

# Youth Justice Position Statement

October 2021

# Key position

Persistent overrepresentation is a clarion call for urgent reforms that attend to the needs of young multicultural Victorians who are at risk of, and engaged in our justice system. In 2017, the Victorian Government's review into Victoria's Youth Justice System recommended the Government work with CMY on such a strategy. We urge the Victorian Government to act boldly now to tackle this crisis.

## CMY seeks the following actions:

Victoria must act now and invest in a Whole-of-Government **Multicultural Youth Justice Strategy** that is:

- Informed by a process of working with multicultural young people and families with experience in the justice system.
- Driven by youth outcomes that considers the impact of the migration experience with adolescent development, and commits to stronger accountability mechanisms. This could include an independent taskforce to identify the drivers of offending and the opportunities for family support, prevention and early intervention.
- Informed by learnings from cultural approaches, namely First Nations approaches and engagement with the justice system.
- Underpinned by evidence with a clear focus on structural barriers to develop culturally appropriate models and approaches that work to support pre-offending at-risk multicultural youth, as well as those engaged in the justice system and post-release.

Investment in the **Strategy** must reform the justice system and programs to:

- Focus on developing culturally responsive early intervention and prevention programs. It includes research into best practice and approaches for multicultural young people, trialling and evaluating culturally responsive early intervention and prevention approaches and program models.
- Prioritise, strengthen and expand culturally appropriate diversion pathways, in order to utilise the detention of children and young people as a 'measure of last resort'.
- Address recidivism through long-term investment in culturally relevant post-release supports, as well as improved service coordination. Critical to this is an investment in workforce and organisational development to ensure responsiveness to culturally and linguistically diverse communities.

From clear, articulate and poignant feedback, multicultural young people and communities have demanded that a **Multicultural Youth Justice Strategy** must have:

- Clear action and reportable outcomes to address and eradicate all forms of racial discrimination including education, policing and the administration of justice.

## Audience

Federal, State, and Territory Governments, policymakers and program managers, media outlets, peer organisations

## Responsibility

Centre for Multicultural Youth (CMY)

## Date adopted

October 2021

## Key contacts

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# Position Statement

This position statement should be read in conjunction with the Youth Justice Briefing Paper – *Uneven Justice: Addressing multicultural youth overrepresentation in the Victorian Youth Justice System* – which provides further supporting arguments, evidence, and data.

## Key Message

Young people involved in the youth justice system are a particularly vulnerable population. They are likely to have multiple complex needs requiring specialist, targeted supports as they are undergoing adolescent development.

Certain groups of young multicultural Victorians are overrepresented. This is not a new phenomenon. We have seen peaks and troughs of overrepresentation of multicultural young people in youth justice for decades. However, the current trend represents the highest rate since the 1990s and has worryingly persisted for the last five years.

We acknowledge the Government's investment and substantial improvements in reforming the youth justice system since the 2017 review into youth justice and yet, there is little or no change for this group of young people. It testifies to a system that is not working for multicultural young people.

In 2019, His Honour Judge Michael Bourke, in his previous position as Chairperson of Victoria's Youth Parole Board, shared concerns about the lack of targeted supports for young people and warned:

“[T]here is a risk of an entrenched underclass within our young which feels no connection or aspiration to being part of a functional and hopeful community.”<sup>1</sup>

For the state of Victoria, where our multicultural service system is world class, it is an indictment that our youth justice system is failing these young people. Victoria must act now.

1. Youth Parole Board Annual Report (2019)

## CMY notes the following evidence:

1. Despite a broader underrepresentation in Victorian criminal offending statistics and youth justice <sup>i</sup>, there is evidence of a persistent and concerning trend, over many decades, of overrepresentation in the justice system of certain groups of young Victorians from refugee and migrant backgrounds. <sup>ii</sup>
2. Multicultural young offenders are neither inherently more vulnerable nor predisposed to offending, but are more likely to experience fundamental inequalities and face a range of complex needs that go unmet, placing them at greater risk of justice engagement. The complex experience of being both 'young' and 'ethnic' can intensify exclusion or 'structural disadvantage' for young multicultural Victorians, increasing their risk of involvement in offending behaviour and exposure to the youth justice system. <sup>iii</sup>
3. Developing effective responses to address overrepresentation requires looking beyond the individual and their offending behaviour to understand how individual, community, social and structural barriers impact upon young peoples' opportunities to belong, participate and succeed. <sup>iv</sup>
4. Racism in the justice system, policing and society more broadly, contributes to the disproportionate criminalisation of particular groups of young people from refugee and migrant backgrounds, compounding the challenges they face when they come into contact with the justice system, leading to inequitable outcomes and ultimately overrepresentation. <sup>v/vi/vii/viii</sup>
5. Addressing the fundamental causes of offending behaviour at a much earlier stage diverts young people from the justice system. <sup>ix</sup>
6. Despite investment in early intervention diversion programs, it has failed to make a dent in the numbers of multicultural young people involved in youth justice. In effect, the numbers have not decreased, with young people still resorting to crime and antisocial behaviours. <sup>x</sup>
7. Joined-up services and programs that work with young people in their communities and with their families are what is needed to strengthen a sense of belonging and connectedness, address disadvantage and reduce recidivism. <sup>xi</sup>
8. Detention has a criminogenic effect on children and young people who are still developing, <sup>xii</sup> increasing the risk of young people disengaging from community and family and their likelihood of reoffending. <sup>xiii/xiv/xv</sup> With the current reforms in youth justice, we have an opportunity to re-imagine how we actively apply the principle of 'detention as a last resort' to divert children and young people away from the justice system.

# References

- i Armytage and Ogloff. (2017). *Youth Justice Review and Strategy*, 9-10.
- ii Armytage and Ogloff. (2017). *Youth Justice Review and Strategy*.
- iii White. (1996). "Racism, Policing and Ethnic Youth Gangs." *Current Issues in Criminal Justice* 7 (3): 302-13.
- iv Department of Justice and Community Safety. (2020). *Youth Justice Strategic Plan 2020-2030*; Armytage and Ogloff. (2017). *Youth Justice Review and Strategy*.
- v H. Blagg & M. Wilkie (1995) 'Young people and police powers', Australian Youth Foundation, Sydney; Cunneen, C. (1994) 'Enforcing genocide? Aboriginal young people and the police', in R. White & C. Alder (eds) *The Police and Young People in Australia*, Melbourne, Cambridge University Press; Hopkins, T. (2007) 'Complaints against police behaviour in Flemington, Victoria', *Alternative Law Journal*, 32; T. Walsh & M. Taylor (2007) "'You're not welcome here": Police move-on powers and discrimination law', *University of New South Wales Law Journal*, 30; R. White, R (1996) 'Racism, policing and ethnic youth gangs', *Current Issues in Criminal Justice*, 7. Cited in <https://www.parliament.vic.gov.au/publications/research-papers/send/36-research-papers/13806-youth-justice-in-victoria>, 9.
- vi See for example, Cunneen cited in White (1996); UK and US examples cited in Collins and Reid 2008, p. 3 who note that "There is a strong international literature on the criminalising of immigrant minorities in many western countries... (and) a common theme that emerges from this literature is the social construction of ethnic criminality, linked to the fear of the stranger or 'Other'. In this way ethnic or immigrant minority crime is racialised, constructed as worse than other crime, and responded to in an asymmetrical fashion when compared to non-immigrant crime." Collins and Reid. (2009). "Minority Youth, Crime, Conflict, and Belonging in Australia." *Journal of International Migration and Integration* 10, no. 4: 377-391.
- vii Commission for Children and Young People. (2021). *Our Youth, Our Way: Inquiry into the Over-representation of Aboriginal Children and Young People in the Victorian Youth Justice System*. Melbourne: CCYP.
- viii For example, reports from the 1990s document the over-policing of young Vietnamese Australian's White et al, report #1, p. 14; FKLC reports; Data from 2018 shows Aboriginal (18.29%) and culturally diverse young people, specifically from African (15.48%) and Pasifika (7.07%) backgrounds, are significantly over-represented in police contacts in Victoria based on data from 2018 while data from 2018 shows Aboriginal (18.29%) and culturally diverse young people, specifically from African (15.48%) and Pasifika (7.07%) backgrounds, are significantly over-represented in police contacts in Victoria based on data from 2018 -- YRIPP - Att A - p. 3 refers to Cultural background as % of total call-outs (that is, police requests for the services on an Independent Person) to the YRIPP program in 2018.

- ix Jesuit Social Services. (2013). *Thinking Outside: Alternatives to Remand for Children*. (Richmond: JSS), 6.
- x Jesuit Social Services. (2013). *Thinking Outside*.
- xi YouthLaw. (2017). *Investing in Communities Not Prisons*; Benier et al. (2018). *“Don’t Drag Me into This.”*
- xii Grover. (2017). *Youth Justice in Victoria*, 7.
- xiii Sentencing Advisory Committee. (2016). *Reoffending by Children and Young People in Victoria*. (Melbourne: Sentencing Advisory Council), 52.
- xiv YouthLaw. (2017). *Investing in Communities Not Prisons*.
- xv Shepherd. (2016). *“Criminal Engagement and Australian Culturally and Linguistically Diverse Populations.”*