

## INQUIRY INTO STRATEGIES TO REDUCE CRIME AGAINST THE PERSON IN VICTORIA

Submission by Youthlaw October 2009

### Introduction

This submission is in addition to our oral presentation to the Committee by Tiffany Overall, Advocacy and Human Rights Officer, Youthlaw, to the Committee on the 8<sup>th</sup> October 2009.

Youthlaw is a 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.

The submission addresses each of the Inquiry's terms of reference.

### **Term of reference (a) the level, nature and incidence of crimes against the person in Victoria and the trends in recent years**

Relying on the daily media, it would not be fanciful to believe that Victorians are living in a society where young people are out of control and youth crime against the person is dramatically increasing. By way of example, reported comments from Victoria's Premier John Brumby, accompanying the release of 2008/9 Victoria Police crime statistics which showed a 5% rise in assaults, and 9.1% rise in number of robberies involving knives, were:

*"We've got kids as young as 10 or 11 who have been picked up carrying knives that they intend to use on someone. So we've got to send a message."*

*'Police poised for new street search powers', The Age, 9 August 2009.*

Youthlaw reiterates the importance of bringing a balanced perspective to this community dialogue.

Victoria Police and Children's Court statistics tell us that only a small percentage of young people come to the attention of law enforcement authorities and fewer still require formal court intervention.

In 2008-9:

- 9,717 young people were cautioned by police.
- 6,217 young people were charged and had had criminal charges proven in the Children's Court of Victoria. This represents less than 2% of total population aged between 10 and 17.

- in the Children's Court the most prevalent offences processed by the court were transit offences and property offences (theft and criminal damage). 75% of the young people who had charges proven by the Court received the following orders – discharged, unaccountable undertakings, accountable undertakings, good behaviour bonds or fines. This is because they committed minor offences or alternately have been involved in more serious offending but are good prospects for rehabilitation and do not require on-going support within the community.

Furthermore Victoria Police statistics for 200-9 indicate that adults are the main perpetrators in regard to the increase in violent crimes in Victoria. The statistics show that youth crime (i.e. under 18 years) against the person (homicide, rape, robbery, assault and abduction) is down by 3.3% (following three years of increases) whereas adult crimes against the person has increased by 5.1%. Assaults committed by young people are down by 3.7%, robbery by young people is down (1.8%). Assaults committed by adults has increased (7%) – i.e. an increase of about 2,000 offenders.

### ***Alcohol fuelled violence***

Similarly the media and government seem to attribute an increase in alcohol fuelled violence to young people. Statistics quoted in the media such as one in five teenagers binge drank weekly, are disturbing.<sup>1</sup> Young people themselves report a range of problems associated with their own alcohol consumption. More than one in four young men (18–24 years) and more than one in seven young women (18–24 years) reported that their alcohol use had jeopardised their safety, and 8% of young men (18–24 years), and 2% of young women (18–24 years) reported their use of alcohol led to problems with police.<sup>2</sup>

However we maintain this is not just a youth issue, rather a community issue, requiring a community response. This assertion is backed up by Victoria police statistics that tell us that public order offences – behaviour in public places (which includes banning offences under the *Liquor Reform Control Act* and public drunkenness) have increased significantly, both for young people (25% increase ) and adults (94.3% increase). The Victoria Police Safe Streets Taskforce has indicated that the banning notices under the *Liquor Control Act* (Vic) (1,429 were issued in 08/09) are predominately against 'people with disposable income, from the suburbs and most aren't kids'. They are largely adult men and women in their 20's and 30s.

These increases also reflect increased resources and focus by Victoria Police directed at alcohol related behaviour with its Safe Streets Taskforce and its Alcohol Strategy and the introduction of the *Liquor Reform Control Act* that has introduced banning and exclusion orders in CBD designated areas.

In February 2009 Youthlaw talked to about 150 young people in the City of Frankston, immediately before it was declared a designated area under the *Liquor Control Act*. They were consulted about their thoughts regarding local council proposal to introduce police move on powers to address anti-social behaviour in the local government area. They told us:

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<sup>1</sup> Professor Maree Teesson, from the National Drug and Alcohol Research Centre quoted in: "*Masked attackers storm year 12 singalong*", Paul Millar and Mex Cooper, *The Age*, October 21, 2009

<sup>2</sup> Source: ABS National 2007 National Survey of Mental Health and Wellbeing, referred to in *State of Australia's Young People*, *ibid*, p89

- they feel unsafe and fearful in Frankston City particularly late at night, especially around the train station, venues and shopping centres
- drugs (using and selling) and alcohol contributes to violence on public streets, and
- there was a lack of police presence on the streets.

## **Term of reference (b) the impact of these crimes on young people**

### **1. Young Victorians experience of crimes against the person**

Young people experience criminal violence at higher rates than other age groups. While young people constitute 14% of Victoria's population, they represent 26% of all victims of violent crime. Specifically we know:

- Young adults are far more likely than any other age group to be victims of physical assault and represent 38% of all assault victims.
- Young people (18–24) are the *second* most likely age group to be victims of sexual assault. (25–35 year olds are slightly more likely) and young females are *twice* as likely as young males to be victims of sexual assault
- Young people (15-24) have "*the highest risk*" of any age group of being a victim of robbery.<sup>3</sup>
- Vulnerable & marginalised young people experience higher levels of victimisation than other young people.

Some characteristics of violence against young people include:

- male victims often do not know the perpetrator, females usually do. Some 75% of 18–24 year old males who were assaulted were attacked by a stranger, often in licensed premises or in the open. In contrast, over 80 per cent of women physically assaulted by a man knew their attacker, and were most likely to be attacked in their own home or that of someone else.<sup>4</sup>
- Assaults against school aged young people most often occur at school and almost always are perpetrated by someone known to the victim, usually a peer or friend.
- Assaults against young adults often occur in or around licensed venues (pubs, bars or nightclubs)
- Many young victims of violence including teenagers will be repeatedly victimised.
- Many young people report feeling victimised by people in positions of authority such as police, security guards, and ticket inspectors.

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<sup>3</sup> ABS 2001 Census data (pop figures) and otherwise ABS 2005 Personal Safety Survey. Note the survey includes reported and not reported crimes.

<sup>4</sup> ABS, 2008c

## 2. Young women's experience of crimes against the person

Findings from the report, *Visible and Vocal*<sup>5</sup> produced by Youthlaw in 2008, suggest that vulnerable and marginalised young women experience high levels of victimisation and less positive experiences of reporting this abuse. Two common legal issues identified across the eight groups of young women consulted, related to being victims of crimes against the person, namely:

- (1) safety and violence - on the streets, in institutions, at home and abusive treatment by authorities, and
- (2) family and relationship abuse - including sexual assault and domestic violence

The types of crimes and related issues raised by different focus group participants, included:

### *Same sex attracted young women living in regional / rural Victoria*

- anti-gay violence/threats
- Lack of transport –we feel unsafe on streets
- Cyber and school bullying
- Unpredictable and sometimes negative police response to complaints

### *Young women with a history of mental health and substance abuse issues*

- Domestic violence, sexual harassment and assaults
- Not having complaints taken seriously and negative police response to complaints
- Assumed to be the perpetrator of offences.

### *Homeless and at risk young women in the CBD*

- Violence in home & on the streets
- Sexual harassment on the street
- Housing issues –abuse in boarding houses, stealing of property
- Barriers to reporting abuse -won't be believed

## 3. Homeless young people's experience of violence

A Melbourne based research project found that many young people flee violence in the home only to find themselves victims of further abuse and crime on the streets. Almost all homeless males (96%) and three-quarters of homeless females (74%) had been physically hurt since leaving home.<sup>6</sup> The project found:

- Violence against homeless young women most often involves sexual assault inflicted by young men they know (often "friends").
- 76% of young homeless women and 29% of men had been sexually assaulted since leaving home.
- Violence against homeless young men most often involved physical violence perpetrated in public places by other young males.<sup>7</sup>

Although homeless young people living on the street are exposed to high levels of violent crime, they are unlikely to be report these crimes to police.<sup>8</sup> Some of the homeless young people we are in contact with at Frontyard Youth Services report a great deal of distrust for the police they encounter on the street and at stations. Young people don't feel a great

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<sup>5</sup> <http://www.youthlaw.asn.au/upload/visible-and-vocal.pdf>

<sup>6</sup> Adler (1990) cited in Halstead (1992)

<sup>7</sup> Adler (1990) cited in Halstead (1992)

<sup>8</sup> NYC at p 290, [http://www.nyc.net.au/files/Australias\\_Homeless\\_Youth.pdf](http://www.nyc.net.au/files/Australias_Homeless_Youth.pdf)

deal of confidence in the notion of 'police integrity'. They report feeling reluctant to report crime fearing they will not be believed and fearing retribution or even physical violence.

#### **4. Indigenous young people**

Indigenous young people are also more likely to be a victim of violence than non-Indigenous youth<sup>9</sup>, with one third of 18 to 24 year-olds Indigenous people reporting that they had been a victim of physical or threatened violence in the previous 12 months. According to research in *State of Australia's Young People*, young Indigenous people are more likely to be the victims of assault than other young people.<sup>10</sup>

#### **5. Young people and police**

From our observations culturally and linguistically diverse young people, often feel harassed by police when coming together in public spaces. Some of these young people have had multiple experiences of conflict-based interactions with police. Youthlaw formerly ran an outreach clinic at the Flemington high rise estate 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 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.

More recently many of the young men (mainly African) we have assisted in our outreach legal clinic at the Youth Enterprise Hub in Braybrook (in western metropolitan Melbourne) have been subject to serious mistreatment by local police. According to these young men the assaults by police are common place, and police frequently come into homes without warrants etc...The young males involved hold a very strong belief that it's racially driven. A couple of their friends were trapped and bashed by police, one young man had his tooth knocked out. Their comments include:

*We've been threatened with pepper spray.*

*Our friend got bashed. How can we complain? 'Who would believe it?'*

*"It's a way of life, you get used to it after a while".*

#### **6. Victimization and offending**

A range of Victorian and overseas research tells us that where a young person is both an offender and a victim, victimisation often comes first, then criminal behaviour.<sup>11</sup> For example sexual abuse and domestic violence are factors that contribute to offending but also significantly to substance abuse, mental health issues and suicide.<sup>12</sup>

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<sup>9</sup> ABS, 2006a

<sup>10</sup> State of Australia's Young People: A Report on the social, economic, health and family lives of young people, Social Policy Research Centre, University of New South Wales October 2009, p98.

<sup>11</sup> *Australian Institute of Family Studies (AIFS) and Crime Prevention Victoria (CPV)(2004) 'Patterns and Precursors of Adolescent Antisocial Behaviour'. A similar assertion/finding is found in a number of overseas projects and studies such as Wilson, Sharp & Patterson, Young People and Crime: Findings from the 2005 Offending , Crime and Justice survey, UK (2006, ), National Crime Prevention Council (US) 'Supporting Teen Victims of Crime'*

<sup>12</sup> Australian and Overseas research and data discussed and cited in Victorian Parliamentary *Inquiry Into Strategies To Prevent High Volume Offending by Young People (August 2008)*

British research suggests being a victim at age 12 is a powerful indicator of offending at age 15.<sup>13</sup> This research has found young people feel invisible and unprotected, and they consider carrying weapons as a security measure.

Young people who engage in violent antisocial behaviour are very likely to experience violent victimisation. Two-thirds of those who engaged in high levels of antisocial behaviour at 19–20 years have experienced victimisation.<sup>14</sup>

This research builds a compelling case that responding to abuse, neglect and victimisation of young people from childhood would be a powerful and practical way of reducing youth crime and violence offences against other young people.

**Term of Reference (c)                      strategies to address these crimes and reduce their incidence and increase the apprehension and conviction of offenders**

**1.        Responding to alcohol fuelled violence**

In general terms Victoria needs a seismic attitudinal shift where getting drunk and violent becomes as socially unacceptable as lighting a cigarette in a restaurant, not wearing a seat belt, refusing to use a condom during casual sex or repeatedly getting sun-burnt. This would be supported by much tighter regulation of sale of alcohol and liquor licences, and the banning of alcohol advertising.

We appreciate such an attitudinal shift is a long term strategy and the later proposals may incur significant commercial opposition. Youthlaw's concern is that government, faced with significant pressure to be taking quick fix measures, will resort to punitive law and order responses. In this context, the Victorian State Government has announced the introduction by the end of the year of:

- random search power ( can stop and search without suspicion) in designated areas(hot spots)
- move-on powers
- A new offence of disorderly conduct will be introduced, to cover offenders who are not necessarily "drunk and disorderly".

Youthlaw is concerned that such law and order responses will overwhelmingly target young people and other cultural groups who are in public places. They will be harassed, intimidated, moved on and charged. This is despite that fact that we know it is overwhelmingly adults who are committing alcohol fuelled violence offences. The *Liquor Reform Act* is designed to address this issue. 1,558 banning notices have been issued since December 2007.

Youthlaw and the Federation of Community Legal Centres gave evidence to the Committee on 8<sup>th</sup> October 2009 of move-on powers introduced elsewhere in Australia have not been successful in reducing crime, and not addressing the underlying causes of youth offending.

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<sup>13</sup> *Wilson, Sharp & Patterson, Young People and Crime: Findings from the 2005 Offending , Crime and Justice survey, UK (2006),*

<sup>14</sup> Australian Institute of Family Studies (AIFS) and Crime Prevention Victoria(CPV)(2004) Patterns

Research from New South Wales and Queensland<sup>15</sup> has found such powers:

1. Have resulted in unfair targeting of vulnerable and marginalised people and others frequenting public areas (e.g. homeless, mentally ill and indigenous), They are overwhelmingly issued against young people. (eg. NSW- 79% of all directives and 48% of all directions were issued to people under 17, with 16 year olds 19 times more likely to be moved on than 36 year olds, and
2. are so broad that they are open to misuse with many move-on directions issued without valid reasons . The NSW Ombudsman (1999 report) reviewing 14,455 move-on directions issued during one year concluded that around 50% of the directions were issued without a valid reason.

In the public hearing we referred the Committee members to a joint submission made by Youthlaw, Peninsula Community Legal Centre and YACVic to Frankston City Councillors making the case why they should vote against the introduction of move on powers in local laws. (see **Appendix 1**)

## **2. Youth crime and violence prevention strategies**

We encourage the Committee and Government to take a more considered, rights-based approach that acknowledges the complexities of these issues and recognises the need to address the underlying causes of youth offending, and wherever possible divert young people from the criminal justice system. In particular we endorse the position of the Committee:

*“...a principled & progressive model of youth crime prevention that addresses the causes of juvenile offending and antisocial behaviour is one that is based within a framework of children's rights rather than within the more traditional and arguably punitive approaches.”* Victorian Drugs and Crime Prevention Parliamentary Committee, *“Inquiry into strategies to prevent high volume offending by young people”* (July 2009),

A child rights based approach requires strategies to adhere to the standards set by relevant human right standards, including:

- Young people should not be discriminated against by move-on powers or other street type laws that disproportionately impact on young people
- Young people have the right to move through, remain in, gather and hang out in areas of public space.
- Children and young people under 18 should be afforded special protection with regard to their best interests. (section 17 *Charter*)
- Divert young people from criminal justice system & redirect to community support services (Article 40 CROC / The Beijing Rules)
- Participate in any proceedings and decision making related to them
- Treatment which promotes their sense of dignity and worth, and assists them to engage with the community, and takes into account their age (Article 40 CROC/ section 23 *Charter*)

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<sup>15</sup> See New South Wales Ombudsman, *Policing Public Safety*, 1999. and Paul Spooner, *Moving in the Wrong Direction: An Analysis of Police Move-on Powers in Queensland* (2001)

Youthlaw submits that an appropriate model of youth crime and violence prevention is based within a framework of human and children's rights, and:

- i) addresses the underlying causes of youth offending and antisocial behaviour, and:
- ii) is inclusive of young people's needs, views, interests and aspirations
- iii) wherever possible divert young people from the criminal justice system.

**i) Addresses the causes**

Youthlaw supports strategies that address underlying issues behind offending. 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.
- adequately funds a range of strategies to support young people to remain engaged at school and improve the educational achievements of young people

Youthlaw repeats its submissions made in this regard to the Committee's *Inquiry into High Volume Offending by Young People* see **appendix 2**.

Youthlaw endorses recommendations in your final report which address underlying causes of offending behaviour.

- Recommendation **3**: importance of an integrated service delivery response
- Recommendation **5**: more comprehensive prevention and early intervention strategies
- Recommendation **8**: strategies & programs to enhance parenting and family support

**ii) Being inclusive of young people's needs, views, interests and aspirations**

The Committee acknowledged in its July report, the importance of getting input from young people in developing solutions i.e. dealing with social problems with young people seen as part of the solution. When asked for their ideas on how to deal with the social problem of violent behaviour in Frankston City, young people consulted, shared ideas including better lighting, especially in alleyways, smoke and alcohol free areas, as well as more recreational activities and safe public spaces available to young people.

There are a number of projects that have started up that provide excellent examples of young people being involved as part of the solution.

**"Step Back Think"** <http://stepbackthink.org/> Step Back Think seeks to represent Melbourne's youth as a voice of unity against street violence. As a group of young people they see themselves as part of the demographic responsible for the problem of street violence and therefore they need to work to find solutions. They have initiated a peer education program in 10 secondary schools in the Eastern suburbs of Melbourne, called "No regrets". They have another initiative that involves rating venues in terms of safety as indicated by patrons and Victoria Police statistics.

**“Your City: Your Space”** <http://www.yourcityspace.com.au/>

In October 2008 the City of Melbourne held a [City Safety Summit](#), where people of all ages and walks of life talked about issues concerning city safety and possible solutions. Alcohol and drug associated violence, the availability of public transport (especially at night), and the need for safe spaces in the city were some of the big issues.

One of the big ideas to come out of the summit was setting up a [city safety online forum](#) for young people – a space where people under 25 could talk about the safety issues important to them, and solutions around city safety.

**“Be the Hero”**, <http://www.bethehero.com.au/>

*Be the Hero!* is a violence prevention program designed for use in groups of young men.

### **iii) Diversionary programs**

Youthlaw believes addressing underlying issues behind offending and providing 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 methods of punishment.

Youthlaw repeats its submissions made in this regard to the Committee’s *Inquiry into High Volume Offending by Young People* (see pp 11-20) see **appendix 2**.

Youthlaw endorses recommendations in your final report which aim to divert young people from further criminal behaviour, including:

- Recommendation **16**: DHS and Justice expand their range of youth justice related diversionary programs.
- Recommendation **17** - evaluation of diversion programs, & impact on youth offending
- Recommendation **18**: rules, guidelines & administration of police cautions legislated
- Recommendation **19**: expansion of youth conferencing programs
- Recommendation **25**: expansion of VALS Police cautioning & Youth Diversion program
- Recommendation **40**: cost benefit analysis of any program specifically to address youth offending

### **Case study of a local community response**

Frankston Police, Mission Australia and Community Youth Assist Program is a pilot program that provides early intervention and prevention through individually tailored action plans based on flexible and enduring support model. The program is coordinated by the Victoria Police Youth Resource Officer (YRO) from the Frankston Region, who provides an entry point to the service system. Mission Australia provides a Youth Transition Worker that provides intensive casework management.

The purpose of the program is to prevent the onset of criminal behaviours; increase the number of young people diverted from the criminal justice system and reduce recidivism. It

aims to enhance the health and well being of young persons and to encourage sustainable education and employment pathways.

The program has up to 25 partnering agencies that span across a wide range of youth and family issues. Young people have access to intensive support programs including housing services, mental health services, alternatives to school, drug and alcohol programs, family welfare and counselling services and employment services can help reduce antisocial behaviour, and promote social inclusion.

Support provided to each young person is tailored specifically for them, and it responds to the causal factors of identified behavior/ issues in consideration of their life experiences.

The effectiveness of the program is to be externally evaluated. However early indications indicate that of the several hundred young people assisted only very small number have reoffended.

#### **Term of reference (d)      role of community policing & local community organisations**

Ideally community policing goes beyond law enforcement and punitive measures such as move on powers and direction orders. It should be a problem solving approach to build trust between police, young people and the community to reduce anti social behaviour.

The method by which police get to know and build links with young people in their communities is critical. The police/young person street interaction is not the place to get to know young people. Such police controlled public relations exercises is experienced as harassment and leads young people to feel unsafe in their communities. Young people in Flemington reported fear of police harassment as a major concern last year<sup>16</sup>.

A far better community policing model for police wishing to get to know the young people in their community, is to give talks about their role at schools, hold open days at the Police Station, go to community events at the invitation of young people. It is much better for police to meet young people in situations where no stigma attaches or no implication of criminality can arise, where power imbalances can be redressed and young peoples rights can be protected.<sup>17</sup> Overtime there must be the development of a real dialogue and accountability of police to young people in their local communities.

An example of what this might look like is a proposed project "*Respect. Talking to young people like you mean it*". Youthlaw & Frontyard Youth Services, with the support of Victoria Police, are seeking funds to develop a DVD providing homeless and at-risk young people a voice. The DVD will be a professional tool facilitating positive engagement with youth.

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<sup>16</sup> From a report given in late 2006 at the Flemington Community Centre of a survey done by young people as part Moonee Valley Youth Project.

<sup>17</sup> Policing the Public: The role for human rights in exploring the acceptable limits of police practice, *Tamar Hopkins, Principal Solicitor, Flemington and Kensington Community Legal Centre*

**Term of reference (e)      the level of police resources in Victoria and their distribution throughout the State**

Regional areas like Yarra Ranges, and in Frankston City Council have raised with Youthlaw issues around lack of police presence and response. However Youthlaw submits that boosting police numbers is not the answer in itself and will not significantly reduce crime levels, particularly for more serious crimes against the person.

Spending money on extra police is not as effective in reducing crime as investing in long term early intervention and crime prevention strategies that address the social factors that influence why young people offend, such as those recommended in your July report.

If you have any queries please contact Tiffany Overall on 9611 2422.

Yours Sincerely

Tiffany Overall  
Advocacy and Human Rights Officer  
Youthlaw