



**Drugs & Crime Prevention Committee**  
***“Inquiry into strategies to prevent high volume offending by young people”***

**Submission by Youthlaw September 2008**

This submission adds to the comments made by Youthlaw lawyer, Ms Hala Atwa, who appeared as a witness before the Committee at Melbourne, on Monday 18 August 2008. It includes a case study of local government issues and approaches to crime prevention strategies, generously contributed by the City of Whittlesea.

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## **1. About Youthlaw and Frontyard**

Youthlaw is Victoria's state-wide specialist community legal centre for young people under 25 years of age. Youthlaw works to achieve systemic responses to the legal issues facing young people, through casework, policy development, advocacy and preventative education programs, within a human rights and social justice framework.

Youthlaw is co-located with seven other youth services as part of Frontyard Youth Services at 19 King St, Melbourne. Frontyard Youth Services is a partnership of agencies that work together to address the physical, emotional and social needs of homeless and disadvantaged young people aged 12 to 25 years who spend time in Melbourne's CBD. In the 2006/7 financial year, Frontyard services assisted 1,832 young people and had 11,000 contacts with young people. Young people accessing Frontyard Services are mostly aged between 18 and 25 and are either homeless, experiencing significant family breakdown or deemed to be 'at risk'.

Youthlaw provides advice and representation to over 500 young people a year. We also provide legal information by telephone and email to a further 300 young people. Our 2006/7 client data indicates that the most common legal issue facing clients was crime (31%) , fines (27%), civil and consumer law (18%) domestic violence (7%) ,debts (9%) , tenancy (4%) car accidents (3%) and family law (3%).

## **2. The data regarding high volume crime among young people in Victoria**

Youthlaw casework statistics mirror some of the patterns presented by the data in the Inquiry report about high volume offending among young people. Of the criminal offences Youthlaw clients present with, the key offences are theft, property damage and assault. Clients between the ages of 14 to 18 years are more often presenting with property damage or vandalism offences e.g. graffiti, petty theft, shop steals, while older clients (between 18 and 25 years) also presenting mainly with property offences with slightly increased number of assault charges.

Youthlaw stresses that the data available is not clear and does not really improve our understanding about who is offending high volume crimes and what proportion of young offenders progress to offending high volume crimes in adulthood. We know from our casework practice that only a small number of Youthlaw clients re-offend. Without more illuminating Victorian data, Youthlaw relies on findings of the Wolfgang and Sellin study (Philadelphia 1972) and surmises that the majority of apprehended young offenders in Victoria commit just one offence while a small minority commit the bulk of repeat offences. Again we accept research<sup>1</sup> that indicates that many who appear in the Children's Court do not offend in adulthood, but a small percentage (particularly those who were in youth detention and on supervised orders) will move on to be repeat offenders in adulthood.

Youthlaw is committed to respecting young people's right to privacy of their personal

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<sup>1</sup> Referred to in Discussion Paper "Inquiry into strategies to prevent high volume offending by Young People "(August 2008) Drugs and Crime Prevention Committee, Parliament of Victoria, p19

and identifying information. However we have concerns about the lack of available generic crime data to help determine what proportion of young offenders in Victoria are responsible for what proportion of repeat offences. In particular we submit this lack of data creates opportunities for selective media release of the available crime data, and resultant public and government speculation and misinformation that all young people are involved in crime and youth 'crime waves'. We are concerned that limited statistics can lead to sensationalist media about youth crime such as the article reporting the release of this Inquiry's discussion paper headed:

*"Net blamed as 10,000 kids turn to crime"*<sup>2</sup>

Another recent example is the media hype surrounding the issue of alcohol fuelled violence in the proximity of CBD night clubs. General reference was made that it was a 'youth' related problem, but little was provided in the way of detailed data about the age of offenders and if indeed they were 'youth'.

Recommendation:

*Drawing attention to the lack of adequate data and collection systems Youthlaw endorses the Victorian Auditor-General recommendation 7.2 that:*

*DHS in conjunction with other State Government departments and agencies involved in the delivery of youth justice services, should develop a whole-of-government approach to data collection and analysis to support shared planning and service development. This should be complemented by arrangements to support effective information sharing within and across agencies.*<sup>3</sup>

*Such data is needed to underpin departmental youth justice planning, and assist with targeting, co-ordination and delivery of services.*

### **3. Contributory factors of youth offending and patterns of repeat offending**

It is difficult to isolate a single variable in the causes of youth crime. Young peoples' interaction with the justice system is often influenced by their background and the social context in which they belong. There are many risk factors at the individual, family community, school and peer-group levels. These include disengagement from school, unemployment, appearance of mental health illness, alcohol and other drug misuse, poor family functioning, unstable accommodation and low community attachment.<sup>4</sup>

In particular, our casework experience supports a theory that there is a strong inter-relationship between poverty, child neglect and youth offending, and re-offenders are often highly damaged young people. Rather than talk about "career pathways in crime", we prefer to characterise repeat offending behaviours by circumstance and certain determinants such as child neglect, lack of community and family support, links to the child protection system, being disengaged from education, poverty,

<sup>2</sup> Sunday Age 3 August 2008, <http://www.theage.com.au/national/net-blamed-as-10000-kids-turn-to-crime-20080802-3p00.html?page=-1>

<sup>3</sup> Services to Young Offenders, Victorian Auditor-general, Victorian Government Printer, June 2008

<sup>4</sup> Vulnerable Youth Framework Discussion Paper, Development of a policy framework for Victoria's vulnerable young people, p18.

homelessness, and mental health issues. Typically young people re-offending are not receiving the support they require to address the issues that are behind their offending.

a. *Child neglect*

Youthlaw endorses research suggesting child neglect is an important contributory factor in youth offending.<sup>5</sup> Both child neglect and child abuse significantly increase the risk of juvenile involvement in crime but child neglect is more important as a cause of juvenile involvement in both property and violent crime than child abuse. Interestingly, however, the influence of child abuse on juvenile involvement in violent crime is nearly four times stronger than its influence on juvenile involvement in property crime.

The paper *Poverty, Parenting, Peers and Crime-Prone Neighbourhoods* examined the relationship between economic stress, child neglect/abuse and juvenile participation in crime by analysing 261 postcode areas in the urban areas of Sydney, Newcastle and Wollongong. For every new 1,000 neglected children, New South Wales gets 256 new juvenile offenders, according to research findings released today by the NSW Bureau of Crime Statistics and Research. These 256 juveniles, between them, will make an estimated 466 Children's Court appearances and will commit an unknown (though larger) number of crimes.

The paper discusses the effects of poverty, child-rearing and delinquency as well as the role of neighbourhoods in youth crime. Their analysis concludes that:

- postcode areas with high levels of poverty tended to have significantly higher levels of parenting deficient such as child neglect;
- there is a strong relationship between the level of child neglect/abuse in a postcode area and the level of youth participation in crime in that area;
- economic and social stress exert most of their effects on crime, at least in urban areas, by increasing the risk of child neglect
- young people rendered susceptible to involvement in crime by poor parenting are more likely to become involved in crime if they reside in "offender-prone" neighbourhoods than if they do not reside in such neighbourhoods.

The research highlights the fact that (among family factors) the most powerful predictors of youth offending are poor parental supervision of children, parental rejection of children, rejection of the parent by a child and little parent-child involvement. The review also highlights a number of parenting factors which, it says, have been found to contribute to the risk of child neglect. These include economic hardship, inadequate housing, parental substance abuse, lack of parental education and parental psychiatric disturbance, particularly depression.

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<sup>5</sup> See *Poverty, Parenting, Peers and Crime-Prone Neighbourhoods*, (Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice, No. 85), Don Weatherburn et al

Recommendations:

*Government investment in services designed to reduce the incidence of child neglect should be an essential part of any long-term strategy for reducing the rate of initiation into crime. The goal of long term crime prevention policy should be to:*

- improve the economic well-being of families, particularly those with several dependent children,*
- reduce the burden of child care and increase the availability of practical support,*
- reduce social isolation,*
- provide greater support for young parents*
- enhance parental skills in coping with the stresses of infant and child care, especially where the child has been drug exposed or suffers some form of disability.*

*b. Child protection*

Young people who have been in state care are heavily over-represented in the population of homeless youth and those engaged in the youth justice system. There has been concern across the Victorian system about the poor outcomes for children and young people in state care and post state care. A lack of appropriate support for young people making transition from state care to independent living often increases their risk of becoming homeless, or engaging in criminal activity.<sup>6</sup>

Recommendations:

*Youthlaw believes it is very important that there is a rigorous review of why young people in the child protection system move into the youth justice system.*

*We submit an investment in effective child protection programs will go a long way towards long-term reduction in crime.*

*Some have called for the need to change tact and adopt a public health model to prevent child abuse.<sup>7</sup> This model would seek to place greater emphasis on appropriately resourced early intervention and the provision of family support. Such a model would also integrate allied services such as domestic violence, mental health, drug and alcohol treatment services and develop strategies to address primary health issues such as housing and poverty whilst providing specialist responses to those children most at risk.*

*The National Youth Commission in their report Australia's Homeless Youth (2008) urged an improvement of outcomes for young people in care as a preventative measure in relation to youth justice, namely:*

- a strengthening of care and protection for at-risk 12-17 year olds;*
- leaving care support on a needs-basis for young people exiting care and protection.*

*Youthlaw repeats its call for an independent Child Safety Commissioner to enhance the capacity for tenacious review of our child protection system.*

<sup>6</sup> Green Paper , p 24

<sup>7</sup> Kimberley Flanagan, Director Connections Unitingcare, on Perspective AABC Radio National, 15 August 2008. Sited on <http://www.abc.net.au/rn/perspective/stories/2008/2335696.htm>

c. *Schooling and education*

Research also indicates that there is a strong link between lack of engagement with education as a predictor of involvement in criminal offending by young people.<sup>8</sup> Suspensions and expulsions have a serious impact on students and may result in disruption in education, decline in participation and academic performance, resentment of authority, and increased potential for coming into contact with the criminal justice system. This is compounded for students outside the metropolitan region where there is often little opportunity for students to access education from alternative providers.

Many young people presenting with criminal charges at Youthlaw are not engaged in education and have not finished high school. Most may have learning difficulties and struggle to cope with mainstream schooling. Many have experienced suspensions on a number of occasions and expulsion and then have not been able to find another school to take them. So they have left school. They do not have the supports in place to help them access services, and have effectively slipped through the system.

Students who are suspended or expelled from schools may be 'blacklisted' and unable to find a school willing to accept them. There appear to be limited opportunities for participation in education for many young people with behavioural issues.

Recommendations:

*It is proposed that the State Government adequately funds a range of prevention and early intervention strategies to support young people to remain engaged at school and improve the educational achievements of young people: Including:*

- *A focus on all young people, particularly those in transition, Years 4 to 9.*
- *Enabling teachers to detect and respond to difficulties by linking young people to youth workers, counsellors and to appropriate expertise.*
- *Providing support to parents and develop linkages between the school and community.*
- *Building the school community capacity to support young people.*
- *Providing subsidies to meet the costs of attending secondary and post-secondary education.*
- *Youthlaw believes that suspensions and expulsions should only be used as a last resort. Schools need to consider alternative ways of dealing with misbehaviour when it occurs and to adopt proactive approaches for dealing with these students. One suggestion is alternative dispute resolution processes that promote restorative rather than punitive approaches.*
- *Increased investment in alternative education programs that support young people who are not compulsorily required to attend school are needed i.e. local TAFE and other training providers*

<sup>8</sup> Discussion Paper "Inquiry into strategies to prevent high volume offending by Young People" (August 2008) Drugs and Crime Prevention Committee, Parliament of Victoria

d. *Economic disadvantage*

Many of the young people Youthlaw assists are living on very low incomes. The costs of purchasing short-term accommodation, food and other necessities result in young homeless people not being able to afford essential items. For some homeless young people living on the streets and sleeping rough, property crime is seen as necessary to survival and is committed for economic reasons. Common crimes committed by homeless young people include public transport fare evasion, failure to obey a police order to move on, shop stealing, bag snatching etc...

Many of these young people may travel on public transport without a ticket and over time accumulate significant related fines which escalate with non-payment. We find young people are being targeted by authorised officers. More and more we are seeing criminal charges coming out of contact with authorised officers, which is also about the way authorised officers are dealing with young people or a ticket.

Recommendations:

*Youthlaw recommends the development of standards to guide Authorised Officers in regard to the appropriateness of fines or diversionary referral mechanisms.*

*In line with the values promoted in the Victorian Charter of Human Rights and Responsibilities officers should be trained to be sensitive to the rights, special needs and circumstances of homeless individuals and pro-actively engage with homeless people. Officers could also assist individuals by providing information on appropriate support services and networks.*

*Youthlaw is currently lobbying government to issue young homeless with a concession card enabling them to access free public transport within Victoria for a period of 6-12 months. Full concession cards for public transport would enable young homeless people better access to services. It would also enable them to be active participants in the community, maintain their relationships with friends and family, seek education and employment opportunities and ultimately create pathways out of homelessness.*

e. *Over policing*

The Inquiry report invites comment on the possibility that greater policing and scrutiny of disadvantaged or minority groups of young people may lead to them being 'gathered in the net of the criminal justice system'.<sup>9</sup> Youthlaw believes that that the relationship between over-policing and young people's interaction with the justice system is an important consideration for the Inquiry.

Generally from our casework practice Youthlaw notes:

- Young people often report feeling hassled and harassed by police when coming together in public spaces. The purpose of the group is predominately social connection, but police and community perceptions of "gangs" leads to

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<sup>9</sup> See Discussion paper p 39

excessive police contact and harassment.

- Police often stop young people in the street and ask for their names and addresses without good reason.
- Youth curfews are sometimes used by police as arbitrary bail restrictions on the movements of young people who have committed no criminal offence.

Young culturally and linguistically diverse people perceive themselves to be targeted unfairly due to their physical appearance and often feel over-policed. The experience for refugee youth across Melbourne has been documented in several studies. A common theme of the studies is that young people from non English speaking backgrounds were more likely to be stopped and questioned by police than those born in Australia. A study by the Refugee Health Research Centre <sup>10</sup> found that:

- Close to 40% of young refugees had some direct contact with police by the end of their second year in Australia
- In the first year of settlement 12% reported being stopped and questioned
- In the second year 37% reported being stopped
- 49% of boys reported that they had been stopped and questioned by the police in those first 2 years.

Youthlaw runs an outreach clinic at the Flemington high rise estate at Holland Court, in partnership with Flemington Kensington Legal Centre where there is a high density of Sudanese and Somalia migrants living. In the early months of 2006, numerous young people from Somalia, Sudan and Afghanistan living in the estate contacted Flemington Kensington Legal Service alleging human rights abuses by police, including non-resisted assaults, threats of violence and racist comments by police. The young people reported police stopping them while they were sitting in or moving around in public places and questioned them up to 5 times a day, asking for their name, address and what they were doing. In some instances these negative police interactions with young people have lead to increased volume of criminal charges.

Recommendations:

*Youthlaw stresses the need for increased investment in programs designed to try and change the way young people and police interact, such as the ROPES program (see below).*

*Youthlaw also recommends an independent audit to review current police practices in dealing with young people against human right principles and standards.*

*Victoria Police should prioritise human rights training in relation to how to exercise their powers especially in relation to young people.*

*Youthlaw, in conjunction with other youth community organisations, to provide education to young people about police rights and responsibilities independent of police.*

<sup>10</sup> Forest et al, 'Experience of discrimination among refugee youth in Melbourne', Good Starts for Refugee Youth, Refugee Health Research Centre 2007

#### **4. Primary and secondary crime prevention programs and strategies**

##### **a. *A rights based approach to crime prevention***

Youthlaw submits that a rights-based approach to crime prevention and young people should be adopted to protect and assert the rights of highly vulnerable disadvantaged and marginalised groups of young people. This approach would be beneficial in that:

- it ensures the integration and inclusion of an otherwise marginalised group (children and young people) in policy-making and evaluation;
- it does not demand uniformity of outcomes but creates a principle-based approach which ensures that the individuality, differing maturity levels and best interests of each young person is recognised and considered; it recognises there is no single solution to criminal behaviour, rather different methods are appropriate for different individuals
- it is flexible and applicable to a broad array of situations. Integrated prevention encompasses housing, mental health care, schools, educational outcomes, child and youth development, parental and community support

Under the *Charter of Human Rights and Responsibilities 2006* (“the Charter”) Government must build human rights standards into policy, legislation and practices. The Victorian Government has a number of relevant policies relating to young offenders:

- Future Directions: An Action Agenda for Young Victorians,
- A Fairer Victoria: Building On Our Commitment,
- Because Mental Health Matters

Currently the Government is developing the *Vulnerable Youth Framework*, focused on a whole of government approach to intervening early in the emergence of behaviours that are associated with vulnerability (such as truancy, low-level offending and family conflict).

Recommendation:

*Youthlaw urges the Government to audit current policies to ensure they adopt human rights standards and ensure future policies are developed within a rights based framework.*

Human right principles have particular relevance to young people experiencing the criminal justice system. The system involves a wide range of human rights ensuring the humane treatment of children and young people. Children under 18 years benefit from all the human rights and laws which take into account their special status and needs, for example:

- a. United Nations Convention on the Rights of the Child;
- b. UN rules and guidelines such as UN Standard Minimum Rules for the Administration of Juvenile Justice - *The Beijing Rules* (1985), UN Guidelines for the Prevention of Juvenile Delinquency: *Riyadh Guidelines* 1990, UN Rules

- for the Protection of Juveniles Deprived of their Liberty (1990); and
- c. *The Victorian Charter of Human Rights and Responsibilities* (“the Charter”)

These instruments provide that:

- 1 all children (persons aged under 18) are entitled to special protection. This means that all decisions concerning children and young people, including those in the criminal justice system, must be made with regard to the child’s welfare and best interests. This right is, to an extent, already reflected in other Victorian laws that provide special procedures for young people and the criminal justice system. (section 17 *Charter*)
- 2 A child or young person in conflict with the law has the right to treatment which promotes their sense of dignity and worth, and assists them to engage with the community, reflects their best interests, and takes into account their age (Article 40 CROC/ section 23 *Charter*)
- 3 Wherever possible young offenders should be diverted from criminal justice processing and redirected to community support services (Article 40 CROC / The Beijing Rules)
- 4 If proceedings are not diverted, they should be conducive to the best interests of the child (Article 3 CROC) with the young person free to participate in decisions that affect their interests (Article 12 CROC) (*The Beijing Rules*)
- 5 Young people who are found guilty of an offence must be treated in a manner that it is appropriate to their age, including when making decisions about sentencing, where the young person should serve any custodial sentence that is imposed, and opportunities should be provided to the young person to enable them to aid in their rehabilitation. Young people subject to a custodial order should be given the opportunity to continue their education and have access to training programmes.

The human rights contained in the Charter have an impact on police and others in the law enforcement and justice sectors. Police and justice sector workers have an obligation not to breach human rights. According to the Charter it is Victoria Police’s and the courts responsibility to make sure that young people are treated in accordance with these human right standards including an obligation to encourage diversionary measures irrespective of their immediate quantitative success.<sup>11</sup> As *Blagg and Wilkie* note:

*“... in any contact with a police officer, the child depends on the conduct of the officer for the enjoyment of their rights and relies on the officer to fully respect those rights and is at the mercy of any officer who chooses to infringe or violate those rights. We therefore place the full burden for respecting the child’s rights and for protection the children from rights violations on the officer dealing with the child.”*<sup>12</sup>

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<sup>11</sup> Chris Cunneen and Luke Garth, ‘ Recidivism and the effectiveness of criminal justice interventions : juvenile offenders and post release support.’ (November 2007) 19(2) *CURRENT ISSUES IN CRIMINAL JUSTICE* 202

<sup>12</sup> Blagg and Wilkie, “Young People and Policing in Australia: the Relevance of the UN Convention on the Rights of the Child”, [1997] *AJHR* 6

**b. Crime prevention strategies**

*i) 'Safer Streets and Homes' 2002-5*

The Victorian Crime Prevention Strategy from 2002-2005, '*Safer Streets and Homes*' was developed after intensive community consultation, and contained a range of strategies for addressing and preventing youth offending or re-offending. Further description can be found in the joint submission of YACVic, YRIPP and Centre for Multicultural Youth. Youthlaw agrees that elements of this strategy still have ongoing relevance to this Inquiry. Key principles of effective strategies to address high volume offending were developed by the group. They included:

- A focus on building up the 'protective' factors in a young person's life, rather than working with the static 'risk' factors.
- The importance of involving communities in the development of strategies or solutions, particularly Indigenous communities and CALD communities.
- An acknowledgement of the clear and strong link between young people's engagement with the child protection/out of home care system and the criminal justice system.
- interventions that are not within a criminal justice framework are more likely to be effective.
- Recognise the inherent complexity in reasons why young people offend and provide flexibility in response so that an individually tailored and appropriate response can be delivered.
- Recognise the entrenched nature of some of the issues that young people who offend repeatedly may have and enables for long-term, holistic service delivery. For example, a 'wrap-around' service response.
- Be able to offer a range of responses.
- Be culturally competent.
- Acknowledge the importance of a multi-disciplinary approach (incorporating the role of generalist youth workers, secondary and tertiary services etc).
- Being 'in for the long haul' where a young person is repeat offending and needing intensive support.

*ii) Staying Connected report (Interface Councils, 2006)*

Young people and their families at the Interface such as Whittlesea, are very vulnerable and severely disadvantaged as a result of service gaps. The City of Whittlesea, located 20km north of Melbourne, face the distinctive challenges of balancing the dynamics of urban areas, rural areas, rapid growth, social disadvantage and high demand for services. The City has one of the most culturally diverse populations, with over 48% of residents coming from Non English speaking backgrounds. Whittlesea has also the fourth highest population of indigenous people in metropolitan Melbourne. The City of Whittlesea is characterised by pockets of high socio economic disadvantage, ranking the sixth most disadvantaged on the SEIFA index. Their young population have significantly lower educational achievements, demonstrate a higher prevalence of *at risk* behaviours and are more

likely to be unemployed, engage in self-harm behaviours and experience depressive symptoms.

Recent research and consultation commissioned by the Interface Councils on a state-wide basis indicated that:

- There is no comprehensive, coordinated service system that enables continuity of care and responses to the range of needs of young people and their families. There are insufficient services to meet current demand, much less projected demand.
- Early intervention and youth support services are cost effective - financially, socially and emotionally – for young people, their families and the rest of society.

The solutions to improving the outcomes for young people who live in Whittlesea include:

- Developing a coherent and comprehensive service system that provides services across the spectrum, from prevention, early intervention and tertiary levels, for young people and their families.
- Supporting strong communities that welcome and engage with young people, encouraging and supporting their participation in community life.

There is a need for a suite of services for young people and their families including the provision of generalist youth workers, and adolescent health teams and mental health services providing a continuum of care from counselling through to mental health support and intervention.

### **c) *Generalist Youth workers***

Generalist youth support services are particularly effective in supporting young people. They provide an important universal service base, building on the continuum of care from the early years, through the middle childhood years to adolescence and adulthood. These services need to be universally available locally and able to respond to immediate issues and concerns of young people and their families. Generalist youth workers support healthy physical, social and emotional development of all young people by enhancing protective factors. By working with young people to develop their strengths, the impact of risk factors is minimised. Importantly, generalist youth services provide a strong link to the range of more intensive support services for young people and frequently facilitate partnership arrangements and networking between service providers. Within this operational framework the youth workers can identify early indicators of risk and prevent problems escalating by appropriately and skilfully intervening when young people and families are vulnerable.

At a local level, the City of Whittlesea Youth Services Team, for example, provides face-to-face work, program design and delivery, community development, events, service system development, policy development and advocacy. On the face-to-face and group work levels, the key skill of the team is in their ability to develop significant and trusted relationships with young people. Programs are aimed at providing information, values clarification, accessing support and resources or developing skills. From this program base, relationships are established that enable young people to seek individual support as difficult issues arise. More intensive support is offered as required. Young people are also linked to appropriate services and

expertise as needed. Unfortunately because of the scarcity of services, Whittlesea young people are too often referred to tertiary services outside of the municipality. Designated staff monitor the progress of referrals and support the young person throughout the process.

The Youth Team works with local schools in Whittlesea. This work complements and supports the developmental role of parents, teachers and significant others. The core business of teachers is the academic development of young people. The core business of youth workers is the personal and social development of young people. This role and the expertise, skill set and flexibility of the Youth Team extend and enhance the role of schools in the development of young people, by offering non-academic developmental strategies.

Recommendations:

*KPMG, 2007, Improving Youth Service responses in Victoria, indicated that youth sector consultations overwhelmingly supported a generalist youth services/support approach in Victoria.*

*It is proposed that the State government funds generalist youth worker positions that focus on enhancing the capacity of mainstream and universal services to contribute to young people living successfully in their communities through capacity building, early detection and youth development. They also provide a strong link to the range of other more intensive support services for young people.*

#### **d. Multi- disciplinary and integrated service response**

Youthlaw stresses the importance of a holistic wrap around support service response in lowering the risk of youth re-offending. Young people with multiple issues have greater difficulty if the help they need is fragmented or has to be accessed from more than one provider. As mentioned earlier Youthlaw is co-located at Frontyard Youth Services. Frontyard provides integrated services responding to the complex needs of young people and refers them appropriately within the partnership of co-located services. Frontyard provides free assistance with accommodation, income support, employment, education, family reconciliation, health, legal issues, and advocacy. In Youthlaw's experience it is critical that the young person is linked to appropriate support services at the earliest stage i.e. at the time of receiving a summons and rather than waiting many months for the matter to reach its court hearing date. There is a strong likelihood of re-offending pre the court hearing if not linked into support services.

This service response was further enhanced when the former Centre for Family, Addiction and Mental Health (CFAM) (now known as Youth Projects, Mission Australia) was also based at Frontyard. Funded by the Victorian Government this program is designed to address the offending behaviours of young people (17 -22 years), and to place them in employment. The Centre provides intensive psychosocial support, based on solution orientation counselling to the client and their family where applicable. The program works with applicants irrespective of their plea

and accepts referrals from courts, magistrates, lawyers, family members, police and allied community organisations. Youthlaw saw many benefits for clients when this program was located at Frontyard. This program is currently being evaluated.

Research shows that local government areas such as the City of Whittlesea need a base-line range of primary, secondary and tertiary mental health interventions to be accessible to young people. They need to include experts with specialist skills in working with young people, and the families of adolescents including GPs, case workers, outreach workers, counsellors, psychologists, consultant psychiatrists, intake workers, health promotion and prevention workers.

Recommendation:

*Staying Connected report (Interface Councils, 2006).recommends increased State Government resources for the provision of locally-based, youth-specific mental health services, including: 1) Crisis outreach; 2) Multi-disciplinary staff, including youth-friendly GPs, case workers, psychologists; 3) consultant psychiatrists; and 4) Youth-specific intake services in each region.*

An encouraging example of a wrap around, multidisciplinary response is found at the Sunshine Youth hub where some nine youth services are co-located. These services include Western Headspace, Centre for Multicultural Youth, Brimbank Youth Services, Centrelink, Sunshine housing service, and a youth community legal service. The Sunshine site offers youth specific and youth friendly facilities. As well as accessing the services through referrals from health care providers, schools or welfare agencies, young people can simply hang out at the site, in the space set up by and for young people. At the hub there are GPs, clinical psychologists, general psychologists, psychiatrists, occupational therapists and social workers.

*Youthlaw urges further investment in integrated youth hubs, and improved referral protocols so that young people are linked to support services at the earliest possible stage of their interaction with the criminal justice system.*

#### **e. Situational and punitive crime prevention strategies**

##### **i) CCTV surveillance**

While the use of CCTV in public places is generally intended to pursue the legitimate purpose of reducing crime, '[t]he perceived success of CCTV in relation to controlling crime in Australia is almost totally anecdotal'<sup>13</sup> and 'the effectiveness of CCTV as a crime prevention tool is questionable'.<sup>14</sup> However the use of closed circuit television

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<sup>13</sup> H A Wells, T Allard & P Wilson, *Crime and CCTV in Australia: Understanding the Relationship* (2006) Centre for Applied Psychology and Criminology: Bond University, Australia, 4.

<sup>14</sup> H A Wells, T Allard & P Wilson, *Crime and CCTV in Australia: Understanding the Relationship* (2006) Centre for Applied Psychology and Criminology: Bond University, Australia, iii.

cameras (CCTV) by the Government and private organisations is increasing.<sup>15</sup> The use of CCTV in public places raises significant human rights concerns due to the invasion of the privacy of individuals. Public surveillance has a particularly detrimental impact on marginalised sections of the community. Homeless people and young people who can only afford cramped housing must conduct many of their personal affairs in public spaces. As the use of CCTV in public places infringes the right to privacy, it should not be used unless such use is justified by significant evidence as to its effectiveness and proportionality.

*ii) Graffiti prevention*

A recent example of a situational and punitive crime prevention strategy is the recently enacted *Graffiti Prevention Act 2008* with its ban on possession of and sale of aerosol spray. We would argue that there is no empirical evidence to suggest the Act will achieve its purpose "...to reduce the incidence of graffiti". Rather Youthlaw is concerned that the law will disproportionately impact on young people and will have a net widening affect by drawing more young people into contact with the criminal justice system and potentially exposing young people to imprisonment for, arguably, relatively minor property offences. The Act does not accord with Victoria's current juvenile justice and human rights policy framework which emphasises diversion and rehabilitation. The Act is likely to introduce more low risk young people into the criminal justice system and fails to consider more appropriate diversionary strategies.

Recommendations:

*The Government should monitor and review the implementation of the Act especially in terms of widening the base of young people brought into contact with the criminal justice system.*

*Youthlaw submits that the government should support the development of appropriate crime prevention measures which encourage safe and well used public spaces that are less susceptible to unwanted graffiti.*

**f. Cautions and Diversionary programs**

As mentioned it is a well established human rights principle that whenever appropriate young people should be diverted from formal court processes whilst ensuring their human rights and legal safeguards are fully respected.

Youthlaw believes access to cautions and diversionary programs are positive ways to reduce re-offending and young people's contact with the criminal justice system.

Research indicates that diversionary measures, such as cautions and conferencing, are more effective in reducing re-offending than traditional and more punitive

<sup>15</sup> B Arnold, 'CCTV and Other Visual Surveillance', *Caslon Analytics Privacy Guide* (June 2008) available at <http://www.caslon.com.au/privacyguide20.htm>; and *Privacy Law: Options For Reform Information Paper*, Victorian Law Reform Commission, July 2001, available at <http://www.lawreform.vic.gov.au/wps/wcm/connect/Law+Reform/resources/file/eb1ef54e859bc99/Privacy%20Information%20Paper.pdf>.

methods of punishment.

### **i) Cautioning**

In Victoria diversion has historically operated through Victoria Police's cautioning program. It has long been regarded as an important program for diverting young offenders away from court. A warning or a formal police caution may assist in reducing the chance of re-offending for first time offenders through fear of prosecution, and it also avoids the embarrassment of a court appearance. Studies on formal cautions and the likelihood on re-offending have been conducted, and results indicate that cautions are an effective way to reduce re-offending among young people. A study conducted by Vignaendra and Fitzgerald suggests that 58 per cent of young people who were cautioned by police in New South Wales in 1999 would not re-offend within a five year time period.<sup>16</sup> A further study was conducted by Dennison, Stewart and Hurren on the impact of cautioning on young offenders in Queensland.<sup>17</sup> The results of this study showed that young people cautioned for their first offences are less likely to commit a further offence, with only 31 per cent of the young offenders having further contact with the justice system.

In Victoria, cautioning remains within the ambit of police discretion. However, legislation has been implemented in all other States. Youthlaw would like to see a more consistent use of cautioning by police.

Recommendation:

*The rules, procedures, guidelines and administration of police cautioning in Victoria be incorporated into legislation so that all apprehended young people may benefit from this diversionary strategy.*

### **ii) Diversionary programs**

Statistics show that, once convicted, young offenders were more than likely to re-offend. *Safer Streets and Homes*, the Government's Crime and Violence Prevention Strategy for Victoria 2002-2005 identified the need to re-engage these young people into the community through diversionary approaches. For young offenders, community based diversionary strategies that minimise contact with the formal justice system can provide a less intrusive and less stigmatic form of intervention and offer opportunities for community reintegration.

A general criticism of current diversionary programs is that they often do not provide sufficient intensive support and follow-up particularly where the young person has

<sup>16</sup> Sumitra Vignaendra and Jacqueline Fitzgerald, 'Reoffending among young people cautioned by police or who participated in a youth justice conference' (October 2006) 103 *Crime and Justice Bulletin: Contemporary Issues in Crime and Justice*, 3.

<sup>17</sup> Susan Dennison, Anna Stewart and Emily Hurren, 'Police cautioning in Queensland: the impact on juvenile offending pathways' (February 2006) 103 *Trends and Issues in Crime and Criminal Justice*, 3. It was further evident that those who did have re-contact with the justice system, 49% received another caution.

complex needs. Below are a number of such diversionary approaches that Youthlaw would encourage the government to invest in. There is a need for significant resourcing of diversion programs that allow young offenders to access treatment in the community and that support young people with health, housing and employment services.

### ***Youth Referral and Independent Person Program (YRIPP)***

The first formal interview with police represents a critical juncture for young people and the criminal justice system. It offers a key diversionary opportunity for re-engaging disconnected and alienated young people with family and community networks. In particular, young people are less likely to re-offend if they have an increased understanding of their responsibilities under the law, have a greater respect for the authority and duties of local police and can be referred to appropriate community support networks and programs.

YRIPP aims to provide culturally appropriate early intervention and diversion support to young people, including refugee, newly arrived and Indigenous young people thereby prevent them progressing to higher levels of the criminal justice system. The program is by the Department of Justice and is a partnership program of the Centre for Multicultural Youth Issues (CMYI), the Youth Affairs Council of Victoria, the Federation of Community Legal Centres, Victoria Police and other agencies. The program has been expanded state-wide to 103 police stations.

### ***The Rope Program***

The Ropes Program is an example of an excellent diversionary program, that operates after a young person is charged by police and before any formal court hearing. It operates throughout metropolitan Melbourne and in a number of country regions. First-time offenders aged from 13 to 17 who admit their offence such as shoplifting, assault, car theft and criminal damage will undergo a rope-climbing course with police instead of being convicted, in a bid to prevent their return to crime. The informant must recommend the young person for the program, and the young person and parent/guardian must consent to participation. The presiding judge must authorise participation on the program. If the offenders meets the eligibility criteria the case is adjourned to enable the young person to attend the program. Providing the course is successfully completed the young person is not required to appear in court and charges are withdrawn/ struck out. This means there is no finding of guilt and no sentencing order made against the young person.

The program ensures that former young offenders view the police as friends, not enemies. The young offenders are teamed with the officers who charged them and have to work in pairs to complete the course. This program builds on the experience of the young person and the police working together to foster understanding and develop sound relationships.

The program has successfully lowered the rates of recidivism. The program at Ringwood has been operating for over five years. From January 2003 to December 2007, 515 young people have participated in ROPES. 62 (12%) have re-offended. The figures from Sunshine, which is the second oldest program, are from June 2005 to December 2007. There have been 263 participants and 30 (11%) have re-

offended. Frankston has had 201 participants between June 06 and December 07 with a re-offending rate of 10%. (*reference these stats*)

Recommendation:

*The government fund the ROPES program to operate state wide.*

### **Clean Slate**

Clean Slate is an early intervention and diversionary program for offenders aged between 14-18 years operating through Connections, Child, Youth and Family Services in the Narre Warren area. Young people are referred to Clean Slate from the Juvenile Justice System with the aim of preventing them from further offending. Their case before the Children's Court is adjourned while they participate in Clean Slate and the Magistrate takes into account their progress when he/she determines the consequence for their offence. Clean Slate Youth Workers run four weekly group sessions for young people. These sessions are based on cognitive-behavioural work such as 'group work' to change attitudes to criminality with challenging physical exercise and cultural activities. In the short term, Magistrate's may look favourably on a young person's involvement with Clean Slate when considering the consequence of their offending. Young people can also develop a more positive outlook on their future.

### **The Neighbourhood Justice Centre/ Criminal Justice Diversion Program (CJDP)**

Youthlaw is a member of the Steering Committee of the Neighbourhood Justice Centre (NJC). NJC is a three year pilot project of the Department of Justice and the first of its kind in Australia. Located within the diverse inner urban Yarra municipality, the NJC includes a court and on site support services including drug and alcohol services and housing assistance, mediation and crime prevention programs. NJC operates the Criminal Justice Diversion Program (CJDP) with many defendants ordered to access services to modify behaviour or complete voluntary community based work as a condition of the diversion ruling.

An audit conducted as part of the Victorian Auditor General's report 2008 found that having a number of government services located at NJC gave the diversion coordinators ready access to a wide range of services on site that facilitate the timely service referral for young offenders.<sup>18</sup>

Recommendation:

*Police more consistently refer to diversionary programs and work with other agencies who can assist in screening out cases and providing alternatives to prosecution.*

### **iii) Juvenile group conferencing**

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<sup>18</sup> Services to Young Offenders, Victorian Auditor-general, Victorian Government Printer, June 2008, p24

Group conferencing operates as a pre-sentence program in Victoria used to divert young people away from supervisory court orders. It has legislative endorsement in *Children, Youth and Families Act 2005 (Vic)* and *Courts Legislation (Neighbourhood Justice Centre) Act 2006*, which allows the court to consider whether a sentence should be suspended so a young person may attend a group conference.<sup>19</sup> The offender must consent to the process. For a court to consider a group conference it must have found the charge to be proved and be considering a supervisory order (probation or youth supervision order). The case is adjourned for 6 -8 weeks as a deferral of sentence to enable the conference to take place. The process allows the young person to take responsibility for their action and make reparations.<sup>20</sup>

A review of the pilot of group conferencing in 2006 commissioned by DHS, *Report on the Juvenile Justice Group Conferencing Program* (Effective Change Pty. Ltd, January 2006) noted that 86% of those who participated in group conferencing received good behaviour bonds at Court, thereby diverting young people from more onerous orders. The review also noted that after 12 months 16% of group conference participants had re-offended compared to 40% of those offenders who received probation orders and had not been involved in a conference. Of those who did re-offend, those who had participated in a Group Conference did so less frequently and showed a reduction in seriousness when compared to the probationer group.

Recommendation:

*The Government maintain its investment in group conferencing initiatives.*

#### **iv) The Children's Koori Court**

Is a pilot project in the Melbourne Children's Court, where elders from the Aboriginal community have come into the court and use their authority to engage directly with youth offenders. Offenders consent to participate in a process that requires them to think about the offending behaviour, to understand what may explain it and how supports may be used to bring about change.

#### **v) Bail Programs**

In general terms supervised bail orders are useful where they provide links to appropriate support services. Youthlaw clients with criminal matters before the court on summons or bail have achieved good results via the Court Integrated Services Program (CISP) established by Department of Justice and the Magistrates Court of Victoria. The program which is currently available at Melbourne, Sunshine and Latrobe Valley Magistrates Courts helps ensure that defendants receives support and services to address causes of offending through individual casework management support and reduce re-offending. The program provides a coordinated, team based approach to the assessment and treatment of defendants who are

<sup>19</sup> *Children, Youth and Families Act 2005 (Vic)* s414.

<sup>20</sup> *Children, Youth and Families Act 2005 (Vic)* s415.

assessed at a moderate/high risk of offending, especially those who have a physical or mental disability or illnesses, drug and alcohol dependency and misuse issues, or inadequate social, family and economic support that contribute to the frequency or severity of their offending. It links defendants to support services such as drug and alcohol treatment, crisis accommodation, disability services and mental health services.

Recommendation:

*Government continue to support of the Court Integrated Services Program (CISP).*

**vi) Deferral of Sentences**

Is a sentencing option used in both Magistrates and Children's Court, to divert the young offenders from a supervisory order or a term of detention in Youth Training Centre, and by doing so hopefully reduce likelihood of re-offending. This may involve a Youth Justice worker case-managing the offender or the matter being referred to a youth worker. This deferral can be effective for young people not engaged in education, employment or is experiencing homelessness to enable them to link into services.

**vii) Youth Justice - Supervisory orders**

Youth justice units are a significant part of DHS "front-line" efforts to divert young people from progressing too far in the youth justice system. These units provide case management including intensive support and referral and statutory supervision to young people on probation or youth supervision orders. At times this system has failed to protect these vulnerable young people due to lack of resources and limited availability of necessary services. Recently a Youthlaw client very tragically committed suicide. He was on probation and had been supported and assisted by an excellent Youth justice worker however was on a waiting list for mental health counselling and treatment. We are informed by Youth Justice workers that the delays were due to a lack of funding in Youth Justice for these services.