



17 May 2011

Dear Honourable Mayor and Councillors,

Re Submission regarding update on Taking Action Together and Proposals for Further Community Safety Measures

We are grateful for the opportunity to speak to agenda item 11.3 and apologise for the late notice of this correspondence.

We seek to make a short submission only, and to address that submission to sharing our experience as a legal service providing services to community members that include, in a significant proportion, persons with alcohol and/or drug dependence.

Fitzroy Legal Service (FLS) provides legal support through its volunteer and paid solicitors at 124 Johnston Street and the Neighbourhood Justice Centre, in areas of law including crime, family law, family violence, victims of crime, & infringement offences. In addition, FLS has an outreach position funded by the DHS that provides assistance exclusively to clients presenting with alcohol and other drug related legal problems. FLS works closely with health service providers in providing legal support to our client base.

We make this submission as it relates to the decision whether to fund implementation of CCTV and/ or a Safe Injecting Facility (SIF) in Yarra on the basis that our service delivery focus provides us with opportunity to make observations regarding some of the systemic impacts of decisions around allocation of resources towards law and order versus public health approaches.

In doing so we do not seek in anyway whatsoever to negate the concerns raised by residents in the Richmond area regarding amenity, or to question the legitimacy of policing activity around illicit drug trafficking and use.

We do however seek to make submissions on the effectiveness of the criminal law system more broadly as a tool to ameliorate harms and change behaviours around illicit drug use and associated offending, and to comment briefly on the evidence base regarding CCTV as a crime prevention tool.

CCTV

In relation to the institution of CCTV, Council will be aware of the research regarding the effectiveness of CCTV as a tool to prevent crime: that is, issues of relocation of offending conduct, limited usefulness as a tool to prevent crime, privacy implications for the general public, and discriminatory impacts observed in various jurisdictions on users of public space/ minorities who may be subject to more intrusive surveillance. We note a broad range of submissions were made to

the Victorian Law Reform Commission may be of interest to councillors. These can be accessed at the following link.

<http://www.lawreform.vic.gov.au/wps/wcm/connect/justlib/Law+Reform/Home/Completed+Projects/Surveillance+in+Public+Places/LAWREFORM+-+Surveillance+-+Received+Submissions>

We note also the increased powers of Victoria Police to engage in stop and search activities (without reasonable suspicion), to issue move on powers, and the range of public order offences available in maintaining amenity more generally.

We do not consider ourselves to be appropriately placed to make submissions on whether or not CCTV should be present in Richmond. The presence of CCTV may lead to increased arrests and charges for a period, and to movement of illegal activity out of the vicinity of the areas under surveillance. However, in relation to community concern regarding drug use in public places and discarding of syringes, we would strongly support investment in public health initiatives as a valuable long term investment for Council in improving community health safety and amenity.

Exploring the viability of a Safe Injecting Facility fits squarely into this context. Such an approach would create expanded space and dialogue for the illicit drug using community to act responsibly in relation to their use as it affects the broader community, and bypasses shortcuts that do not take into account the reality of the long term nature of drug dependence and ongoing harms that may arise.

We note that Needle Syringe Programs met with approbation and concern at their inception also, and that the tension between the criminalised context of illicit drug use and harm reduction work remains to this day. However, there is no question that community harms have been stemmed to a very high degree through the operation of NSPs in working against the spread of BBVs (Dolan, K. MacDonald, M., Silins, E. & Topp, L. 2005. Needle and syringe programs: A review of the evidence. Canberra: Australian Government Department of Health and Ageing available at [http://www.health.gov.au/internet/main/publishing.nsf/content/BF779AA5E45815C6CA25712400081717/\\$File/review.pdf](http://www.health.gov.au/internet/main/publishing.nsf/content/BF779AA5E45815C6CA25712400081717/$File/review.pdf)).

Drug law enforcement

As you would be aware the National Drug Strategy sets out a three pillared approach under the overarching approach of harm minimisation to building healthier and safer communities – demand reduction, supply reduction, harm reduction.

Attached is the National Drug Law Enforcement Research Fund report - 'Measuring the Effectiveness of Drug Law Enforcement', Australian Institute of Criminology, February 2011 (<http://www.aic.gov.au/documents/C/1/7/%7BC1732F51-38AB-4CFF-8A54-958457DFC461%7Dmr09.pdf>), which puts forward a trial framework for measuring impacts of drug law enforcement beyond arrest numbers/ seizures of drugs, towards examining and measuring effectiveness against the community impacts of drugs such as crime, illness, injury and death.

The report sets out as core components of the framework for assessing high level outcomes in drug law enforcement the reduction of drug crime and drug-related crime, reduction of organised crime, improved public health and improved public amenity. The benefits put forward around adopting

such a framework include promoting wider community understanding of drug law enforcement and drug related health and amenity, and a move away from arrests and seizures as the primary indicators of effectiveness.

In serving the objectives of the National Drug Strategy a move towards this type of assessment tool for drug law enforcement allows for a stronger critical analysis around the cost-effectiveness of criminal justice responses, and for strong endorsement of public health approaches and partnerships to work towards improving public health and amenity as legitimate and essential components of effective drug law enforcement.

Service delivery perspective of FLS

As a community legal service, FLS has a particular vantage point in relation to the class of legal concerns broadly captured by the terminology 'poverty law'.

The vast majority of matters dealt with by casework staff involve fines, drug related offending in the form of use, theft, low level trafficking (to serve own drug dependence, implied through possession of above certain quantity/ purchase on behalf of more than one user), applications for assistance on behalf of victims of crime, and family law child contact matters. FLS is less likely to deal with commercial trafficking matters and serious offences of violence. FLS lawyers report as relevant contextual factors to drug related offending the further issues of visibility, poverty, homelessness, and previous contact with the criminal justice system. The personal circumstances of services users with drug-related legal issues frequently include compromised socio-economic background and present circumstances, mental health concerns, childhood/ family issues, and drug use as a reported form of self-medication. In cases of persistent offending likely to lead to a custodial sentence, personal circumstances are likely to be more chaotic, and underlying histories/ experiences tell of more entrenched and harmful disadvantage and suffering.

Sentencing by the Court can be directed to the following objectives – punishment, deterrence, conditions facilitating rehabilitation, denunciation, and community protection. A strong focus of populist discourse around law and order focuses on punishment, deterrence and denunciation as directly improving community safety. In the context of drug dependence, it is vital that an evidence based approach is taken in assessing the varying capacities of criminal justice approaches to achieve those outcomes. From our service delivery perspective, positive opportunities through the criminal justice system are primarily derived where resources are allocated to addressing the underlying causes of offending, e.g. through engagement with treatment, counselling, housing support. Contact with the criminal justice system alone would not in our observation have significant impacts on entrenched drug dependence and related offending, and in many cases, particularly where a custodial sentence may be served, would tend to increase risks of re-offending. The cost to the community of investing in law enforcement approaches and imprisonment should be weighed against the effectiveness of other strategies also in the framework of supply, demand and harm reduction.

Some final observations on the experience of delivering legal services to community members with drug dependence - a significant proportion of our clients have died as a result of their drug use, leaving behind bereaved parents families and lives full of potential and possibility. In analysing data attaching to our Drug Outreach Lawyer position, we identified around one in ten clients had died

during the course of a four year period. Many of these clients had extensive contact with legal processes. For us as a service these deaths are a strong reminder of the limitations of the criminal justice system to deal with the harms caused by illicit drug use, and of the pressing need to look beyond its confines to work towards improved outcomes for drug users and the communities they live in. Many of our clients are caught up in a cycle of offending connected with drug dependence. Interaction with the criminal justice alone does not break that cycle. Interaction with support services and therapeutic interventions may. We urge Councillors to explore any opportunities that may arise to work creatively towards introducing progressive health approaches.

We are very grateful for the opportunity to make submissions in relation to this matter.

Yours faithfully,

Fitzroy Legal Service

Per

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