

7 June 2017

## **JOINT OPEN LETTER**

The Hon. Martin Pakula  
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*Sent by email*

Dear Attorney General and Ministers Mikakos and Neville,

### **Re. Youth Justice Reform Bill and the Protective Service Officers Bill**

We, the undersigned, including leaders from the youth services, youth justice, legal, health and social advocacy sector and other key stakeholders, express our deep concerns about some changes proposed in the *Children and Justice Legislation Amendment (Youth Justice Reform Bill)* and the *Justice Legislation Amendment (Protective Service Officers and Other Matters) Bill*, both tabled in Parliament on 24<sup>th</sup> May 2017.

We recognise community concerns and the need to substantially improve the system to better respond to and prevent incidents of riots and escapes from youth detention, and the increase in violent carjackings, burglaries and home invasions.

We urge you to publicly release and adopt recommendations from the major review of the youth justice system by Penny Armytage and Professor James Ogloff. We are confident that implementation of this report would ensure that reform of Victoria's youth justice system proceeds based on the best available evidence.

We welcome reforms that have rehabilitative goals such as the introduction of a youth diversion framework and Youth Control Orders (YCOs), in as much as we see their potential to help young people confront and address the underlying causes of their offending, and divert children and young people away from the justice system and detentions.

However, we hold some reservations about how restrictive YCOs may be in practice – whether children and young people will be supported to fulfil conditions of the order, or whether there is a strong likelihood of them breaching unattainable conditions and then being placed in detention.

Some measures introduced by the bills are not evidence based and undermine the foundations of the youth justice system.

The *Protective Service Officers (PSO) Bill* expands PSO powers to the extent they can randomly stop and search children where a PSO suspects a child might commit an offence, for weapons and drugs without warrant, request their name and address, and apprehend children under an emergency care warrant.

We believe there is a danger that these new powers will lead to an increase in harassment of children and young people and arbitrary 'teen' or racial profiling of vulnerable young people. Our agencies are hearing too many stories of young people feeling targeted by PSOs and harassed for their personal details. Ultimately, the community will not feel safer, rather they will wonder whose child will be next to be stopped by a PSO, without cause.

We urge Government not to expand PSOs powers in this way, and consult further, particularly about the need for additional training and skills for PSOs to work respectfully and appropriately with children with complex issues.

Other reforms in the *Youth Justice Reform Bill* seem to suggest that some children deserve the opportunity to be rehabilitated, while others should receive punitive treatment. All children are owed equal protection in accordance with our obligations under the Convention on the Rights of the Child, the Victorian Charter of Human Rights and Responsibilities and the UN Standard Minimum Rules for the Administration of Juvenile Justice (the 'Beijing Rules').

All children deserve the chance to access the help they need to turn their lives around, reach their potential and live safely and productively in their communities. We know most children who commit crime are not in school, come from violent homes and don't have positive role models. Funnelling these children into prison and keeping them there for longer does more damage and puts us all at risk of further harm when these young people return to the community.

One of the reforms in this Bill creates a presumption that young people aged between 18 and 20, convicted of particular serious offences, will be sentenced to adult prison, unless exceptional circumstances apply. This reform abrogates dual track sentencing, an invaluable sentencing option unique to Victoria that has been the foundation of our youth justice system. This sentencing option allows young people aged 18 to 20 to be sentenced to a youth detention facility, if a court believes they are vulnerable or have reasonable prospects for rehabilitation.

Time in adult detention risks creating young people who are angrier and hardened into criminal behaviour. The proposed change contradicts research that shows that young people who spend time in adult prison are likely to be more traumatised than when they went in, and more likely to re-offend on their return to the community, than young people who exit youth detention.

Further along these lines, we also have grave concerns about the proposal in the Bill that children aged over 16 charged with particular serious offences will have their cases heard in adult courts. This proposal blurs the lines between 'children' and 'adults', and undermines the specialist rehabilitative youth focus of the Children's Court.

We also oppose proposed new measures that double the penalties for young people who damage property, escape or attempt to escape from a youth justice facility and will require them to serve these sentences on top of an existing period of detention.

A far more productive focus would be for Government to address issues contributing to the current volatile environment and some of the incidents occurring within youth justice detention centres.

In this vein, we urge Government to urgently adopt the recommendations by the Children's Commissioner to address infrastructure issues, staff shortages, casualization of the workforce, management practices and use of isolation in youth justice centres.

Nobody wants more victims. We must make the most of every opportunity we have to engage children and address any circumstances of disadvantage behind their offending, and support them to prepare to make a positive and productive contribution to the community. Detention and punitive programs are likely to cause further harm to children and young people, and place them at risk of becoming chronic, long-term offenders. We need to do everything we can to keep our children safely away from prisons.

We call for debate on the bills to be suspended until after the release of the Armytage-Ogloff Review and for a consultative meeting with Government to identify appropriate evidence based legislative and policy responses to issues in our youth justice system. The Youth Justice Ministerial Roundtable or the establishment of a Youth Justice Reform Working Group inclusive of our representatives and other stakeholders would provide an appropriate mechanism to finalise reforms that are in everyone's best interests.

We look forward to your response.

**Co-signed by:**

- Aboriginal Catholic Ministry Victoria
- African Australian Multicultural Employment and Youth Services Inc.
- Anglicare Victoria
- ARC Justice
- Australian Child Rights Taskforce
- BATForce (Barwon Adolescent Taskforce)
- Berry Street
- Bernie Geary
- Catholic Social Services
- CatholicCare
- Centre for Excellence in Child and Family Welfare
- Centre for Multicultural Youth
- Professor Susan M Sawyer, Centre for Adolescent Health, Royal Children's Hospital
- Child Rights Australia
- Nadu Dove – Dove Ideal Project Solutions
- Federation of Community Legal Centres
- First Step Legal
- Fitzroy Legal Service
- Flemington-Kensington Community Legal Centre
- Gippsland Community Legal Service
- Goulburn Valley Community Legal Centre
- Human Rights Law Centre
- Inner Eastern Local Learning & Employment Network
- Jika Jika Community Centre
- Jesuit Social Services

- The Kimberley Foundation
- Koorie Youth Council
- Law Institute of Victoria
- Melbourne City Mission
- Professor Stuart Kinner, Murdoch Children's Research Institute
- OzChild
- The Salvation Army
- Save the Children
- Uniting Church in Australia, Synod of Victoria and Tasmania
- Professor George Patton, University of Melbourne
- Victorian Aboriginal Legal Service
- Victorian Association for Restorative Justice
- Victorian Council of Social Service
- VICSEG New Futures
- Victorian Inter-Church Criminal Justice Taskforce
- Victorian Student Representative Council
- WEst Justice
- Whitelion
- YACVic
- YMCA Victoria
- Youthlaw
- Youth Junction Inc
- Youth Projects
- YouthNow
- YSAS – Youth Support + Advocacy Service