



Ms Kristen Hilton
Head of Review
Cultural Review of the Adult Custodial Corrections System
Department of Justice and Community Safety

By email: correctionsreview@justice.vic.gov.au

Dear Ms Hilton

Submission to the Cultural Review of the Adult Custodial Corrections System

Thank you for inviting the Commission for Children and Young People (the Commission) to make a submission to the Cultural Review of the Adult Custodial Corrections System (the Cultural Review). This short submission focuses on the issues relating to the safety, wellbeing and experiences of vulnerable people in Victoria's adult prisons – specifically, children and young people.

As you know, the Commission is an independent statutory body responsible for protecting and promoting the rights, safety and wellbeing of children and young people in Victoria. We closely monitor the safety and wellbeing of children and young people in Youth Justice through a range of mechanisms, including reviewing each serious youth justice incident, facilitating an Independent Visitor Program and conducting on-site inspections.

Our independent oversight role includes monitoring the safety and wellbeing of any child under 18 years detained in Victoria's adult prisons either because of being sentenced to an adult term of imprisonment or by a decision of the Youth Parole Board. The Commission also monitors the transfer of those 18 years or over from Youth Justice to adult custody, including regular attendance as observers on the Young offenders Transfer Review Group.¹

Children should not be detained in the adult correctional system

The Commission does not support children being held in adult custody in any circumstances, consistent with the Convention on the Rights of the Child.²

After the Victorian Ombudsman's 2013 investigation identified significant issues in Corrections Victoria's management of children in adult corrections, five years passed before children were again placed in adult corrections. Since 2018, the Commission has monitored the placement of seven children in adult custody, five of whom were transferred by the Youth Parole Board.³

Of the five children transferred by the Youth Parole Board since 2018, three were of African background, one was of Maori/Pasifika Island background and one was Aboriginal.

Corrections Victoria has been largely responsive to concerns identified by the Commission during these monitoring activities. Amendments have been made to visits policies and additional provisions were established to support children involved in disciplinary procedures. In recognition of the Commission's role, in 2019, the Department amended the *Corrections*

Act 1986 and the Children, Youth and Families Act 2005, to permit information sharing with the Commission, for children under 18 years.

The additional safeguards have been welcomed, but children in adult corrections remain at significant risk due to their still-developing social skills, cognitive development, and strong likelihood of having a background of trauma.⁴ These characteristics have led to a number of poor outcomes for children in adult custody, such as:

- [REDACTED]
- [REDACTED]
- [REDACTED]

Children in adult corrections are subject to a range of practices that do not occur in youth justice settings, including regular strip searches, use of additional instruments of restraint including leg restraints, body belts and spitter protective hoods.⁵

This small but important group of prisoners in the adult correctional system continues to be of significant concern to the Commission, and we encourage the Cultural Review to consider this cohort in the formulation of the broader findings and recommendations.

Young people up to 25 years have specific needs

Twelve per cent of all prisoners in Victoria are under 25 years of age.⁶ Recent reports from the Sentencing Advisory Council, Victorian Ombudsman and Jesuit Social Services have confirmed that young people aged 18 to 25 years have specific and distinct needs in the adult correctional system.⁷

There is 'substantial evidence' demonstrating that young people aged 18 to 25 years are developmentally distinct from older adults, because neurological, psychological and social development is generally not fully complete until at least the age of 25 years.⁸ Young people's behaviours are not 'as firmly entrenched' as older adults' and there is greater opportunity for rehabilitation for young people, with the right supports.⁹

To respond effectively to this age group and improve outcomes, for both young people and the community, the justice and correctional systems need to take a more specialised, differential, developmentally appropriate approach that responds to young people's particular needs.¹⁰

We also note that young people are represented among the vulnerable cohorts identified in the Cultural Review's terms of reference and consultation paper: women, people who identify as LGBTIQ+, people from a culturally and linguistically diverse background and people with a disability (including people with a mental health condition and people with a cognitive impairment).

Young people need more specialised programs, support and accommodation

The Commission holds several concerns with Corrections Victoria's structural, programmatic and policy supports in place for those under 25 years of age. The corrections system treats young people aged 18-25 no differently from more mature adults at a practice, policy, procedure and cultural level. This approach is entirely inappropriate.

Absence of youth-specific program units across the system

A primary shortfall relates to the extremely limited 'youth-specific' placement options in the corrections system. The Commission appreciates the benefits of the 'Penhyn' unit in Port Phillip Prison, but having only one dedicated youth-specific unit with 35 beds in a male, maximum security, metropolitan-based location, prevents many other suitable young people receiving an age-appropriate response.

The Nalu Unit at Fulham Correctional Centre and Ravenhall Correctional Centre provide approximately 100 additional beds in youth-focused units, but the Sentencing Advisory Council noted the limitations of these units (as at December 2019)¹¹ and that, overall, there are insufficient options for the approximately 800 young people in the corrections system.¹²

The absence of sufficient youth-specific units, and staffing groups, creates particular disadvantages for young women,¹³ young people with intellectual disabilities, Aboriginal young people¹⁴ and young people of non-English speaking backgrounds.

The Sentencing Advisory Council also identified more youth units as an option to mitigate the risk of harm to young people in adult corrections and provide a more effective 'tailored response'.¹⁵

The absence of a broader set of youth-specific placement options means the majority of young people are placed with more mature, often entrenched prisoner groups. Due to the impressionable nature of these young people, placements in mainstream units inevitably lead to negative outcomes, rather than providing for opportunities to participate in pro-social, age and developmental stage-specific supports to reduce re-offending.

The limited options for placing young people create further challenges for the custodial staffing group, and the operations of units managing prisoners of different ages. In the absence of more youth-specific units, staff in mainstream units may not have the skills needed to manage and support young people, who may be more likely to demonstrate impulsive behaviour, poor decision-making and limited emotional regulation.

It is essential that all staff recognise that 18 to 25 year olds have different needs and often experience custody very differently to older prisoners. Staff should be trained to understand and identify that young people's ongoing brain development impacts their actions, reactions and behaviours. Better understanding of these cognitive differences will contribute to better, safer responses to non-compliance and emotional dysregulation among young people in custody.

Absence of a system-wide policy for young people

In the absence of, or as a complement to, more youth-specific placements across Corrections Victoria, we strongly encourage the Cultural Review to consider the vulnerability and distinct needs of young people in the custodial environment and its capacity to meet their individual needs.

A systemic review of Corrections Victoria's policies and requirements should be undertaken to consider opportunities to provide strong supports and reasonable adjustments to young people. Youth-specific adjustments could include additional strategies to ensure critical information such as unit rules are understood and the provision of youth-specific group programs for offending-related issues such as anger management.

The Commission encourages the Cultural Review to consider how the custodial system could better recognise and respond to the unique needs of young people in Victoria.

Next steps

We would be pleased to discuss these issues with the Review further. If this would assist, please contact [REDACTED].

Yours sincerely



Liana Buchanan
Principal Commissioner

6 December 2021

¹ For information about the Young offenders Transfer Review Group, see the Youth Parole Board Annual Report 2019-20, page 28.

² See the Commission's 2018-19 Annual Report, page 53; 2017-18 Annual Report, page 8; submission on the Corrections Regulations 2019 at <https://ccyp.vic.gov.au/assets/Submissions/Submission-on-Corrections-Regulations-2019-Public-Consultation.pdf>

³ The other two 17-year-olds monitored by the Commission were in adult custody after being sentenced to adult terms of imprisonment by the courts, after considerable periods on remand in Youth Justice.

⁴ In 2019-20, the Youth Parole Board's annual survey of children and young people in the Parkville and Malmesbury Youth Justice precincts found that 71 per cent were victims of abuse, trauma or neglect (up from 67 per cent in 2018-19): Youth Parole Board Annual Report 2019-20, page 29. The Commission also notes that a number of the children transferred to adult corrections had experienced additional experiences of trauma related to their experiences as refugees.

⁵ See Regulation 13, Corrections Regulations 2019.

⁶ See Department of Justice and Community Safety - Corrections Victoria, [Annual Prisoner Statistical Profile 2009-10 to 2019-20](#), Table 1.3 – Overview of all prisoners at 30 June 2020.

⁷ See the Sentencing Advisory Council's 2019 report, *Rethinking Sentencing for Young Adult Offenders*; the Victorian Ombudsman's 2015 report, *Investigation into the rehabilitation and reintegration of prisoners in Victoria*; and 2019 report, *OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people*; and Jesuit Social Services' 2018 report, *All Alone: Young adults in the Victorian justice system*.

⁸ Sentencing Advisory Council 2019, *Rethinking Sentencing for Young Adult Offenders*, pages xii, 2, 5-7, 65, 97; also see the Victorian Ombudsman's 2019 report, *OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people*, pages 6, 73.

⁹ Sentencing Advisory Council 2019, *Rethinking Sentencing for Young Adult Offenders*, pages xiii, 17-22, 97-98.

¹⁰ Sentencing Advisory Council 2019, *Rethinking Sentencing for Young Adult Offenders*, pages xiii, xv, 97-98.

¹¹ The Sentencing Advisory Council noted that Nalu Unit 'initially catered for' young people aged 18 to 25 years but 'the age range of the individuals it accommodates has widened', and that, while youth is one of several areas of focus for Community Two at Ravenhall Correctional Centre, 'consultation suggested that youth was not a key concern of the unit': *Rethinking Sentencing for Young Adult Offenders*, pages 29-30.

¹² Sentencing Advisory Council 2019, *Rethinking Sentencing for Young Adult Offenders*, pages 29-31. As at 30 June 2020, there were 790 young people under the age of 25 years in Victorian prisons: Department of Justice and Community Safety - Corrections Victoria, [Annual Prisoner Statistical Profile 2009-10 to 2019-20](#), Table 1.5 – All prisoners by sex and age.

¹³ From 2010 to 2020, the number of young women aged under 25 years increased 48 per cent 'and this group represented 12 per cent of the women in prison in 2020 (up from 11 per cent in 2010)': Department of Justice and Community Safety – Corrections Victoria, [Infographic: Profile of Women in Prison](#). Also see Sentencing Advisory Council 2019, *Rethinking Sentencing for Young Adult Offenders*, page 31.

¹⁴ Sixteen per cent of all Aboriginal and Torres Strait Islander prisoners are under the age of 25: See Department of Justice and Community Safety - Corrections Victoria, [Annual Prisoner Statistical Profile 2009-10 to 2019-20](#), Table 1.4 – Overview of Aboriginal and Torres Strait Islander prisoners at 30 June 2020.

¹⁵ Sentencing Advisory Council 2019, *Rethinking Sentencing for Young Adult Offenders*, pages 65, 79, 96.