

Dissenting Report by Labor Party Senators

1.1 The drug testing trial has now been considered by this Committee twice, first during the course of the 2017 Inquiry in to the Social Services Legislation Amendment (Welfare Reform) Bill 2017 and through this Inquiry.

1.2 In both instances, the Committee was overwhelmed by evidence from the health sector, including from specialists in addiction medicine, as well as the community sector that the proposal to drug test income support recipients will not be effective, will further exacerbate long waiting times for treatment, will be very expensive and also risks increasing levels of crime and homelessness.

1.3 Further, in this Inquiry, the Committee was able to hear from Local Government in each of the proposed trial areas: Canterbury-Bankstown in New South Wales, Logan in Queensland and Mandurah in Western Australia.

1.4 Labor Senators are of the view that there has been insufficient community consultation in the proposed trial areas, and that there is a clear lack of community support for the trials in these places.

No Evidence of Effectiveness

1.5 The Committee heard from a number of witnesses that there is no evidence to suggest that drug testing jobseekers will assist them to find work or encourage those who do live with drug dependence to access treatment.

1.6 Clinical Associate Professor Adrian Reynolds, an expert in addiction medicine said that the drug testing trial is 'unlikely to bring about any sustained changes in patients' drug use behaviours and may even be counterproductive.'¹

1.7 Additionally, A/Prof Reynolds told the Committee that 'this drug testing trial is clinically inappropriate and not designed in a way that will address the issues of substance dependence.'²

1.8 A leading researcher in the area, Professor Lisa Maher explained further that:

The proposed measures are inconsistent with evidence based approaches to public policy...the Australian National Council on Drugs concluded that there is no evidence that drug testing welfare beneficiaries will have any positive effect for those individuals or society and some evidence indicating that such a practice could have high social and economic costs.³

1 Clinical Associate Professor Adrian Reynolds, President, Australasian Chapter of Addiction Medicine, Royal Australian College of Physicians, *Committee Hansard*, 23 April 2018, p. 27.

2 A/Prof Reynolds, *Committee Hansard*, 23 April 2018, p. 28.

3 Professor Lisa Maher, Professor and Program Head, Kirby Institute for Infection and Immunity, *Committee Hansard*, 23 April 2018, p. 18.

1.9 The Committee also received evidence that the concept of the drug testing trial is based on a failure to understand the nature of drug dependence.

1.10 Professor Alison Ritter of the National Drug and Alcohol Research Centre told the Committee that the Bill, though claiming to implement a trial, does not conform with the requirements of a trial and that:

...the bill is not written like a research trial, it's written as policy by stealth...and if this is about introducing new policy, then...it misunderstands the nature of drug problems and drug dependence.⁴

1.11 A number of witnesses to the Inquiry explained that a drug testing trial is highly unlikely to bring about positive behaviour change, due to the nature of addiction. The Committee heard that:

According to the DSM-5, the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association, which is the gold standard of diagnosis in this area, one of the diagnostic indicators of a substance misuse disorder is that people continue using despite adverse effects of their use. So, by definition, if someone has a genuine disorder, they will continue using despite the hardship of being placed on income management, for example.⁵

1.12 The Committee heard from many witnesses that the drug testing trial was incapable of successfully addressing the drug problem in Australia.

1.13 The proposal was described to the Committee as a '...a simplistic approach to a very complicated problem.'⁶

1.14 Dr John Falzon from St Vincent de Paul said that:

This legislation will not lead to the desired outcomes and will actually divert resources from services and evidence-based approaches that would be successful. It also has the potential create greater levels of harm, including increased stigma, marginalisation and poverty.⁷

1.15 Academic Associate Professor Kylie Valentine explained further that:

The evidence on the barriers to participation for people in receipt of welfare payments is growing and is very strong and highlights the importance of many things that have nothing to do with drug consumption, let alone drug problems.⁸

4 Professor Alison Ritter, Director, Drug Policy Modelling Program, National Drug and Alcohol Research Centre, *Committee Hansard*, 23 April 2018, p.19.

5 Ms Kathryn Wright, Territorial Alcohol and Other Drugs Unit Director, The Salvation Army in Australia, *Committee Hansard*, 23 April 2018, p.12.

6 Ms Wright, *Committee Hansard*, 23 April 2018, p.8.

7 Dr John Falzon, Chief Executive Officer, St Vincent de Paul Society National Council of Australia, *Committee Hansard*, 23 April 2018, p. 8.

8 Associate Professor Kyle Valentine, *Committee Hansard*, 23 April 2018, p. 35.

1.16 Labor Senators on the Committee note the Australian Labor Party's commitment to evidence based policy development.

1.17 In light of the overwhelming evidence, both in person and through written submissions, presented to the Committee during the course of both this Inquiry and the Inquiry in to the Social Services Legislation Amendment (Welfare Reform) Bill 2017, Labor Senators on the Committee are strongly of the view that the proposal to trial the drug testing of some income support recipients is counter to empirical research and should be abandoned.

High Cost

1.18 Labor Senators on the Committee note that the proposal to trial drug testing of income support recipients was initially announced in the 2017 Budget.

1.19 However, despite the proposal being a Budget measure, and before the Parliament in various forms for a year, there has been no clear evidence provided as to the cost.

1.20 The Committee received evidence as to the general, high cost of drug tests, and heard that 'there is evidence from New Zealand and other international domains of the poor cost effectiveness of drug testing.'⁹

1.21 Labor Senators on the Committee understand that there are a number of factors which impact on the price of a drug test.

1.22 Dr Kym Jenkins of the Royal Australian College of Psychiatrists explained that:

The cost of testing for substances depends on the amount of tests that the laboratory is doing at that time and on how many substances you're actually requesting in that test and how many samples the lab has to run for that particular substance at that time. If you're in a small centre then costs per test are going to be greater than if you're in a laboratory that's running many tests looking for that particular substance. If you are in a regional, rural or remote centre then there's the cost of getting the drug samples to a main drug testing centre as well. Then you add in the cost of the personnel taking that test, the transport and the reporting and looking after people afterwards.¹⁰

1.23 The Committee heard that 'Philip Alston, the UN Special Rapporteur on extreme poverty and human rights...estimated that the cost of drug testing, doing it properly, would be anywhere between \$500 and \$900 per test.'¹¹

9 Dr Martyn Lloyd-Jones, Visiting Medical Officer, Addiction Medicine Specialist, St Vincent's Health Australia, *Committee Hansard*, 23 April 2018, p. 29.

10 Dr Kym Jenkins, President, Royal Australian and New Zealand College of Psychiatrists, *Committee Hansard*, 23 April 2018, p. 31.

11 Ms Charmaine Crowe, Senior Policy and Advocacy Officer, Australian Council of Social Services, *Committee Hansard*, 23 April 2018, p. 41.

1.24 A/Prof Reynolds also provided evidence as to the potential cost of a drug test, and explained the complexities of analysing results. He told the Committee that:

It is roughly \$100 per drug class tested for a urine test. For hair testing, it is around \$180 per class tested...if you want month by month it can be triple that...those costs do not include the cost of the medical expert to examine those tests in the context of comprehensive medical and other histories...finding medicos who have that knowledge and skill across toxicology as well as clinical assessment of patients to assign meaning to those test results will not be easy. In fact, it is logistically impossible for this sort of process to be rolled out across the country.¹²

1.25 Dr Martyn Lloyd-Jones from St Vincent's Health Australia explained further that, in order to ensure the validity of positive tests, it would be necessary to undertake a confirmatory test, which was likely to greatly add to the cost:

It's important to distinguish the difference between the screening test and the confirmatory test. The screening test, which might be of a salivary sample or for a urine-screening drug test, may be reasonably cheap...but, if you then return a positive test, that is required to be confirmed with a confirmatory test which might be a very expensive process...it's important to understand the difference between the two and that particularly the former form of testing was subject to significant numbers of false positives as well as false negative results.¹³

1.26 Labor Senators on the Committee understand that internationally, the process of mandatory drug testing has been expensive to tax payers, without providing a satisfactory return on investment.

1.27 Anglicare Australia told the Committee that:

When we investigated and looked overseas at where mandatory drug testing had been tried, in essence was that people in the countries that had tried it, such as the United States and New Zealand, had found that it was extremely expensive and pretty ineffective.¹⁴

1.28 Labor Senators on the Committee are concerned that the Government has not revealed details about the cost of the proposed drug testing trial and have serious concerns based on international experiences and the stated cost of testing in Australia, that the drug testing trial will be very expensive to administer and represent poor value for taxpayers.

1.29 In light of the evidence regarding the significant likelihood that the drug testing trial will completely fail to meet its stated objectives and the high cost involved, Labor Senators on the Committee believe that undertaking the drug testing trial would be both fiscally and socially misguided.

12 A/Prof Reynolds, *Committee Hansard*, 23 April 2018, p. 31.

13 Dr Lloyd-Jones, *Committee Hansard*, 23 April 2018, p. 32.

14 Ms Imogen Ebsworth, Director of Policy and Research, Anglicare Australia, *Committee Hansard*, 24 April 2018, p. 45.

Concerns of Treatment Experts

1.30 The Committee heard from numerous witnesses and submitters that there is currently a large deficit in public funding for alcohol and other drug services in Australia, and that the demand for services far outstrips what services have capacity to provide.

1.31 The Committee heard that in Australia 'about 200,000 – 500,000 people a year go out looking for drug treatment and aren't able to access it.'¹⁵

1.32 Professor Maher explained further:

There's an undersupply of drug treatment in Australia at the moment. Demand exceeds supply. In any given year we currently treat about half of those people who are indicated for and seek treatment.¹⁶

1.33 Ms Rebecca Lang from the Queensland Network of Alcohol and Other Drug Agencies told the Committee that:

...the treatment sector has been chronically underfunded for a number of years now...I would be very surprised if you didn't find that a number of the folks who test positive and who are indicated for treatment hadn't, in fact, tried to access the treatment system voluntarily in the past and were turned away, or discouraged by long wait lists or a lack of access.¹⁷

1.34 In two of the three named trial areas, representatives from local government told the Committee that services in their areas are currently incapable of meeting the demand, and would not be able to cope with an increased need for their services.

1.35 The Mayor of the City of Canterbury Bankstown told the Committee:

We have only one drug rehabilitation centre, which is Odyssey House at the Canterbury outreach centre. Odyssey House provides counselling, education and mental health support. One is certainly not enough.¹⁸

1.36 These views were echoed by the Deputy Mayor of the City of Logan, who said that:

We do have some facilities in the city, but we don't have enough for the need that's there already.¹⁹

1.37 The Committee heard evidence that the funds for treatment to be provided for the Government were insufficient to meet the current need, let alone the increased demand that is expected to be generated by the drug testing trial.

15 Ms Rebecca Lang, Chief Executive Officer, Queensland Network of Alcohol and other Drug Agencies, *Committee Hansard*, 24 April 2018, p.19.

16 Prof Maher, *Committee Hansard*, 23 April 2018, p. 18.

17 Ms Lang, *Committee Hansard*, 24 April 2018, p.15.

18 Councillor Khal Asfour, Mayor, City of Canterbury Bankston, *Committee Hansard*, 23 April 2018, p. 14.

19 Councillor Cherie Dalley, Deputy Mayor, Logan City Council, *Committee Hansard*, 24 April 2018, p. 2.

1.38 The Committee heard that in Queensland alone, the state is 'about \$75 million short of what would be considered an adequate treatment system to meet the needs of those people who voluntarily want to enter the system,'²⁰ and that this figure does not take in to account an amount to enable services to meet increased demand.

1.39 Nationally, Professor Ritter estimated that:

Treatment investment that would meet existing demand would need to be double. The current national treatment investment is around \$1 billion, so an additional \$1 billion nationally would be required to meet current unmet demand for treatment.²¹

1.40 Additionally, the Committee heard from a number of Alcohol and other Drug Service Providers that there is currently a wait list to access treatment.

1.41 One provider, Lives Lived Well, explained the impact of the waiting list in terms of the opportunity cost for people to access treatment at all:

...there is likelihood that they'll drop off – high likelihood...the longer the gap between initial contact and intervention, the higher the drop-off, because there are other strong forces out there that draw people back into their substance use.²²

1.42 Further, the Committee heard evidence that forcing people with drug dependence to undergo treatment would be unlikely to be successful, and also jeopardise others' chances of recovery.

1.43 Witnesses to the Committee shared a number of concerns as to the impact the drug testing trial would have on service providers and those seeking treatment.

1.44 St Vincent de Paul Society told the Committee that the drug testing trial:

...would further stretch already under-resourced services and mean that people who actually are waiting for those services and do have a drug and alcohol issue will have to wait longer...we're going to see those who are actively seeking treatment and support and who do have a problem with drug and alcohol use having to wait longer. Even with additional resources, if the demand on services is increased, then that's a real concern.²³

1.45 Both Anglicare Australia and the Salvation Army shared this view, explaining respectively that:

20 Ms Lang, *Committee Hansard*, 24 April 2018, p. 15.

21 Prof Ritter, *Committee Hansard*, 23 April 2018, p. 20.

22 Mr Grant Robin, Clinical Services Manager, Lives Lived Well, *Committee Hansard*, 24 April 2018, p. 21.

23 Ms Corinne Dobson, Director of Policy and Research, St Vincent de Paul Society National Council of Australia, *Committee Hansard*, 23 April 2018, p. 12.

...it [the drug testing trial] will have a major impact on those who want to be in that treatment who are forced to share it with people who don't want to be there.²⁴

1.46 And that:

...the precious and sometimes scarce publicly funded treatment places for AOD [Alcohol and other Drug] issues will go to people that won't benefit the most from them.²⁵

1.47 Medical experts told the Committee that better outcomes would be gained through an expansion in treatment services nationally, not a drug testing trial. Labor Senators accept this assessment.

1.48 Dr Jenkins from the Royal Australian College of Psychiatrists told the Committee that the College is:

Concerned that a significant amount of time and resources will be spent on developing and implementing this trial and those resources could be better utilised by expanding treatment services and enabling people to seek help and return to employment voluntarily.²⁶

1.49 Professor Reynolds argued:

In this context of severe shortages of treatment and addiction medicine specialists, referral to treatment services of all those who test positive under this drug testing trial will be a poor use of scarce resources and will impact on services which are already stretched beyond their capacity. The drug testing trial could also potentially impact those people already waiting for treatment and highly motivated to undertake it, and the question arises: do they get bumped down the queue?...One needs to consider whether they might benefit more than those who are not at this stage so motivated for treatment.²⁷

1.50 Labor Senators on the Committee are of the view that a drug testing trial of income support recipients is an inefficient allocation of resources, and that the Bill should be rejected.

Workforce issues

1.51 In addition to the lack of evidence supporting the drug testing trial, the high cost involved in undertaking drug testing and the existing unmet demand for Alcohol and other Drug treatment services, the Committee heard that there is an insufficient workforce to implement the proposed trial.

1.52 Professor Ritter explained that:

24 Ms Ebsworth, *Committee Hansard*, 24 April 2018, p. 44.

25 Ms Wright, *Committee Hansard*, 23 April 2018, p. 8.

26 Dr Jenkins, *Committee Hansard*, 23 April 2018, p. 26.

27 A/Prof Reynolds, *Committee Hansard*, 23 April 2018, p. 27.

The workforce doesn't exist at the moment. Alcohol and drug services struggle to find appropriately skilled and qualified staff. They're actually not funded at a level where some disciplines can be employed, so there's a funding barrier as well as a workforce barrier.²⁸

1.53 Both the Salvation Army and the Queensland Network of Alcohol and Other Drug Agencies reported experiencing difficulty filling vacant positions:

1.54 They told the Committee respectively that:

The Salvation Army frequently has the need to get a bit creative in staffing our AOD services particularly when establishing new services. For example, we may need to swing experienced staff across from related sectors and then train them up specifically in drug and alcohol knowledge...I'd agree that there is a shortage of well-qualified, trained staff.²⁹

1.55 And also:

With the investment that came through the National Ice Action Strategy our members reported having difficulty recruiting for positions.³⁰

1.56 Labor Senators on the Committee are of the view that the drug testing trial will increase pressure on scarce services without investing in the workforce that is critical to effective alcohol and other drug services.

Unintended, Unproductive and Unfair Consequences

1.57 Labor Senators on the Committee are deeply concerned that there will be serious, unintended consequences as a result of the drug testing trial, in particular, that it will lead to increased crime, homelessness, prostitution and poverty.

1.58 The Committee heard compelling evidence that there is a high likelihood that the drug testing trials will lead to increased crime in the trial areas.

1.59 Community organisations that work closely with people with drug dependence explained this risk to the Committee.

1.60 Ms Melanie Walker from the Australian Injecting and Illicit Drug Users League explained as follows:

What do we think will be the logical conclusion if we cut off their income support payments? It's not going to be that they suddenly stop using drugs, with no assistance from drug treatment; it's going to be that they are going to find the money where they need to in order to address their addiction and the other needs that they have that are no longer being met by the social security system....there's a genuine danger, in that it could drive up rates of

28 Prof Ritter, *Committee Hansard*, 23 April 2018, p.24.

29 Ms Wright, *Committee Hansard*, 23 April 2018, p. 11.

30 Ms Lang, *Committee Hansard*, 24 April 2018, p. 22.

crime and exacerbate harms to not only the individual but potentially the communities in which this is implemented.³¹

1.61 Mr Matthew Noffs, from the Ted Noffs Foundation provided the Committee with a case study:

Let's just pick a person I know. She is 18. She was raped by her father repeatedly since the age of four. She was then forced to become a sex worker at 14. By 16, she was using ice to get by. She is continuing to use ice at 18 and she is on the dole. This is the only thing that is keeping her alive. The drug is the one thing that is keeping her alive. She had broken countless laws by the time she was a teenager. She doesn't care about being arrested for this...She will find any which way she can.³²

1.62 The Queensland Network of Alcohol and Other Drug Agencies was also of the view that:

...there will be a proportion who will move into activities that maybe previously they wouldn't have thought about doing, like sex work or crime, usually property crime, to get things that they can pawn or sell to buy drugs or swap with their dealer to get drugs.³³

1.63 In addition to an increase in crime, the Committee heard that the drug testing trial could also exacerbate other community problems.

1.64 The Mayor of the City of Canterbury Bankstown explained that the trials:

...may lead to crime...it could also potentially exacerbate issues of depression and anxiety, which, from what I understand, is one of the common reasons that people are taking drugs in the first place.³⁴

1.65 Professor Maher told the Committee measures like the drug testing trial are inappropriate mechanisms to address societal problems in communities of disadvantage. She said that:

Vulnerable communities such as Bankstown need a comprehensive range of harm – as well as supply – reduction interventions, including drug treatment combined with improvements in social conditions such as housing, education and employment. Blood-borne viruses such as HIV and hepatitis C are clearly transmitted along the fault lines of poverty, inequality, structural violence and...public policies which increase socioeconomic inequality.³⁵

31 Ms Melanie Walker, Chief Executive Officer, Australian Injecting and Illicit Drug Users League, *Committee Hansard*, 23 April 2018, p. 48.

32 Mr Matthew Noffs, Chief Executive Officer, Ted Noffs Foundation, *Committee Hansard*, 23 April 2018, p. 53.

33 Ms Lang, *Committee Hansard*, 24 April 2018, p. 22.

34 Cr Asfour, *Committee Hansard*, 23 April 2018, p. 14.

35 Prof Maher, *Committee Hansard*, 23 April 2018, p. 19.

1.66 The Committee also heard evidence that there is a danger of drug users developing more dangerous habits or disconnecting from health services entirely as a result of the proposed drug testing trial.

1.67 St Vincent's Health Australia told the Committee that:

We're concerned that the unintended consequence of the proposed bill will increase stigma and marginalisation; exacerbate addiction issues and the factors contributing to addiction...there is a real risk of individuals changing their substance use to substances which are undetectable and potentially more harmful.³⁶

1.68 And that:

The use of drugs that do not test positively on a test is a very significant concern.³⁷

1.69 St Vincent de Paul Society told the Committee that:

...this program may well drive some behaviours further underground, further off the grid, and people, rather than being able to access the support they need, will be driven further away from the supports because they want to escape detection.³⁸

1.70 Labor Senators note that in the longer term, policies that stigmatise people and force them 'underground' will have much higher costs to the community and Government.

1.71 Labor Senators on the Committee also understand that there is a significant chance that drug tests could generate false positives.

1.72 Dr Jenkins explained that:

...various common antidepressants, or even cough medicine, may give you a false positive for a substance of abuse. Then there are some food substances such as poppy seeds that can give you a false positive for opiates.³⁹

1.73 The Australian Council of Social Services explained that the requirement to repay the cost of drug tests undertaken through the trial would push already vulnerable people deeper in to financial hardship:

If someone fails a second test or subsequent tests they would be required to pay for the cost of that test. If you are on an income support payment...that would represent a large sum of money going out of your weekly budget just to pay back the cost of a test that you had to get otherwise you would not be able to get income support.⁴⁰

36 Dr Lloyd-Jones, *Committee Hansard*, 23 April 2018, p. 29.

37 Dr Lloyd-Jones, *Committee Hansard*, 23 April 2018, p. 33.

38 Dr Falzon, *Committee Hansard*, 23 April 2018, p. 13.

39 Dr Jenkins, *Committee Hansard*, 23 April 2018, p. 32.

40 Ms Crowe, *Committee Hansard*, 23 April 2018, p. 42.

1.74 Given the unintended consequences that are likely to arise as a result of the drug testing trial, Labor Senators on the Committee are of the view that the Bill should not be passed.

Lack of Local Community Support

1.75 Further, Labor Senators on the Committee are of the view that, based on the evidence provided by all three local Governments from the proposed trial areas, local community support for the trials is not evident.

1.76 The Mayor of Canterbury Bankstown told the Committee that '[b]y using our city as the trial site, the government is further stigmatising and discriminating against our local community,'⁴¹ and also that:

[the money would be] better spent on investment in education, in training, in upskilling members of our community to transition them from potential welfare status to being able to get gainful employment but also on investment in jobs in our community to provide people with an opportunity to have jobs within the area of Canterbury Bankstown.⁴²

1.77 The Cities of Logan and Mandurah also told the Committee that they believed they were unfairly targeted by being named as a trial area.

1.78 The Deputy Mayor of Logan told the Committee that:

Unfortunately for Logan we tend to get targeted for all these sorts of things, and this was just another arrow in the bullseye...and we seriously get a bit tired of being targeted.⁴³

1.79 The City of Mandurah explained to the Committee that:

...we have some concerns that the rationale or justification behind Mandurah being chosen as a site doesn't clearly indicate that Mandurah exclusively has a greater problem than perhaps some of our other regional counterparts.⁴⁴

1.80 And that:

the lack of consultation and the lack of evidence to justify Mandurah as a location...we're left asking: where is the evidence that justifies this policy, and why is it that we weren't heavily engaged with the consultant? Why weren't we, as the organisation that probably has the most tentacles into the community and the greatest awareness of what the community challenges are, not engaged in that process?⁴⁵

41 Cr Asfour, *Committee Hansard*, 23 April 2018, p. 14.

42 Cr Asfour, *Committee Hansard*, 23 April 2018, p. 15.

43 Cr Dalley, *Committee Hansard*, 24 April 2018, p. 4.

44 Councillor Rhys Williams, Mayor, City of Mandurah, *Committee Hansard*, 23 April 2018, p. 57.

45 Cr Williams, *Committee Hansard*, 23 April 2018, p. 55.

1.81 Labor Senators on the Committee are very concerned about the lack of community engagement in the selection of proposed trial sites. Further, Labor Senators note that local communities have been overlooked in the same way that the advice of experts in treating addiction has been ignored.

Recommendation

1.82 Labor Senators on the Committee note recommendations 1 and 2 of the majority report, that the Department of Social Services should establish and publish the evaluation strategy of the trial prior to its commencement, and that the Department should also publish the outcomes of the trial.

1.83 Labor Senators on the Committee are of the view that these would be sensible steps for the Department to take, if the trials were to proceed.

1.84 However, in light of the overwhelming evidence presented to this Committee on a number of occasions that these trials will not be successful, Labor Senators on this Committee are nonetheless strongly of the view that the Bill should not be passed.

Recommendation 1

1.85 Labor Senators on the Committee recommend that the Senate reject the Bill.

Senator the Hon Lisa Singh

Senator Murray Watt

Senator Louise Pratt