

Submission to the

*Inquiry into Supply and Use  
of Methamphetamines*

Law Reform, Drugs and Crime Prevention Committee  
of the Parliament of Victoria

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## Introduction

### Background

The Shepparton based Goulburn Valley Community Legal Centre (GVCLC) is a division of the Loddon Campaspe Community Legal Centre and is incorporated by the Bendigo-based Advocacy & Rights Centre Ltd. GVCLC advanced from a pilot service funded by the Clayton Utz Foundation in 2009 to a full-time free legal service funded through Victoria Legal Aid, with the strong support of the Victorian Government and Attorney General Robert Clark.

GVCLC provides generalist legal assistance and education targeting disadvantaged and vulnerable members of the Goulburn Valley community. Approximately one-half of its advice and casework services are devoted to matters involving family violence and family law issues. The GVCLC now provides a family violence duty lawyer service at Shepparton, Seymour and Cobram Courts. It also provides a Night Service at Shepparton one night per week with the assistance of volunteers, and an outreach service after Court at the other locations.

The Federation of Community Legal Centres Victoria (FCLC Vic), is the peak body representing over 50 Community Legal Centres in Victoria. FCLC Vic also convenes the Smart Justice initiative, which is supported by a coalition of organisations with a vast array of experience working with those engaged in the criminal justice system; victims, offenders and others.<sup>1</sup> GVCLC endorses the research by Smart Justice published in its paper *Reducing Drug Related Crime*<sup>2</sup>, which contains insights and perspectives that will be of great value to this inquiry. It provides, by way of summary:

“People in prison for drug-related offences do not always receive timely, targeted, effective and on-going drug treatment. The key to reducing drug-related crime is tackling the underlying factors that contribute to offending through increased investment in effective, tailored drug treatment and mental health programs as well as family support, housing, employment and education.”<sup>3</sup>

### The demographic

The Goulburn Valley area has a relatively high number of citizens who are continuously unemployed or obtain only seasonal work and therefore rely on welfare payments. Contributing factors include generational poverty, the loss of local manufacturing and food processing industries, the increased use of cheap itinerant labour for seasonal work, and the ongoing effects of the recent prolonged drought.

Shepparton in particular has been identified as containing an above average population of citizens who are suffering high levels of socio-economic disadvantage. The former Federal Government

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<sup>1</sup> See [http://www.smartjustice.org.au/cb\\_pages/about\\_us.php](http://www.smartjustice.org.au/cb_pages/about_us.php) (viewed 31 October 2013).

<sup>2</sup> Published 6 February 2013 and attached, and see also [http://www.smartjustice.org.au/cb\\_pages/fs\\_reducing\\_drug\\_related\\_crime.php](http://www.smartjustice.org.au/cb_pages/fs_reducing_drug_related_crime.php), (viewed 31 October 2013).

<sup>3</sup> *Id* See

recognised Shepparton as one of the ten most disadvantaged communities in Australia and introduced an Income Management strategy to try to prevent the diversion of family incomes (welfare payments) from essentials (accommodation, utilities, food and clothing) to non-essentials (tobacco, alcohol, other illicit substances and gambling).

GVCLC clients are primarily drawn from those same members of the community. Their situation is compounded by a range of associated issues such as unstable and unaffordable housing, poor education, low employment prospects, financial distress, relationship breakdown, and their consequent separation from the mainstream. Poor mental health is the almost inevitable consequence of living in such circumstances and the abuse of alcohol, other legal drugs and illicit substances the perceived panacea for it.

## **Prevalence and culture of use of methamphetamine**

GVCLC does not presently collect data that records whether methamphetamine use (or drugs generally) are a contributing factor to the legal issues that we see. Nevertheless, the anecdotal evidence is that the prevalence of methamphetamine, particularly the crystal form, is growing rapidly and perhaps exponentially in the Goulburn Valley. Although the GVCLC does not operate a dedicated criminal law practice, we do see many clients in relation to other matters where their substance abuse has directly contributed to them facing the legal issues brought to us.<sup>4</sup> In our experience, substance abuse is the single greatest factor behind the commission of offences involving dishonesty and violence, including family violence affecting the community today.

## **Consequences of using methamphetamines**

Methamphetamine is a particularly insidious drug. Its immediate effects are well known and include a heightening of the senses, euphoria, increased alertness and a feeling of intense well-being. It may cause significant agitation, increased libido and a considerably increased rate of metabolism evidenced by rapid weight loss.

It is highly addictive and its long-term use results in brain damage, paranoia, hallucinations and eventually even death. Users are known to become highly aggressive and appear to have little control of their behaviour while under its influence.

Methamphetamine abuse, because of the nature and extent of the damage it does to user's cognition and their propensity to become engaged in criminal behaviours, is of great concern to health officials and law-makers worldwide. Many are dedicating specific resources to address it in their communities.<sup>5</sup> In 2006, the State of Montana reacted to what it described as a

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<sup>4</sup> Our contact with clients in relation to family violence, marital and relationship issues, child protection interventions, guardianship and administration, debt and consumer matters gives us considerable insight to the nature and extent of the problem. We also provide representation to low-level offenders who are often not eligible for a grant of aid but still face the risk of gaol or other adverse outcomes because of their substance-affected behaviour. The community also faces the risk of an escalation in offending should the underlying issues not be satisfactorily resolved.

<sup>5</sup> See, for example <http://www.illinoisattorneygeneral.gov/methnet/fighnmeth.html> and <http://www.ncsacw.samhsa.gov/files/Meth%20and%20Child%20Safety.pdf> (viewed 25 October 2013);

methamphetamine epidemic by appointing a Best Practice Committee within its Chemical Dependency Bureau. The Committee

"... takes the position, based upon research that the availability of a continuum of levels of care including medical services and, at a minimum, supportive services that address legal problems, employment issues and that provide social resources are essential to the treatment of stimulant use disorders and methamphetamine in particular. Another important consideration is the need for both initial assessment of the client as well as on-going reassessment to assure the client is placed in the level and setting of treatment that is most needed. Individuals addicted to methamphetamine, perhaps more so than any other addiction, frequently require a period of stabilization and medical intervention before they can be successfully treated in outpatient levels of care. The literature is clear about the need for biopsychosocial treatment for addiction."<sup>6</sup>

## Links between use and crime

Once addicted to methamphetamine it becomes increasingly difficult for the individual to lead anything resembling a normal life, with the need to "*feed the habit*" very strong. Like other drug habits its use is a pathway into generally lower-level crime. The clients we see face prosecution for:

- i. Driving offences which are very common and include driving with drugs detectable in their system, speeding, unlicensed and driving unregistered vehicles;
- ii. Possession and use offences;
- iii. Trafficking small quantities to pay for their habits;
- iv. Dishonesty offences such as shop thefts and theft from motor vehicles; and
- v. Assaults, including family violence.

According to research published by the National Drug Law Enforcement Research Fund the data for Australia shows that the prevalence of violent offending amongst methamphetamine users is very high with 82% having committed a violent crime and two in five having done so in the last 12 months. Nearly three-quarters had ever committed more than one violent crime. Methamphetamine users were more likely to have committed a violent crime than were users of heroin.<sup>7</sup>

It seems to us to be more the rule than the exception that the first attempt at rehabilitation by methamphetamine users is when they are charged and face court proceedings. Voluntary admissions outside the CJS do not appear to us to be so common that they are likely to have a lasting beneficial effect on those engaged in criminal activities and thereby reduce recidivism across the community, but support agencies are better placed to comment on this aspect.

## Effectiveness of existing strategies

In our experience existing strategies are ineffective or inadequate and have contributed to the increased use of the drug within the Goulburn Valley.

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<sup>6</sup> <http://www.dphhs.mt.gov/amdd/chemicaldependencieservices/documents/methguidlines.pdf> at 2 (last viewed 25 October 2013)

<sup>7</sup> Torok, Darke, Kaye, Ross & McKetin, 'Comparative rates of violent crime amongst methamphetamine and opioid users: Victimization and offending', NDLERF *Monograph Series No. 32* at iv, ISBN 978-0-9804654-7-1

The anecdotal evidence is that “*shake and bake*” is a common production method for small quantities used and trafficked by addicts. This relies almost entirely on the availability of medications containing pseudoephedrine obtained from pharmacies. The supply source could be closed reasonably effectively if all State Governments were to agree to these pharmaceutical products being available on SP prescription only and monitored those prescription providers.<sup>8</sup>

More sophisticated production from both local and imported sources is certainly available to users in the community but those involved are rarely identified or prosecuted. The amount of money to be made seems to override any fears afforded by the very tough sentencing laws and associated confiscation powers already possessed by the courts.

## **Best practice strategies to address use and associated crime**

### Therapeutic Justice and Problem-solving Courts

Therapeutic jurisprudence is one of the most significant developments in the justice system. It proposes that

“...the processes used by courts, judicial officers, lawyers and other justice system personnel can impede, promote or be neutral in relation to outcomes connected with participant wellbeing such as respect for the justice system and the law, offender rehabilitation and addressing issues underlying legal disputes.”<sup>9</sup>

Developed by Professors David Wexler and Bruce Winick in the United States in the 1980s in the context of mental health law, therapeutic justice is now seen to apply to all areas of the law and across cultures, and is the subject of international study and development.

The concept of therapeutic jurisprudence saw the pioneering of problem-solving courts in Victoria from 2005. Two early models emerged: the intensive co-location of services in a community court established in Collingwood with a single magistrate to service the City of Yarra where opiate use and associated crime were major issues<sup>10</sup>; and the Court Intervention Program which quickly evolved into the Court Integrated Services Program (CISP) at Melbourne, Sunshine and Latrobe Valley. Later initiatives include the Drug Court, Children’s Koori Court, Family Violence Division, the ARC List and the Mental Health Court Liaison Service (MHCLS). We note that while there are numerous examples of such problem solving Courts in Victoria, results of the evaluations into the effectiveness of a number of them have not been publicly released. We call on the Victorian government to do so as a matter of urgency so that the findings of these evaluations can properly inform this Inquiry and support an open and transparent discussion about the work of such jurisdictions.

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<sup>8</sup> The writer’s experience at the Neighbourhood Justice Centre, Collingwood was that some doctors were well known for their willingness to write prescriptions for Xanax, another pharmaceutical that, when abused, is a major factor in behaviours that lead to criminal activity.

<sup>9</sup> Australian Institute of Judicial Administration

<http://www.aija.org.au/index.php/research/australasian-therapeutic-jurisprudence-clearinghouse/the-concept-of-therapeutic-jurisprudence> (viewed 14 October 2013)

<sup>10</sup> The Neighbourhood Justice Centre (NJC)

Shepparton in the Goulburn Valley was the venue for the first Koori Court in Victoria and subsequently saw the introduction of a part-time MHCLS.<sup>11</sup> Despite a very clear local need for expanded therapeutic court services in the Goulburn Valley, none has thus far become available. This reflects a patchwork style of justice across Victoria that has resulted in a two-tiered system where different Court approaches and sentencing outcomes can be expected depending on geographical area. This “*postcode justice*” is intolerable and has been the subject of considerable research and prior consideration by a Parliamentary Inquiry.<sup>12</sup> In GVCLC’s view a program of a similar style to CISP is desperately needed to address offending where alcohol, drugs, intellectual disabilities, mental health, financial distress and housing issues are the dominant factors.

### Developing a comprehensive model of therapeutic jurisprudence for the Goulburn Valley

The wholly integrated and co-located service available to residents of the City of Yarra at the Neighbourhood Justice Centre (NJC) sets the highest standards and, in its operation and engagement with clients and the community, is at least the equal of any similar such court in the world. While very effective in its work to lower local crime rates and reduce recidivism in offenders,<sup>13</sup> it represents a significant capital investment which has not thus far been duplicated in Victoria.<sup>14 15</sup> Clients are seen by workers who are located on site but are employee representatives of appropriate local support agencies. Engagement is therefore able to continue during the currency of the offender client’s sentence and beyond without interruption. This is a major factor in the NJC’s success at reducing recidivism within the target community.<sup>16</sup> Cost constraints and the perceived need to also introduce justice reinvestment programs to the Goulburn Valley militate against the adoption of this model in Shepparton.<sup>17</sup>

The CISP program currently runs in several suburban courts and one RRR court and it is staffed at these locations by DOJ employees. It had been running for a number of years when the Auditor-General examined the data and the programme’s effectiveness in reducing re-offending was clearly demonstrable.<sup>18</sup> However, as the Auditor-General pointed out, client engagement in this model is short-term only and engagement with further services is reliant upon the individual following through with appointments and treatment. The most vulnerable, those with significant mental

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<sup>11</sup> This is an externally funded part-time mental health nurse position provided by Goulburn Valley Health.

<sup>12</sup> *Victorian Parliamentary Inquiry into the Extent and Nature of Disadvantage and Inequality in Rural and Regional Victoria* 2010 and Coverdale, R (2011) *Postcode Justice: Rural and Regional Disadvantage in the Administration of the Law in Victoria*, Centre for Rural and Regional Justice, Deakin University.

<sup>13</sup> A summary of the results of a 2010 evaluation is published at <http://www.neighbourhoodjustice.vic.gov.au/home/about+us/results/> (viewed 14 October 2013).

<sup>14</sup> Experiences in other jurisdictions, both overseas and interstate, now suggest that expenditure on therapeutic jurisprudence and justice reinvestment are a cheaper and more effective method of dealing with lower-level crime than is incarceration and the consequent need to construct and maintain prisons. See, for example, David Brown, “Justice reinvestment: the circuit breaker”, *Insight* (2013) 8, 36-38. published at [http://vcoss.org.au/documents/2013/06/JusticeReinvestment.Final\\_.pdf](http://vcoss.org.au/documents/2013/06/JusticeReinvestment.Final_.pdf); Council of State Governments Justice Centre, <http://csgjusticecenter.org/jr/facts-trends/> (viewed 14 October 2013)

<sup>15</sup> Note, however, that the Auditor-General raised some concerns as to the reliability of data in *Problem Solving Approaches to Justice*, Victorian Auditor-General’s Report (2011) at 29. These were grounded simply in the limited quantity of data available at the early stage of implementation (2007-2009) during which it was gathered.

<sup>16</sup> The results of a further and very positive evaluation are imminent: *pers comm* Kerry Walker, Director NJC, 1 October 2013.

<sup>17</sup> It is clear that the philosophy behind the NJC and CISP programs is strongly supported by the Victorian Government. In *New directions for alcohol and drug treatment services – a framework for reform* Department of Health August 2013 at 17, Principle 6 of the *Victorian Alcohol and drug treatment principles* states that “Treatment involves integrated and holistic care responses” and the relevant treatment stream for court-initiated processes is Care and Recovery Coordination which encompasses the former Forensic Counselling and recovery Service.

<sup>18</sup> VAG, *Problem Solving Approaches to Justice*, Victorian Auditor-General’s Report 2011 at 32

health and substance abuse issues, are notoriously unreliable at managing the transition from imposed to voluntary therapeutic engagement and easily fall at this point in the rehabilitation process of CISP. The Drug Court and ARC List, while excellent initiatives in their own right and highly effective where services are also available to other courts at the same location, are too specific in their remit for a regional and rural courts such as exist in the Goulburn Valley.

We therefore propose a model of therapeutic jurisprudence for the Goulburn Valley which is similar to CISP but driven by an external agency. It would require funding to contract full-time, highly experienced case managers from appropriate organisations and based at the Courts. The cost would be offset to an extent by the redirection of those funds currently covering the MHCLS position but we suggest a significant proportion could come from the Government's new initiative reforming alcohol and drug service delivery to the community.<sup>19</sup> The incumbents would need to have the skills and experience to do initial assessments at Court, either proactively prior to a hearing, or upon referral from a Magistrate, Lawyer or Prosecutor.<sup>20</sup> These referrals would occur whenever underlying issues such as substance abuse, mental health, intellectual impairment or homelessness were suspected as being significant factors contributing to the client's offending.

Under this model, the case managers would be responsible for identifying those agencies in the community able to provide the therapeutic services most appropriate to the client's circumstances, and for making a warm referral to those service providers.<sup>21</sup> The case manager or legal representative would usually inform the Court of the results of the client's initial assessment and of any relevant appointments made for them. The case manager would also provide the legal representative with copies of the further assessment and reports prepared by the external agencies and these would be tendered as part of the submissions made prior to sentencing in order to ensure the Court is properly informed.

While participation in the engagement process would be voluntary in the first instance, unlike the scheme proposed by the Victorian Department of Health<sup>22</sup> the particular assessment and treatment path for persons brought before the Courts under the proposed model would be directed rather than one of absolute choice.<sup>23</sup> Positive outcomes, where the client successfully engaged with the nominated external services and made creditable attempts to deal with the issues underlying his/her offending, would give the Magistrate cause to consider them in mitigation of sentence.<sup>24</sup> Those who failed to voluntarily engage would still be liable to have their participation in programs mandated by the Court by way of conditions on Corrections Orders but they would lose the benefit of early mitigation in sentencing.<sup>25</sup>

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<sup>19</sup> Vic. Govt., *New Directions for Alcohol and Drug Treatment Services*, Department of Health, August 2013. It is disappointing, however, that the referral pathways under this reform scheme do not overtly include either lawyers or the courts.

<sup>20</sup> Raising an opportunity for the introduction of productive Advocacy Health Alliances into the future.

<sup>21</sup> The importance of case managers in coordination of therapeutic responses for methamphetamine is highlighted in the Commonwealth Department of Health and Ageing publication, *Treatment Approaches for Users of Methamphetamine*, at 68 [http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/Publishing.nsf/content/8D2E281FAC2346B8CA25764D007D2D3A/\\$File/tr emeth.pdf](http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/Publishing.nsf/content/8D2E281FAC2346B8CA25764D007D2D3A/$File/tr emeth.pdf) (viewed 25 October 2013).

<sup>22</sup> *Ibid*, fn 14

<sup>23</sup> A process of informal coercion.

<sup>24</sup> For many such clients, this will be their first opportunity for many years to make choices about how they will conduct their lives and to gain a sense of control over their future.

<sup>25</sup> The main argument against formal coercion is that it can only occur later in court proceedings and may diminish the relationship between client and provider. Formal coercion is not necessarily detrimental to engagement outcomes, however, and there is evidence that mandated treatment for seriously effected users may be just as effective as voluntary treatment options: fn 16 at 79.



The model relies to a great extent for its success not only on the relationship between the Court and local support agencies, but also on the relationship between the lead agency and its case managers, and the other local agencies. The support of the Magistracy will be integral to this because the model's success will require longer adjournments at the early stages to allow reports to be prepared and for engagement with services to be initiated. The Magistrates' response to the implementation of the model will be crucial to obtaining support from the legal practitioners, police, other prosecutorial bodies and Corrections Victoria, all of whom must work towards the rehabilitation as well as the punishment of those offenders engaging in the therapeutic processes.<sup>26</sup>

Most of all, however, the success of the proposed model relies on the establishment of long-term therapeutic relationships between the end support agency and the client that run far beyond the span of a few court appearances. This vital link between client and therapist is lost under the CISP system of short-term engagement and the break occurs at the most crucial time in the offender's move towards rehabilitation.<sup>27</sup> Preventing any hiatus in engagement created by the offender client's transition from the CJS to the community is particularly relevant when therapeutic efforts are aimed specifically at addressing the use of high-risk synthetic drugs such as methamphetamine. This often requires substantial investment in longer-term and preferably residential rehabilitation to be truly effective.<sup>28</sup>

Other measures that can be incorporated in a therapeutic approach include *judicial monitoring*, a post-sentencing supervision process conducted by the Court, and *contingency management*, a positive feedback mechanism recognising effort by the client. Judicial monitoring is a significant measure effective against recidivism adopted by the NJC and requires the offender to come back before the sentencing Magistrate post-sentence for a review of his/her progress on a Community Corrections Order. Contingency management would allow Corrections Victoria to provide a small financial reward to a client who demonstrated compliance with order conditions, such as by providing clean urine screens. Payment would be made via a smart card system such as the Basics Card used in the income management program conducted by the Commonwealth Department of Human Services. It would give recipients a little extra that can be spent on accommodation, food and utilities and provides encouragement for those who fully engage in their rehabilitation programs.

### Justice Reinvestment

A relatively new approach to dealing with issues around crime in the community is that of *Justice Reinvestment* (JR).

The term itself was first coined in 2003 by Tucker and Cadora.<sup>29</sup> It has since been picked up and developed in both the United States and United Kingdom, and has enjoyed some local interest, predominantly in New South Wales. Some two dozen American states have now signed up with the

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<sup>26</sup> The developing philosophy of therapeutic justice has seen a fascinating integration of the various players in the CJS and a synergism that focuses on the longer-term goal of reducing recidivism rendering punishment merely part of the process rather than an end-point in itself.

<sup>27</sup> The model also fits well with the Government's policy of contracting external providers for service delivery.

<sup>28</sup> Residential rehabilitation provides a structured, long-term and appropriate environment in which to address the underlying causes of problematic drug use. It is therefore most beneficial to those who have unstable or no accommodation, poor or absent social supports, have failed previous attempts to cease use, and are polysubstance abusers: fn 16 at 60.

<sup>29</sup> Susan Tucker & Eric Cadora, 'Ideas for an Open Society: Justice Reinvestment', *Open Society Institute* 3(3) (2003).

Council on State Governments Justice Centre to investigate or to apply the Justice Reinvestment (JR) method.

JR is a place-based approach, whereby resources that would be spent on Corrections facilities and programs are re-directed into the local communities from where the offenders originate and to which they will undoubtedly return. All the evidence suggests that when they do return from prison it is to commit more serious crimes more frequently.<sup>30</sup> “While a period of imprisonment may deter some people from re-offending, in others it may foster further criminal behaviour.”<sup>31</sup> “There is, in fact, a relatively high probability that people previously imprisoned for acts intended to cause injury, robbery, burglary or theft would later be reimprisoned for those same offences. In addition, these offences also attract a high proportion of prisoners who were previously imprisoned for other offences.”<sup>32</sup>

“The purpose of justice reinvestment is to manage and allocate criminal justice populations more cost-effectively, generating savings that can be reinvested in evidence-based strategies that increase public safety while holding offenders accountable. States and localities engaging in justice reinvestment collect and analyze data on drivers of criminal justice populations and costs, identify and implement changes to increase efficiencies, and measure both the fiscal and public safety impacts of those changes.”<sup>33</sup> In effect, it means a change in bail, sentencing, parole and release policies that see more low-level offenders (in particular) released into the community on programs and the resulting financial savings invested in improving their neighbourhoods, especially housing opportunities, and the provision of better health, job training, education and sporting facilities. Limited government resources are effectively targeted at communities where most offenders come from and return to.

To adopt JR is to engage in a more sophisticated public discourse about responses that focuses on attention on the causes of crime.<sup>34</sup> It not only considers the rapidly escalating costs of maintaining a prison industry capable of accommodating an ever-increasing number of offenders against a political climate where fiscal responsibility is demanded by taxpayers, it also takes account the ever increasing evidence that high incarceration rates may well be counterproductive and criminogenic,<sup>35</sup> serving as a “*recruitment centre for the army of crime*”.<sup>36</sup> A government intent on both advancing the cause of good fiscal stewardship and reducing the prevalence of crime within its community will therefore be quickly attracted to the logic of JR as a means of breaking the cycle of recidivism and

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<sup>30</sup> The Sentencing Advisory Council reports that around 40% of prisoners return for sentence again within 2 years  
<https://sentencingcouncil.vic.gov.au/page/about-sentencing/sentencing-statistics/imprisonment/released-prisoners-returning-prison>  
(viewed 29 October 2013)

<sup>31</sup> Terry Rawnsley, “Working Paper: Dynamics in Repeat Imprisonment : Utilising Prison Census data” (2003) 2 cat. no. 1351.0, ABS, Canberra [http://www.ausstats.abs.gov.au/ausstats/free.nsf/0/EF765C7478113739CA256D520010345B/\\$File/13510\\_2003\\_2.pdf](http://www.ausstats.abs.gov.au/ausstats/free.nsf/0/EF765C7478113739CA256D520010345B/$File/13510_2003_2.pdf) (viewed 29 October 2013)

<sup>32</sup> ABS, “Repeat Imprisonment”, Australian Social Trends (2010) 4102 March 2010  
[http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/LookupAttach/4102.0Publication16.03.102/\\$File/41020\\_RepeatImprisonment.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/LookupAttach/4102.0Publication16.03.102/$File/41020_RepeatImprisonment.pdf)

<sup>33</sup> Council of State Governments <http://csgjusticecenter.org/jr/> (viewed 25 October 2013)

<sup>34</sup> This Blairite euphemism has become rather trampled by politics in recent times but remains a concise statement of the philosophy which is Justice Reinvestment.

<sup>35</sup> David Brown, Melanie Schwartz & Laura Bosely, “The promise of justice reinvestment”, SSRN Working Papers 6 June 2012 downloaded from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2078715](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2078715)

<sup>36</sup> Michael Foucault in Roger-Pol Droit, “Interview with Michael Foucault, ‘On the role of Prisons’”, <http://www.nytimes.com/books/00/12/17/specials/foucault-prisons.html?r=1> translated from the French by Leonard Mayhew (viewed 25 October 2013)

averting the rapid growth in costs of the prison industry while making the community a safer place for all.<sup>37</sup>

The scale of the economic impact of traditional justice policies in the US can be gauged from figures that show one in every 100 adults is incarcerated and two-thirds of released prisoners return to gaol; the staggering cost to the national economy is US\$60 billion per year. Hyper-incarceration consequently became an issue of economic sustainability when the global financial crisis struck and demanded a rethink of the policies that led to this situation. Representative Marcus Oshiro, chairing the opening of the 2011 US National Summit on Justice Reinvestment and Public Safety in Honolulu told the assembly that Americans “...want a correctional system that holds offenders accountable and keeps communities safe. But they also want and deserve a system that makes the most of their tax dollars... and there are competing needs such as education and health care that must be addressed.”<sup>38</sup> We believe that this also represents a sound policy perspective for the Victorian Government

In the UK, similar concerns over the unsustainable cost of current justice policies in 2010 caused the Justice Secretary in the Conservative Government to denounce the “*bang ‘em up culture*” of his predecessors and pledge to cut prison numbers through sentencing reforms and a “*rehabilitation revolution*”. This statement was followed by the launch of a Green Paper raising proposals for discussion of, amongst other things, increasing diversions of less serious offenders with mental illness and drug dependency into treatment rather than prison, and decentralising rehabilitation services to open up the market to new providers.<sup>39</sup>

Greater Shepparton received a SEIFA score of 951.9 in 2011.<sup>40</sup> It has since been singled out by the Commonwealth as a place of particularly high socio-economic disadvantage and a very suitable location in which to trial income management as a means of directing the manner in which welfare benefits are expended by recipients. It is also reported to currently have the largest number of welfare recipients on income management.<sup>41</sup> The same issues of poverty, lack of educational and employment opportunity, homelessness and poor mental health that produced such a low SEIFA score are the same issues that have resulted in escalating levels of substance abuse and associated crime. It is therefore an ideal location in which to commence the community-building program that is justice reinvestment.

In its very recent report on its inquiry into the *Value of a justice reinvestment approach in Australia*, the Commonwealth Senate Legal and Constitutional Affairs Committee found that “...given the significant failures of the current system, it is time to look at where and why crime occurs and to address the underlying drivers of offending and reoffending”.<sup>42</sup> The committee considered “that justice reinvestment has a proven track record in achieving successful outcomes through both lowering incarceration rates and targeting the drivers of crime. It is a community-focused,

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<sup>37</sup> Certainly, imprisonment rates in New South Wales are dropping and the Attorney-General described the previous Labor Government’s achievement of growing the prison population to above 10,000 inmates as a disgrace. He has given the NSWLRC references on both bail and sentencing reform with a view to reducing remand populations, especially of juveniles, and to boost post-release drug and rehabilitative services. Rates in Victoria, on the other hand, are growing to an alarmingly unsustainable degree.

<sup>38</sup> Clement et al, “The National Summit on Justice Reinvestment and Public Safety”, CSG 2011, 2-3

<sup>39</sup> Travis & Hirsch, ‘Kenneth Clark pledges to cut daily prison population’, *The Guardian UK*, 20 October 2010

<sup>40</sup> ABS, Socio-Economic Indexes for Areas, Shepparton profile 2011 <http://profile.id.com.au/shepparton/seifa-disadvantage> (viewed 31 October 2013).

<sup>41</sup> Patricia Karvelas, “Coalition bid to expand welfare quarantining”, *The Australian*, 1 October 2013, at 1 and 5

<sup>42</sup> The Senate, “Value of a justice reinvestment approach to criminal justice in Australia”, Legal and Constitutional Affairs Committee, Commonwealth of Australia (2013) ISBN 978-1-74229-846-7 at 8.7

evidence-based approach that provides savings, diverts offenders, addresses the causes of crime, and strengthens communities.”<sup>43</sup>

One hundred and thirty-one submissions were received by the committee, including those representing of human rights bodies, indigenous society, the medical and legal professions, churches, charities and providers of specialist Alcohol and Drug and housing services to the socio-economically disadvantaged. The majority were guardedly enthusiastic about the prospects of justice reinvestment recognising that, if its objectives were realised, it would both reduce expenditure on penal infrastructure and operations, and allow a greater investment in community-building programs and services, while maintaining standards of community safety. While uncertainty still surrounds much of the detail of how JR might operate here in Australia, it is clear that many existing strategies are not working and criminal offending related to methamphetamines will not go away quickly.

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<sup>43</sup> *Ibid* at 8.8