

# TRANSCRIPT

## STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

### **Inquiry into the Drugs, Poisons and Controlled Substances Amendment (Pilot Medically Supervised Injecting Centre) Bill 2017**

Melbourne — 7 June 2017

#### Members

Ms Margaret Fitzherbert — Chair

Ms Nina Springle — Deputy Chair

Mr Daniel Mulino

Mr Edward O'Donohue

Ms Fiona Patten

Mrs Inga Peulich

Mr Adem Somyurek

Ms Jaclyn Symes

#### Participating Members

Mr Greg Barber

Ms Georgie Crozier

Mr Nazih Elasmr

Ms Colleen Hartland

Mr Gordon Rich-Phillips

#### Witnesses

Judge Sara Hinchey, State Coroner, and

Dr Jeremy Dwyer, Case Investigation Officer, Coroners Prevention Unit, Coroners Court of Victoria.

**The CHAIR** — I think everybody is ready, so I am going to declare this committee open. I want to first welcome the witnesses who have come along this evening and also acknowledge those people who have come along this evening to watch proceedings. I want to introduce the committee members who are here this evening; Nina Springle, the Deputy Chair, has unfortunately been called away urgently and gives her apology for not being here this evening. I know that she was looking forward to hearing the evidence that will be given this evening. On my left we have Mr Somyurek and Mrs Peulich, and to my immediate right we have Ms Patten and Ms Symes, with Mr Mulino on the far right.

The committee is of course hearing evidence today in relation to the inquiry into the Drugs, Poisons and Controlled Substances Amendment (Pilot Medically Supervised Injecting Centre) Bill 2017, and the evidence is being recorded.

For witnesses, again welcome to this public hearing of this committee. All evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege. I invite you both to address the committee, and if you would not mind keeping any opening statements to about 5 minutes or so, so that we have plenty of time for questions and discussion.

**Judge HINCHEY** — I will do my best, certainly. I should introduce Dr Jeremy Dwyer. He is from the coroners prevention unit, and he is accompanying me today just in case there are matters of particular detail which the committee wishes to know about which I am not on top of in terms of statistics, but he will not be making any separate submission or answering questions directly.

I have prepared an opening statement, and that has been produced in writing. Does the committee all have a copy of that?

**The CHAIR** — I believe so. Would you like us to admit that into evidence as transcript?

**Judge HINCHEY** — Yes, please.

**The CHAIR** — Are there any sections of that you would like to highlight in particular?

**Judge HINCHEY** — It is not a submission. This will be my opening statement which I am about to make.

**The CHAIR** — I am sorry, is there any part of your statement that you would like to highlight in particular?

**Judge HINCHEY** — No, I am really highlighting in it the things that I would like to draw to your attention before we start. Once I have done that of course any questions you might like to ask in addition to that can be answered.

You will be aware that the Coroners Court of Victoria has not put in a written submission to this inquiry, and that is really because the inquiry's terms of reference are in fact based upon one of the Coroners Court's findings — the finding into the death of Ms A, which was a finding made by Coroner Jacqui Hawkins.

I understand that the committee was promised a copy of the submission that was made to the inquiry into drug law reform. Has that been received?

**The CHAIR** — I would need to check that.

**Judge HINCHEY** — All right. It does not matter, but I will — —

**The CHAIR** — I think it has been.

**Ms PATTEN** — Yes, it has. We have that.

**Judge HINCHEY** — It has? Otherwise I was going to say I will make sure that you get a copy. Thank you.

I would like to provide a very brief outline of Victorian coroners interest in preventing heroin-related harm, and then of course I will be pleased to answer your questions.

In 1998, following several years of steadily increasing deaths due to the so-called ‘heroin glut’ of the mid to late 1990s, the then State Coroner, Mr Graeme Johnstone, joined with organisations including Victoria Police, the Department of Human Services, Turning Point Alcohol and Drug Centre and the Victorian Institute of Forensic Medicine to commence the heroin-related overdose project. Under the auspices of this project 25 heroin overdose deaths were investigated in great detail to develop a better understanding of contributing risk factors and what could be done to reduce the fatal impact of heroin in the Victorian community.

In 1999, a year when on average one fatal heroin overdose occurred every single day, Mr Johnstone conducted hearings into six of those 25 deaths. Expert members of the project team then examined the evidence given during the hearings and provided further reports on issues and prevention opportunities. The material was incorporated into Mr Johnstone’s final heroin-related overdose project report, delivered on 14 April 2000, which included 20 recommendations. Those recommendations addressed a range of areas, including reform in treatment delivery to drug-dependent people, availability of drug treatment services, drug harm education, real-time prescription monitoring and the distribution of naloxone. You will see from that that the same issues remain for consideration today.

The report was produced at a time when there was, as I said, a heroin glut and then there was, surprisingly, a heroin drought and that led to some developments. At the time the report was concluded it was projected that it may rise to 500 heroin-related deaths annually by 2002. But the predictions were followed closely by an unforeseen drought, as I said. The causes of that drought have been discussed and debated by experts but are not actually relevant here. The impact is highly relevant, however. Between 2000 and 2001, according to various reports, the number of Victorian overdose deaths involving heroin dropped from over 300 to well under 100 at that time. I was not, as you can imagine, at the court at that time, but I can well imagine that a sudden decline of greater than 80 per cent in heroin-involved overdose deaths would have been a great relief — even a cause for celebration — among those who served as coroners at the time.

Given the prevention focus of the Coroners Court of Victoria, it is likely that this is the reason why coronial attention subsequently shifted away from deaths caused by heroin overdose towards deaths involving pharmaceutical drugs, where there was evidence of emerging and very substantial harm, which is a matter that I gave evidence about recently at the other inquiry. Victoria’s 10 coroners investigate more than 6500 deaths every year, and by necessity coroners must be very selective about where to focus their investigative efforts.

Over the subsequent decade or so, the annual frequency of heroin overdose deaths in Victoria rose slowly. It is clear from our overdose deaths register, which contains data from 2009 onwards, that there were between 110 and 140 fatal Victorian heroin overdoses annually in the period from 2009 to 2014. This is a substantial number of deaths but of course nowhere near the level seen during the heroin glut. During this period the Coroners Court continued to focus on pharmaceutical drugs, which played a contributory role in a far greater number of fatal overdoses. I might add, pharmaceutical drugs, in particular benzodiazepines, are a contributing factor in many of the heroin-related overdose deaths we see even today.

Heroin re-emerged as a central focus in the Victorian Coroners Court in 2016 when evidence mounted of an unusual increase in heroin-related harm. Data from the court’s overdose deaths register showed that 172 overdose deaths occurred in 2015 involving heroin, which was an increase of 26 per cent compared to the 136 deaths which had occurred in 2014. As well, the court received calls from concerned members of the alcohol and drug treatment sector who had noted elevated levels of heroin use and related harm, particularly in public places in the North Richmond area.

It was in this context that Coroner Jacqui Hawkins commenced her investigation into the death of Ms A, who fatally overdosed after injecting heroin in the bathroom of a North Richmond restaurant in May 2016. Coroner Hawkins noted that Ms A’s death was only one of many fatal heroin overdoses to occur in public places in North Richmond and Abbotsford and that for the past seven years a disproportionately high rate of heroin overdose deaths had occurred in the City of Yarra. She ultimately decided to hold an inquest to examine two main questions. Firstly, what is currently being done in the City of Yarra to reduce heroin-related harm, including overdose deaths? And what other place-based interventions could be considered to reduce heroin overdose deaths in the City of Yarra while not shifting the harm to other locations, which of course is very important.

As part of her investigation Coroner Hawkins invited written submissions from a wide range of organisations, including local resident and trader groups, the Yarra City Council, Victoria Police, Ambulance Victoria, the

Victorian Department of Health and Human Services, local alcohol and other drug services, and community and legal services. During the hearing she sought evidence from three eminent experts in the field of injecting drug use, namely, Professor Paul Dietze from the Burnet Institute; Dr Alex Wodak, president of the Australian Drug Law Reform Foundation; and Dr Marianne Jauncey, medical director of the Uniting Sydney Medically Supervised Injecting Centre.

A major theme across both the written submissions and the evidence given during the inquest was the potential for a supervised injecting facility to reduce drug-related harm in the City of Yarra. Given the broad, evidence-based support for this measure and the lack of any submissions or evidence opposing such a facility, Coroner Hawkins concluded that it was appropriate to recommend the establishment of a supervised injecting facility trial in North Richmond to address the high rate of heroin-involved overdose deaths. Following publication of that finding, new data produced by the Coroners Court of Victoria has provided further support for the establishment of a supervised injecting facility trial in North Richmond.

Preliminary coronial overdose deaths data for 2016 confirmed that the City of Yarra continued to be the local government area with the highest frequency and rate of heroin-involved overdose deaths in Victoria, and I add to that that the number of heroin overdose-related deaths in the City of Yarra has risen from 20 in 2015 to 24 in 2016. A comparative analysis of heroin overdose deaths across 10 Victorian local government areas showed that the City of Yarra had the highest proportion of deaths occurring in public places rather than in private residences and the highest proportion of heroin overdose deaths where the deceased usually resides in another local government area and travelled to inject heroin in the City of Yarra. This data is reported in the finding of Coroner Audrey Jamieson in the death of David Leslie Chapman, which is a finding that postdates the finding into the death of Ms A, and I understand that the committee has been provided with a copy of that.

The important part of the finding — apart from of course the matters noted by the coroner — is the table that is the attachment to that finding. Coroner Jamieson noted the traumatic effect on local residents of encountering injecting drug use and overdose as they go about their daily lives, and this was a matter that was also part of the evidence before Coroner Hawkins. It is not just a matter of the aesthetics of an area or the fact that residents would prefer not to see drug users and drug overdoses in their streets but of far more serious issues such as needlestick injuries from abandoned syringes.

One particular instance that I am aware of was a young boy being stuck by a needle that had been abandoned in a childcare centre. That was in amongst the tanbark, and he has undergone years of medical treatment to ensure that he has not contracted a blood-borne virus. That was a very disturbing incident for his family and an example of why it is not just something that should be looked at as an aesthetic issue but also as a health-related issue for those who are exposed to the debris associated with injecting drug use.

The core purpose of a Victorian coroner in conducting a death investigation is to identify opportunities for prevention by considering evidence which identifies the means to reduce the risk that similar deaths might occur in the future. It is in this context of the prevention mandate that those two coroners have recently concluded that it is desirable for a supervised injecting facility trial to be established in North Richmond.

Before moving to committee members' questions I would like to make two final points. First, the recommendations in the death of Ms A did not specify the means by which a supervised injecting facility trial should be established, rather the recommendation was that the relevant minister take the necessary steps to establish that facility. I understand that this inquiry is structured around a specific implementation proposal, being the Drugs, Poisons and Controlled Substances Amendment (Pilot Medically Supervised Injecting Centre) Bill 2017. In my role as State Coroner representing the court at this inquiry I am not in a position to assist the committee with any questions as to whether or not this bill is the most appropriate means to implement Coroner Hawkins's recommendations.

Secondly, while Coroner Hawkins recommended the establishment of a supervised injecting facility trial, a common theme of the evidence before her was that a supervised injecting facility is not in itself a silver bullet for addressing injecting drug-related harm, rather it needs to be included as part of a multifaceted approach to what is a public health issue. Most importantly, it should be understood that, if established, a supervised injecting facility will provide a facility that creates opportunities to engage injecting drug users with other health services and support. When you come to consider the terms of reference of this inquiry I urge you to consider a supervised injecting facility in this light — not merely as a place to inject drugs but as a place where some of the

most marginalised and at-risk people in our society can be provided or linked with a whole range of different health services and social support.

I will leave you with the words written by Coroner Hawkins at paragraph 105 of her finding into the death of Ms A:

This investigation has highlighted that heroin addiction is a public health issue. Heroin users face a daily battle against their compulsion to use and are at risk of death. They include some of the most marginalised and disadvantaged people in our society, who may suffer from physical and mental ill health, unemployment and homelessness, and come into contact with the criminal justice system as a result of their addiction. When we accept that addiction is a health issue, we are able to consider more clearly what can and must be done to support heroin users and reduce their risk of death.

Thank you again for inviting the court to appear at this inquiry. I will be pleased to answer any questions you might have.

**Mr MULINO** — I note that there is the recommendation that a safe injecting facility trial be established in North Richmond. You have indicated that you are not wanting to provide advice as to the specifics of how a trial might be established, but I am just wondering: do you have any advice or recommendations as to how a trial's success or otherwise might be evaluated?

**Judge HINCHEY** — Again, I think it is not a matter for the court to comment on that, but I would say this about the only other trial that has occurred in Australia, and that is of course the facility in Sydney. That was evaluated appropriately over a very lengthy period of time. Let us not forget what is being recommended is just a trial of a facility, so a pilot project effectively, and there were independent bodies that were engaged by New South Wales government to evaluate the success of the Sydney facility.

In my preparation for today's hearing it is quite clear that the most recent evaluation, which took place in 2010, before it was recommended that that facility be made permanent, was conducted by KPMG. So really a totally independent, thorough, analytical, statistical analysis done on the benefits both public and economic of the particular facility, and the conclusion was overwhelmingly that it was worth pursuing and ought to be made permanent. So I imagine the same sort of undertaking could be had here in Melbourne if that was something that the government wished to pursue.

**Ms PATTEN** — Thank you, Judge, and Dr Dwyer. One of the concerns or criticisms of such a trial being undertaken is that it undermines the police work in that area. I wondered if you had any comments on that discretion of police.

**Judge HINCHEY** — I think when that criticism is raised it is a shame that it is not recognised that there is no reason why law enforcement cannot be part of the solution, but that does not also mean that place-based intervention should not be part of the solution as well. What the Coroners Court has seen when it has conducted its inquiries and received evidence from all sorts of people who have contributed to the inquiries — including, I might add, residents of the North Richmond area and the local traders and other economic groups who have been able to comment on the fact that they actually would like to see these types of interventions trialled — is there is no doubt that it has to be a multifaceted approach.

The chief commissioner did put in a submission to the Coroners Court and noted that the matter would be being looked at as part of the inquiry by the Parliament into drug law reform, which of course is happening. So they did not express an opinion but they certainly did not oppose the facility. There is no reason, on the evidence that has been before the court, that the two things cannot work hand in hand. There is certainly a place for law enforcement and it is appropriate that that continue, but in the meantime, understanding that people will continue to obtain drugs and that they do die from using those drugs, the Coroners Court has made recommendations about the best way in which those deaths can be prevented and lives can be saved.

**Mrs PEULICH** — Thank you, Judge. A few questions if I may. You referred to the presence of pharmacological drugs in the toxicology reports. It is my understanding that the largest contributors to death are pharmaceutical drugs. Could you comment on the toxicology reports, in particular the 25 deaths to which you referred, and why it is that you actually focused on heroin overdoses rather on the bigger contributor to death, being pharmaceutical drugs?

**Judge HINCHEY** — The 25 deaths that were examined were those — I think it was actually six out of 25 — that were examined by Coroner Johnstone back in 1999. I am not aware of the reasons why he chose those particular cases to hold an inquiry into, except to say that there were of course very many more heroin overdose deaths at that time — more than one a day in the state of Victoria at that point in time. So clearly a very strong prevention issue.

As far as the prevalence of pharmaceutical drugs in overdose deaths in Victoria, I gave evidence about that matter a few weeks ago at a parliamentary inquiry and the transcript of my evidence has just become available. So I would be very happy to supply that to you or I am sure you can get it. There is no doubt that pharmaceutical drugs are a problem that needs to be addressed.

**Mrs PEULICH** — Is it a bigger problem?

**Judge HINCHEY** — Not in the City of Yarra I would not have said. The issue is that there is multidrug toxicity in 80 per cent of drug overdose deaths, so the gist of my submission — —

**Mrs PEULICH** — So why would drug injecting rooms or heroin injecting rooms resolve the issue?

**Judge HINCHEY** — People who are taking pharmaceutical drugs do not tend to inject heroin on the streets. They get the drugs over the counter and they may die from overdose at home in their beds, so they do not have associated drug paraphernalia unless they are injecting other drugs such as heroin. So people who have injected heroin may well also have consumed pharmaceuticals but not all pharmaceutical-related deaths involve heroin. It is the associated harms that the safe injecting facility would seek to redress — that is, the fact that where someone has been adversely affected by heroin, for instance, the administration quickly of naloxone and appropriate other resuscitative measures can actually save that person's life. So that is an example of why a safe injecting facility is desirable.

At the moment the interventions that are being made by the outreach workers are being done in sub-optimal conditions, so sometimes between garbage bins, in car parks. I know of one case where a deceased had collapsed over a concrete barrier that a car would park against, so it was impossible to get them flat to actually conduct effective CPR. These are the sorts of issues that the outreach workers face and which would be eliminated in a safe injecting facility. Also the availability of clean injecting equipment and then of course the feed-in of these people, who often do not have contact with other public health services, in their recovery phase so that they can be linked in with those services.

**Mrs PEULICH** — Two further questions. There was no evidence that I could see from the Sydney experience of the numbers of people who actually accessed drug treatment services. They were certainly referred but there was no way of capturing the number of people who were referred, so I am not sure exactly how you can attest that this is empirically informed. Secondly, if I may, are you able to provide us or the committee with a list of the submissions that the coroner's office received in favour of the drug injecting facility?

**Judge HINCHEY** — Yes, certainly. I have got one here.

**Mrs PEULICH** — And I cannot understand that you did not receive a single submission against it. It sounds to me like a little bit of activism has taken place somewhere.

**Judge HINCHEY** — No, you are quite incorrect there. I will go back to your first point though. The statistics about referral indicate that 9500 referrals have been made by the Sydney injecting facility. You are quite correct that I do not have the statistics about what the uptake of referral or after-referral is, but of course unless the person is referred, then there is no chance of uptake. So that in itself is a statistic that I think is quite compelling. As to activism, I really do say you are very wrong. What we do is we act on the evidence before us and — —

**Mrs PEULICH** — All of the submissions were in favour of a government-funded clinic. I find that appalling; I really do.

**Judge HINCHEY** — Sorry, I do not know what to do about the bells.

**The CHAIR** — [inaudible] keep talking. The bells are for the adjournment of the Assembly.

**Judge HINCHEY** — I see. Yes, well, the existence of the inquiry is made public. The existence of it is advertised in the media. Those who are interested are invited to attend or are able to attend. Anybody who wanted to was able to put in a submission, so I do not have any explanation for you to as to why — —

**Mrs PEULICH** — Do you have a list of the submissions?

**Judge HINCHEY** — Yes, I do and I can certainly and happily will provide that to the inquiry.

**Mrs PEULICH** — Is there an average age of a heroin overdose user then?

**Judge HINCHEY** — Forty-one, I believe, and Ms A was 34, so she roughly fitted into the demographic.

**Mrs PEULICH** — So are they are, what, 20-year users of heroin?

**Judge HINCHEY** — Sorry, I did not hear that question.

**Mrs PEULICH** — You said the average age was 41?

**Judge HINCHEY** — The average age was 41, I believe. I think your question was: are they long-term users?

**Mrs PEULICH** — Are they long-term users of heroin?

**Judge HINCHEY** — Yes, you are quite right, they are. In excess of 10 years is the usual user who dies from overdose.

**The CHAIR** — I have one question, if I may. It goes to that. Obviously we have limited public funds for expenditure, and I am aware of the suggested cost of injecting rooms. Is there a view at all on the benefit when you compare the cost of beds for drug rehab versus a supervised injecting room?

**Judge HINCHEY** — I do not know whether or not such a comparison has been made. I am certainly not aware of it and I cannot speculate on it. But what I can say is this: at the moment there is ad hoc efforts. The evidence before the court indicates that there are ad hoc efforts being made to address the problem, whereas if they could all be brought into one area it would be a better use of the funds that are available. You may well be aware that Norse Richmond Community Health has put their hand up saying, ‘We are effectively already doing this except that it is in such suboptimal conditions that we can see that if we could take this off the street to the extent that we can and provide the services we are already providing linked in with other things then that will be an altogether better facility’. As to costs, I can only imagine there would be efficiencies in having it all together as opposed to having teams of people on the streets trying to deal with all of those in the precinct, which is what it is known as in North Richmond, who might overdose. Up to 10 people have to attend every overdose death, and that does seem to me a pretty inefficient way of doing it if they have got to be out and about, or worse still they do not make it because they are actually at another incident when they could all be in one spot and you could have one team that is available to all of those people.

The other very startling statistic in terms of cost to the community, which has emerged from the Sydney trial, is that the Sydney safe injecting facility saw an 80 per cent decrease in ambulance call-outs to overdose — not overdose deaths but overdose in general — and on that point alone I would say that there is clearly an economic benefit to having a safe injecting facility, because the ambulance no longer had to attend each of those overdoses. And there were 6500 overdoses managed up to the date of this hearing, in Ms A, from the inception of the trial.

**Mrs PEULICH** — Has there been an increase in the number of heroin users or heroin use across New South Wales?

**Judge HINCHEY** — I am not aware of that, but certainly a decrease in the number of overdose death. Not one death from overdose in that time, which is again a startling statistic because normally you would have seen a per year death rate of something in the order of what was occurring in Victoria.

**The CHAIR** — Just one brief point of clarification: you mentioned that when there is an overdose locally that 10 people need to attend. Who are the 10?

**Judge HINCHEY** — Yes, I can give you more details, but it is broadly nurses, and a GP if they are available, and then MFB or ambulance paramedics. There might be others as well. I might just ask Dr Dwyer. Yes, it is the MFB and the paramedics. Often two units are dispatched to an overdose death out on the street, so two fire engines and/or two ambulances if they are available.

**The CHAIR** — Why is that? Why are two sent?

**Judge HINCHEY** — I do not know. I have no idea, but the evidence indicated that that was what was the usual. I can supply you with the evidence about that particular issue if you would like it so you can see how the questioning went and what the evidence was. I think the matter is covered in the finding where clearly the evidence is summarised, but if you wanted to see the raw evidence that was given, I would be happy to try to find that for you.

**The CHAIR** — That would be most helpful. We are, I think, out of time.

**Mrs PEULICH** — I would like to ask one more question.

**The CHAIR** — Yes, one more, quickly.

**Mrs PEULICH** — Why did you not recommend more rehabilitation beds?

**Judge HINCHEY** — I did not make the recommendations, I am sorry.

**Mrs PEULICH** — The Coroners Court.

**Judge HINCHEY** — Well, I can say this. Coroner Hawkins conducted an extremely thorough inquiry and she made recommendations based on the evidence before her, having received 18 written submissions that fill up this whole folder. It was an extremely thorough set of evidence-gathering by her and she acted on the recommendations that were made to her based on the evidence that was before her. So if there was no evidence that indicated there was a need for that recommendation, that would be why she did not make it. It will not be that rehabilitation beds are not needed; it is just that in the particular scope of her hearing that may not have been something about which particular evidence was gathered.

**Mrs PEULICH** — By the way, it is \$6 million to \$10 million for a rehab facility.

**The CHAIR** — I think on that note we might draw it to an end. Judge Hinchey and Dr Dwyer, thank you very much for your time this evening. You will be provided with a transcript within a few weeks for proofreading.

**Judge HINCHEY** — Thank you very much.

**Witnesses withdrew.**