

Victorian Aboriginal Legal Service Co-operative Limited

Media Release



Youth detained in adult custody

2 November 2012

The Victorian Aboriginal Legal Service Co-operative Limited (VALS) calls for the Government to immediately put a stop to the practice of detaining juvenile offenders in adult custody, and subjecting children to 'maximum security' restrictions in adult custody. We also call for an independent, State-wide inquiry to be urgently commenced in relation to this practice.

On 26 October 2012, ABC Victoria's 7.30 programme reported that a young person who is a client of VALS had recently been detained in the maximum security 'Charlotte' unit at Port Phillip Prison for nearly four months. While it is inappropriate at this time to comment on the specific circumstances of this case, or matters personal to our client, we note the following:

- It is VALS' position that there is no offence serious enough to warrant a child being held in an adult prison. Further, there can be no justification for detaining a child in the maximum security unit of an adult prison, usually reserved for the most serious and dangerous adult offenders.
- The detention of any juvenile offender in adult custody offends against fundamental principles of human rights, as articulated in the Victorian *Charter of Human Rights and Responsibilities Act 2006* and the United Nations' *Convention on the Rights of the Child*. Such principles provide that children deprived of liberty should be:
 - segregated from all detained adults;
 - treated in a way that is appropriate for their age; and
 - treated with humanity and respect for the inherent dignity of the human person.
- The conditions imposed in the maximum security 'Charlotte' unit at Port Phillip Prison, including 22 hours of 'lock down' and limited access to educational or rehabilitation programmes, are at odds with the sentencing principles applicable to juvenile offenders, pursuant to which rehabilitation is paramount. Such restrictive conditions would pose a serious risk to the physical and mental health of any young person detained in this manner, both in the immediate and long term.
- Despite the findings and recommendations of the Royal Commission into Aboriginal Deaths in Custody in 1991, the over-representation of Aboriginal and Torres Strait Islander peoples in the prison system continues. Today, indigenous people — who comprise less than 3% of the Australian population — make up 26% of the national prisoner population.¹ This over-representation extends to young Aboriginal and Torres Strait Islander persons. Recent data

¹ Australian Bureau of Statistics, *Prisoners in Australia, 2011*

indicates that an indigenous young person is 24 times more likely to be in detention than a non-indigenous young person.²

- VALS emphasises that Aboriginal and Torres Strait Islander children who become involved in the criminal justice system are amongst the most disadvantaged members of our community. From an early age, many have often suffered issues of chronic poverty, homelessness or inadequate housing, family fracture, mental health issues, drug and alcohol abuse, and community ostracising. In many instances, child protection is involved, leaving primary responsibility for the care of these children with the Department of Human Services. This adds a further layer of fracture and uncertainty for these most vulnerable members of our community. To then subject such young people to detention in conditions that offend against fundamental principles of human rights is abhorrent.
- It is critical that the community is properly informed and educated about the chronic disadvantage faced by the majority of young people that end up in the criminal justice system, rather than being sold a 'tough on crime' agenda that sees imprisonment rates increasing.
- It is imperative that this and future governments seek to address the causes of offending in juvenile offenders, and implement policies that promote rehabilitation as the overriding objective. In line with current sentencing principles, detention should be a last resort. Where detention is unavoidable, the Government has a responsibility to ensure that children are detained in an appropriate facility under humane conditions appropriate for their age, in accordance with fundamental principles of human rights.
- If we, as a community, continue to fail to assist those that are in desperate need of support, and continue to fail to protect the children in our community, not only do we fall short of international standards and local standards, we fall short in our own humanity.

VALS therefore calls on Government to immediately end the practice of detaining children in adult prisons, and subjecting children to maximum security conditions in adult prisons. Further, VALS calls for an urgent, independent inquiry into this unacceptable practice.

For any further queries please contact Ellie Pappas (Senior Solicitor), Jill Prior (Executive Officer – Legal Practice), or Wayne Muir (CEO) on 9418 5999.

² Australian Institute of Health and Welfare, *Juvenile Justice in Australia* (2010-2011)