

# TRANSCRIPT

## LAW REFORM, ROAD AND COMMUNITY SAFETY COMMITTEE

### **Inquiry into drug law reform**

Melbourne — 19 June 2017

#### Members

Mr Geoff Howard — Chair

Mr Bill Tilley — Deputy Chair

Mr Martin Dixon

Mr Khalil Eideh

Ms Fiona Patten

Ms Natalie Suleyman

Mr Murray Thompson

#### Witnesses

Mr Bevan Warner, Managing Director, and

Ms Tazmyn Jewell, Senior Lawyer, Victoria Legal Aid.

**Necessary corrections to be notified to  
executive officer of committee**

**The CHAIR** — I will start with the formalities and welcome you while you are getting your paperwork together. We are about to hear in our inquiry from representatives from Victoria Legal Aid, from Bevan Warner and Tazmyn Jewell. As you are aware, Hansard are here, so they will be recording the discussion we have, and a transcript of that discussion will come out to you in a couple of weeks for you to look over and see that you believe it is technically correct. After that it goes on the public record.

Thank you for coming along today. We thank you for the submission you have provided us with, which includes essentially the submission that you forwarded to the National Ice Taskforce. What we would like you to do is provide a bit of an overview of legal aid's experience in the issues that we are looking at in drug law reform over 10 to 15 minutes, and then we will have a dialogue from there — so over to you.

**Mr WARNER** — Thank you very much. Thank you for the invitation to give evidence. I have always believed the parliamentary committee system to be vital to good and effective government, and the reason is simple. I think the parliamentary committee system is where elected representatives come together free of the burden of executive government and able to act in ways that are not bound to necessarily consider the daily theatre of party politics and all its rough-and-tumble but to really, truly push for what is right.

In the remarks of mine that will follow I think it is very important that this committee be brave. It follows that I believe this committee and its reference are crucial. It is a vital opportunity to shift us from a head-in-the-sand approach to drug use so that we can achieve the health and wellbeing effects that I think are currently being denied to the community but also to eradicate the harm that we are currently absorbing that is often remaining hidden in our public discourse.

VLA directly assists or arranges help for over 90 000 Victorians each year with intensely personal problems. We see many more children and family members who are directly affected, often in brutal and very distressing ways. We see these people in criminal cases, in family law cases involving children, and where they will live and how they will be cared for in mental health, disability, tenancy, income support cases, and in child protection cases where neglect has become very real and complicated.

Our practice is that in about half of these cases, if not more, drugs are present — especially ice, but also alcohol and cannabis — and that illicit drug use is severely compounding the rate and the escalation of harm and violence in multiple ways. It is causing untold harm. The criminal justice response comes too late, is overly expensive and is less effective than other methods to treat this social ill.

I am not going to repeat what I have included in our submission, but I do want to make three key points. The so-called war on drugs exemplified by a prohibitionist approach has not, is not and cannot succeed. This essential truth needs to be told. The current failed approach is not born out of ignorance; we know this. It is born out of fear. We know the war on drugs cannot be won, but we persist because we fear that acknowledging recreational drug use or even legitimising the term will somehow be even more harmful, leading to a more permissive, slippery slope type of society characterised by moral decay, where people are freely getting high on every street corner.

We fear that anything but a tough stance will be exploited politically for short-term opportunities, and this fear cancels out the necessary courage to argue the case for reform, to stare down moralistic critics and to instil a community belief that we can and must do better. But we must change course and we must take some evidence-based risks to get there.

My third and perhaps key point is this: our current state is wrapped up in taboo. Nothing good has ever come from ignoring furtive, secretive, big and potentially shocking facts by hiding or by not facing it or by not talking about it. Put simply, allowing something to remain taboo guarantees a fail before you even start. Taboo is where we hide as a society, and it is where danger flourishes. Corruption cannot exist in the sunlight, but we know it has where it has been surrounded by a culture of secrecy.

So too family violence. We knew women and children were being abused or controlled in fearful and unhealthy ways, but it was taboo to encroach into someone else's home, but not anymore because society has begun to take a stand and to name this issue. Now the Royal Commission into Institutional Responses to Child Sexual Abuse is going to shocking places, hearing shocking stories we are not totally surprised about because the evidence and stories were confined to whispers in corridors suppressed by the subject itself being taboo.

The relevance of this work to this committee is very simple. I think you need to be brave parliamentarians to help those you represent — all of us — to confront the reality of recreational drug use and the nonsense that a one-sided criminalising approach of tackling supply through a war on drugs that cannot be won is somehow ethical, safe and in the public interest, because it is not.

It is not the answer for young people who experiment but who cannot talk about it, confide in others or seek help easily. It is not the answer for people in the workplace who must hide their behaviour for fear of reprisal and stigma. What our current approach does, born of taboo, is this: it deters people from having conversations at home and with their friends, and from referring themselves to helpful programs early, and it stops friends, peers and colleagues from engaging people they see who are engaging in dangerous drug use in crucial conversations about choices and ways to minimise harm to self and to others.

Put simply, fear, stigma and taboo force people away from help into escalating behaviours, and instead of driving people into the public health and harm minimisation train, only when matters have reached some crisis — usually when victims are involved — do we drive people to the criminal justice system, citing a catalogue of calamity and costly, cumulative harm, including hurt to innocents and other family members. That is the great moral tragedy of the current so-called war on drugs approach.

There are not enough safe counselling and treatment pathways for people. People do not get help early enough. Because the illicit nature of some highs must be hidden and only attract whispers, problems compound in severity, sanctions and support only kick in at the acute end where they are costly and may be less effective, and we need to overcome our fears and to legislate for personal morality in ways that adopt a pragmatic, harm-minimisation approach to the overall social good.

We commend the 13 recommendations in the Australia21 report to this committee and we urge the committee to be bold and to agitate in internal forums so that the so-called soft on drugs critique does not deter sound and ethical policy approaches and, where it looks like it might do, that you take that debate into the community with the aim of garnering community support for action to save lives, reduce harm, save money and allow precious resources that are currently being wasted in correctional settings in particular to be deployed to other important social programs. I have with me Tazmyn Jewell, who has many hours of practical experience dealing with clients in crisis across all areas of law, and we are very happy to take questions from committee members.

**The CHAIR** — You were not specific in your submission but if you could just outline whether legal aid has a position in regard to decriminalisation of personal drug use and possession.

**Mr WARNER** — The first approach should be to direct people into the public health system rather than into the criminal justice system. If that includes decriminalisation of certain drugs or certain quantities or of certain behaviour, then we believe that we should follow the evidence of what works.

**The CHAIR** — So on that score, in terms of legal aid do you see examples of people who — —

Because we do not have a decriminalised situation at the moment, it appears that often people might be given a warning as opposed to having charges laid for personal possession. I am interested to get a sense of what your personal experience is in the legal aid system.

**Ms JEWELL** — First of all I think that the use of warnings, in my experience, is somewhat limited. I think that people are charged. Even if they are found with small amounts, they are generally charged. There is drug diversion, which is available for small quantities; however, I have got numerous examples where young people might have above the 3 gram quantity for ice or MDMA, but for personal possession, and that then means that they end up having a criminal record that can have a flow-on stigma effect, such as in working with children's checks or police checks et cetera. So I think that there is room with that.

**Mr DIXON** — You obviously would have had some contact with the Drug Court. I know you think it is a good idea and you are talking about expanding it, and if you could just expand on that.

**Mr WARNER** — I might go first and ask Tazmyn to go second. The Drug Court is great. Of course it involves someone pleading guilty and it means we are catching people at the end of the spectrum, usually for low-level offending. We are still not catching them early enough in terms of referrals for help and support. So where it is placed in the continuum is still unfairly I think at the back end, but it does a great job in that

therapeutic approach which is helping people to engage with their behaviour and the consequences of not dealing with their drug use, and to that extent it is effective.

We have concerns generally speaking about programs in the justice arena that are proven to work but that never get scaled up and are therefore not freely available to all Victorians right around the state. We call that postcode injustice, and this is another great example of something that was working for a long time in Dandenong and has now been brought to Melbourne. But if you have a son or daughter who is affected by drug use who is living in Shepparton or in Warrnambool, then those regional communities are not getting the benefit of these effective programs that are producing good results, and that is a difficulty when you think about equity.

**Ms JEWELL** — I merely echo Bevan's comments, in that I have had numerous clients with significant ice addictions throughout my years of practice who have been able to be referred to the Drug Court because of the location of their residence being in that Dandenong catchment, but conversely I have had clients — and I primarily practise in the outer eastern region — who have not been able to be referred. Looking at the course of whether or not other therapeutic options are available certainly it is beneficial for clients to have that option available and be able to be referred to the Drug Court. Also in my experience the long-term intensive case management is a really significant, important factor in helping people to move through the criminal justice system, as opposed to other types of sentences.

**Mr DIXON** — I would presume too an important part of it is to have the services that they need to go to — for example, taking words out of Bill's mouth, because he is from Wodonga — but if you do not have the backup clinical services in the area, you probably need to have that first before you have the court, so they have got a place to go to to get the services they require.

**Ms JEWELL** — Absolutely. It is something that we struggle with on a daily basis, and I understand that even for the Drug Court or whether it be other therapeutic options that are available at court — for example, CISP or CREDIT — there still need to be those community-based referrals, and if there are long waits for beds for detox or for rehabilitation, which we all know there are, then that can really impact on someone's progress and rehabilitation.

**Mr TILLEY** — You just mentioned that Dandenong had access and that some of the outer eastern suburbs could not get access to services. Can you expand on that?

**Ms JEWELL** — Yes, of course. What I meant by that is that the Drug Court depends on where a person's postcode of residence is. If someone resides in the eastern region as opposed to the region that the Drug Court catches — that is, the Dandenong Drug Court — then they are unable to be referred into that program. So there is a list of postcodes where people specifically have to live. That is what I meant. There are obviously other options available in the eastern region but not the Drug Court option, which is a two-year sentence hanging over someone's head and has such great outcomes, in my opinion, from watching clients progress through it.

**Mr TILLEY** — This leads me on to our conversation in relation to your previous comments. You are saying we have got to be brave and all those sorts of things. What are the top five things that in VLA's view would be the biggest things for reform? Just in plain, simple black and white terms, what are the top five things that this committee could recommend to government through its research that would mean those being brave key priorities for drug law reform?

**Mr WARNER** — I would say the 13 recommendations of the Australia21 group, which are well thought out and sit together as a package.

**Mr TILLEY** — In no particular order?

**Mr WARNER** — No. I think they all need to be progressed together but I think in general principle, if you look at the contrast with alcohol, for instance — and this comes to the question of stigmatisation and criminalisation first rather than public health first — you can get more information about the levels of harmful or safe drinking of alcohol than you can about drug use. What we have seen in the criminal production of cannabis in the community is a sharp rise over the 25 years in the toxicity of THC through criminal gangs using hydroponic technology, using house-sitters to supply back into the community something for which there is a demand.

What we do not have is any science, any information about safe levels of use, what the toxicity is or what it is not, and we certainly do not have people who are engaging in that consumption of currently illicit drugs being able to talk freely about what their experiences have been or have not been and to get help or engage in a dialogue about that, because it is socially unacceptable because it is criminalised. So I think some move towards decriminalisation of certain drugs for certain types of use in a way that enables people to regulate their behaviour and participate in therapeutic programs, before we get to the sharp, acute end of the criminal justice system, is where we need to move.

That is happening in other countries, in other advanced Western democracies, around the world, and I see no reason why Victoria should not be a leader. That is following the evidence of what works and trying to eradicate or reduce real financial costs and certainly deep social harm.

When you go up the toxicity chain into ice, for instance, the progress from somebody being a casual ice user to having an entrenched problem is very rapid. The severity of the lack of impulse control and the escalating violence that is associated with people who are not coping with that sort of ice use is quite horrific. In many instances it leads to irreparable damage in terms of people's pathology. That is a real problem that we have known about for some time, and we know that tackling the supply side only will not actually work, because senior law enforcement people have been telling us that. Working on the enforcement side alone, all the stigma that is associated with, excuse the pun, coming clean, getting help early or being able to disclose to friends and family and even work colleagues is preventing people from getting help. All of those people who are victims of that escalating criminal behaviour, when it is turning into ugly assaults, it is consigning all those people to be victims who need not be victims, because we are not tackling the matter early enough.

**Mr TILLEY** — I just wanted to expand a little bit on that and the services that are provided through Victoria Legal Aid. With cities it tends to be like flies to a steak at a barbecue, where you have a lot of country youths — and they are not necessarily youths — and adults travelling to the city. We were talking about postcodes earlier. Do you have a number of cases that differentiate between a metropolitan or a suburban file and someone from the country who happens to be tied up with the legal system and who has been detected by police and then prosecuted or a brief has been submitted and you are making a representation and they have to come from the country? Are there any figures that differentiate between — —

**Mr WARNER** — I do not have figures off the top of my head, but I can say this: regarding drug use and family violence, there is no socio-economic profile of it; it is present everywhere. We see intergenerational disadvantage and trauma. Where you have poverty, where you have poor parenting, where you have family violence and where you have the coincidence of drug use and all of those things, then of course the 14-year-old or the 15-year-old is at some point going to act out or escape. They will be youth from regional cities who have come into the city who might be coming in at a maturity level where they are not readily able to survive and who will get into trouble. What we see are the compounding effects of family violence, drug use and poverty producing the next generation of youth who have got to be really Herculean individuals to survive that level of disadvantage and to prosper. Where they do not have those supports in the local community and fear for their own personal safety that they have to escape, then it is a very, very tricky life on the streets of Melbourne as a young person.

**Mr TILLEY** — That is an interesting claim. Just one thing, discussing the levels, we are hearing about hydroponically grown, and they are demonstrating higher levels of delta-9-tetrahydrocannabinol. Are you aware at all that in South Australia there is actually a control, like dealing with second-hand dealers in Victoria, of hydroponic equipment? Would there be such opportunities for good public policy or legislation that would control the hydroponic equipment, such as the lights, the fans, the tanks and all those types of things, not unlike second-hand dealers like they do in South Australia to control whether it is grown in factories or rented properties or whatever the case may be to bring that high level of THC down?

**Mr WARNER** — I am not familiar with the South Australian regime, but generally speaking criminal enterprise, because it is profitable and hard to detect, seems to always be ahead of the technology and the policing curves. So what we see, for instance — and Tazmyn might be able to give some examples of this — is very small-scale ice production in people's bathrooms or in the boots of their cars. The ability to remove all the infrastructure or the apparatus for people to be involved in drug production, whether it is ice production or whether it is hydroponic cannabis crops, seems to me to be almost impossible. There are things you could do to

interfere with it, but by itself you are never going to eradicate the problem. I do not think we will ever get ahead of the curve from that perspective.

**Ms JEWELL** — I agree. Just in terms of an example with ice use, the clients that I regularly see might disclose that they know the cook, for example, and that is someone that has a set-up in their bathroom or a cupboard — it can be a few flasks. I just think it is prevalent, and it is something that cannot necessarily be stamped out on that small scale.

**Ms PATTEN** — Thank you. They are brave words indeed. I hope that we can give credit to them. Today the *Herald Sun* published a report around the increased search and seizure and zero tolerance approach at music festivals. I am just wondering if you can make any comments on the effects of such a policing decision. Are you seeing those sorts of clients at your service?

**Mr WARNER** — I think as a general principle, as a parent who has young adult children who go to music festivals, I understand why people might be fearful, but I think that response, which is at the other end of the spectrum to testing regimes, feeds the stigmatisation and keeps things hidden. What I have said is that in my view if you go back through the arc of history, when we have taboo subjects — things that remain hidden — generally speaking there is more harm than good that comes from that. I think it is following the wrong approach in principle because it is not consistent with harm minimisation. I think the juncture we are currently at is that what has been in play for the last 20 years is not working or has not succeeded sufficiently to make the problem go away. The definition of ‘foolhardy’ — I cannot think of the precise quote — is to keep doing what you are doing and hope for a different outcome. I think we need change.

**Ms PATTEN** — Can I seek some clarification? We heard from the forensic medicine unit earlier today, who talked about roadside drug testing. The saliva test would pick up the presence of cannabis up to 24 hours after use. What I was not clear on was whether that would then lead to a charge of impairment. If someone is found to have consumed cannabis in 24 hours, does that mean there is an assumption that they are impaired to drive and that would be the charge?

**Mr WARNER** — I think the way the law is intended to operate is that any detection suggests a level of impairment, therefore the offence characteristics are made out, whereas because we have got a legal drug called alcohol, we have got a whole lot of science behind safe levels of alcohol consumption relative to the obligations you owe your fellow citizens to be on the road in charge of a vehicle, and we have set it at 0.05. But because this whole subject of illicit drug use is taboo, we do not have the science and we cannot have a mature conversation about what the level of impairment would be if you were stoned — I mean, that is the colloquial way of describing it — and in charge of a motor vehicle. So we draft a law which says, ‘If we detect anything, we assume that you’re impaired’, and therefore there will be in effect a different legal construct operating between safe or unsafe use of alcohol and totally unsafe and always unsafe use of cannabis. We are a long way away from having that sort of conversation, because we are still at the point of trying to stare at the question of whether we could decriminalise anything.

**Ms PATTEN** — It seems to me that if we wanted to address stigma and taboo, decriminalisation — or depenalisation, as the drug foundation put it this morning — is a crucial tool in that.

**Mr WARNER** — I agree.

**Ms SULEYMAN** — In the previous submission we heard from Ambulance Victoria and a couple of points were raised in relation to the events, and you have just touched on your personal opinion. Most of these events are unregulated. There is no real responsibility on the event organisers, and there is, I suppose, a lack of regulation. Ambulance Victoria made two statements that they said would increase the safety of these events, and one was in the form of policing. They felt that if there was some form of policing at these events, there would be a significant reduction, in their opinion, of overdoses and so on at these events, if there was the appropriate regulation and some form of policing. That was the statement. I would just like to hear you on that response.

**Mr WARNER** — Without hearing their comments in context I would probably refer to the general principle of deterrence. So if you assume that the likelihood of getting caught is going to deter people from committing some act, then that is a path you can follow. In our experience that is not always true, but I think it is true for some people. I think if there were a visible policing presence at music festivals and people thought they might

get caught if they had something on them, they would be just as likely to ingest it pretty quickly. The mere fact that there was a policing presence would not do anything about a dangerous batch of drugs that people had consumed. So policing by itself to produce some visible form of deterrence for safe drug use or something where people were not exposing themselves to really dangerous risks, I do not think that case is made out on the logic, let alone our experience. If we were really concerned about prioritising people's health and avoiding catastrophes like potentially death, then I think a mature society would enable people to test what they were taking.

**Ms SULEYMAN** — Just to follow up on that, we have heard there are pros and cons in relation to testing. Clearly there is not one mechanism that can fully test what is actually in a pill, so there are all sorts of knowns and unknowns. There is no guarantee about certification of a pill, whether it is safe or not safe. It is a very grey area as well in relation to pill testing.

**Mr WARNER** — You are making my case out around taboo and stigmatisation — keeping things in the shadows. If there was a positive commitment to testing, the science would quickly follow and the means of actually communicating results to people's handheld devices would follow pretty quickly. Because we do not have a permissive regime, we have not done all the things as a society that we would normally do to produce a consumer chain or a product or an appropriate response.

**Ms SULEYMAN** — Just on that, there is also the fact that one needs to consider what the person may already be on, whether it is prescribed or not, so there are all sorts of factors in relation to whether or not taking a pill is safe or not safe. That evidence is also not yet available. It is very difficult for any expert to be able to give a double tick and say, 'This is safe'.

**Mr WARNER** — I agree, and I do not think a testing regime is risk-free, nor do I think making a testing regime available to people creates an admission of liability on the part of the person who is providing the testing regime to say, 'Well, I'm guaranteeing something for you in terms of a consumer outcome'. I think what it is doing is saying, 'There's a personal responsibility you have got about what you put into your body. We wish you didn't, but if you're going to, you might want to understand the facts of this particular pill as best we know it'.

**Ms SULEYMAN** — Two questions. Victorian Drug Court magistrate Tony Parsons gave evidence about providing the Drug Court with legislative powers of electronic monitoring for curfews and alcohol consumption. Does Victoria Legal Aid have any comments about this issue?

**Mr WARNER** — We would like to see the detail and perhaps how it would be intended to work. We have got an open mind. We think supporting the Drug Court is very, very important. We are cautious about the balance between therapeutic and supportive approaches and sanctions and punitive approaches, but Magistrate Parsons has a lot more practical experience than I do in supervising people on these programs. If he thinks that an additional range of powers could be applied in individual cases to beneficial effect, then I think we should entertain what that specific legislative regime might be and put it into the pilot program and give it a go.

But all I would say is that the program itself succeeds, I think, because of the commitment to a therapeutic approach that helps people to help themselves, and tilting the balance too far in the direction of sanctions seems to fly in the face of the overall setting of the program. But I would give it a go.

**Ms SULEYMAN** — One final question. Victoria Legal Aid deals with so many clients from across the west, the north-east and south and regional Victoria, and you also deal with agencies, so DHHS, housing, mental health and various health agencies. Do you find that the current referral is sufficient, so a referral for someone who needs drug treatment, housing or some form of assistance and support? Do you find the referring on is effective at the moment?

**Mr WARNER** — Referral practices work well where there are good professional relationships and trust. Our staff are tethered at courts. Where we have CISP programs — the Court Integrated Services Program — where we have housing workers, where we have those relationships that are trusting and working, referrals work very, very well. But the problem is that there are not always places to refer people to, and we do not want to set anyone up to fail by having a referral to nowhere. We see big gaps in the outer metropolitan fringe. Generally speaking the large regional cities have a good constellation of services. Far-flung rural communities have real deficits, but there are real deficits in the outer metropolitan fringe, where we have poverty, where we

have transport poverty as well, where we have low income, a constellation of social problems and often a deficit of services, sometimes a bit of outreach.

I think there are big problems in the outer metropolitan fringe, and there are big problems in far-flung rural communities where we do not have the actual services that exist. But in answer to your question about referrals, where the relationships work well, the problem is that there are not enough places.

**Mr THOMPSON** — Mr Warner, I note that formerly you worked in Western Australia with experience in legal aid in the Indigenous community in the west. What solutions might you have developed to improve the wellbeing of remote Indigenous communities and the role of drugs there, and extrapolate from that situation to Victoria and as to what might be done to improve people in more remote communities and country regions.

**Mr WARNER** — I am sad to say that I would not import many lessons from WA to Victoria, other than the principled commitment to work in a community development framework with Aboriginal communities. I think top-down imposed solutions on communities have proven not to work wherever those communities exist. Working to build a strong capability with community leaders and with emerging leaders and with young people in communities is, I think, vital to the effectiveness of any government intervention or any government program. So I would be very much resisting a one-size-fits-all or a top-down approach.

In terms of drug use in Aboriginal communities, my experience in WA is very different depending upon where the community was. Isolated communities in the north-west of the Kimberley, the goldfields and the Pilbara are often falling prey to people who visit and who sell or supply alcohol or drugs into communities en masse for a period of time and then exit. But Aboriginal communities that are clustered around metropolitan Perth or metropolitan Melbourne, for instance, will have their unique issues and their unique histories. My belief is that successful interventions need the support of Aboriginal community controlled organisations, whether that is health organisations, legal organisations or childcare organisations, and that we need to invest in those organisations to help their own communities rather than drive a top-down approach.

**Mr THOMPSON** — My next question is: if there was to be decriminalisation of drug use, are there any drugs that you would still criminalise?

**Ms PATTEN** — The use of? Alcohol.

**Mr WARNER** — Can I take that on notice? I will provide a considered response, but I would like the opportunity to think about it and to formally correspond with the committee.

**Mr THOMPSON** — Yes. And in your introduction and comments earlier on you had a very interesting repertoire of great language — brutal, brave, Herculean. I just pose the question: if we were to change the law and decriminalise it, is there a risk that rather than solving the problem, the problem may be expanded — if there were a more relaxed attitude towards drug use in remote communities where people are suffering personal trauma and it became more of a rite of passage and you could expand the cohort of people who might take tablets at rave parties or who might be encouraged to take ice?

**Mr WARNER** — Life is not risk free, and I would look to the evidence of what has happened in other advanced democracies that have gone down this path and look at how they implemented it and what has actually happened. We have seen Portugal many years ago and we have seen the Netherlands for a long period. I saw something the other day — that the Netherlands have closed 19 prisons since 2009. We have seen some of the big American states give licences and presumably set standards in relation to toxicity ranges.

I think if you look at what parliamentarians do on behalf of the community, you legislate, you make laws. I think there is fertile ground and plenty of opportunity to intentionally legislate to answer those questions about what the boundaries of risk are that you would want to have. But having a criminal code-only approach seems to absent the opportunity of the legislature to the judges and the prosecutors, and it just seems to me to be a misplaced opportunity.

So I would look to what works in other countries, and I would listen to the experts. I think the Australia21 group is an incredibly thoughtful and representative group, and I would follow the science.

**Mr EIDEH** — My question is not a question. I am just asking if you can give us some information on current drug treatment in prison, and if there are any changes you would like to see in this area.

**Ms JEWELL** — I think the biggest gap from a practice perspective is drug treatment for people who are on remand. I think it is a huge issue. I regularly see clients who are remanded who may have otherwise been a candidate for bail but for the non-availability of things such as detox facilities. So people are regularly detoxing first of all in their cells with limited support, and from then on they might be in a position to receive services and be receptive to counselling at that really crisis stage. But those services are not available in remand centres, and that is a huge gap from a practice perspective. I am not able to comment on individual prisons.

**Mr TILLEY** — So if they were able to get bail, make it a condition of bail specifically?

**Mr WARNER** — So the person who is getting bail, either as a condition or because of their own initiative, could participate in a program in the community, but generally speaking a remand prisoner, because they have not been sentenced, is not fully processed, fully assessed and the general suite of programs that are available in the prison system are not available. So the person on remand sits there dormant, captive and is potentially a good candidate for a program that would address their underlying issues. They are going to get out into the community but we do not do anything with them. The system cannot cope with putting the programs into the remand population, which of course we know is exploding.

**Mr EIDEH** — Can you suggest any changes?

**Mr WARNER** — I think that as we grow our prison population to cope with volume in and people staying longer and people being refused bail, we need to understand that effective rehabilitative-type programs in prisons are very difficult to deliver when so much of the focus of prison administration is on keeping the good order of the prison system intact, with large numbers of people in the system that is arguably not built for that number and building new supply in terms of prison beds down the track.

So we need to create a bit of time and space in the prison system, and I think we need to focus on the remand population, which is now 40 per cent of the population, and overcome whatever that legal or institutional resistance is to delivering effective programs into remand scenarios.

**Mr THOMPSON** — In some of the earlier evidence today there was the issue about the reliability of pill testing in pharmacological terms. They might be able to test 140 substances but there might be 500 and an expanding number of products within a tablet, so there is a lack of precision in pharmacists. At one level the question was: is the sample representative of the batch? The answer to that question was no. Another issue raised was: what is the role of the state if there is a pill test? What are the duties of care that a pill tester might have, and if we as legislators would be brave, what guidelines would be placed around the reliability of the testing process in case someone reacted to not the 140 substances that might be discernible but to another lacing in the cut that might render harm?

**Mr WARNER** — They are all big questions that can only be answered in the detail of the regime. What I would probably say — I am not an expert in pill testing regimes or the science — is that I think the benefit of pill testing beyond lives that it might save is the symbolic statement that the state is taking measures to actually recognise that people will take drugs in the first place. By itself a pill testing regime is not going to fix the problems that we see; it is not the main game in terms of the problems that we see in either prevalence or severity. I think it is one significant but small thing, obviously very detailed and very complicated with lots of associated risks about, as you say, duty of care. That might be part of a parcel of things that you would do, but it would not be something that I would focus on in the first wave of reform.

**Ms PATTEN** — Going back to the Drug Court, if we were looking at expanding it, can you identify specific places where we should be — —

**Mr WARNER** — Every headquarter court in Victoria, which would be the principal regional cities, and the principal headquarter courts dotted around the metropolitan area.

**Ms PATTEN** — So all of them. Are they expensive? Is it a lot more expensive to run a drug court process?

**Mr WARNER** — It is more time intensive for the person who comes back for regular supervision, but the accountant in me wants to say that it depends where you draw the parameters of your analysis. You are spending money to save money in other parts of the justice system, and we need to be prepared to frontload and help to — —

**Ms PATTEN** — Yes. So that 35 per cent reduction in recidivism —

**Mr WARNER** — Yes, absolutely. That is right.

**Ms PATTEN** — if you cost that in, it is money well spent.

**Mr WARNER** — That is right.

**The CHAIR** — Thank you, Bevan and Tazmyn, for your time this afternoon. It has been very useful.

**Mr WARNER** — Thank you very much.

**Ms JEWELL** — Thank you.

**Witnesses withdrew.**