risk to themselves are being specialled by a nurse, that should suffice rather than having police sitting there. As I say, it will not work in all situations, but I do not think there is enough of that. The decision is more around funding availability than what is the most respectful way to treat people with a mental illness.

Mr MAUGHAN — I think the solution is getting those people into the accommodation they need as rapidly as possible, and that is the deficiency. Part of that is organisational, in that the ambulance services, for their own good industrial relations reasons, say, 'I know you have someone there tonight, but we are not taking them down tonight. That is your problem, and we will get around to it when we are good and ready tomorrow'. That then means it is not the hospital's responsibility if they do not have a secure facility. I have certainly had cases recently in both Echuca and Cohuna with police on long babysitting shifts of 12 or 22 hours before the patient is transported to the appropriate facility.

The CHAIR — If that is all you wanted to say, thank you very much for coming to meet with us and giving us your time and expertise. We appreciate it. It is an area that is of interest to the committee, and your insights have been valuable to us.

Ms CROWTHER — Thank you very much for the opportunity.

Committee adjourned.