



# All alone: Young adults in the Victorian justice system

Position Paper

August 2018



# Young adults in the Victorian justice system

## A Position Paper by Jesuit Social Services

**Jesuit Social Services believes that prison should always be a last resort. We acknowledge that sometimes prison is necessary, particularly in cases of violent crime. But when a State takes the serious step of removing a person's liberty, certain standards must be met to ensure the human rights of those incarcerated, to rehabilitate detainees and to reduce re-offending.**

Our report – *All alone: Young adults in the Victorian justice system* – raises a number of concerns regarding the welfare and treatment of young adults in Victorian prisons, and questions whether these standards are being met.

The increasing number of young adults in Victoria's adult prisons is of great concern. The mental and physical health of these young people when they emerge from incarceration has often deteriorated significantly, while the barriers to reintegrating with the community are high. Too many young people are reoffending and returning to prison.

It has been well established that young adults are especially vulnerable to the effects of detention. At the same time, young adults are more amenable to rehabilitation than older adults. Our justice system can – and must – do much better in transforming the behaviour and potential of these young adults.

Prisons have a purpose and present an opportunity: rehabilitation must be their focus, a chance to work towards a safer community.

We believe that the safety of the community is best enhanced by maximising strategies which reduce the potential for reoffending and promote rehabilitation. We must minimise harm to young adults in prison. Having served their time, they must be supported to lead productive lives. Just as importantly, preparations and support for transitioning back into the community must begin well before release. And, crucially, we need to have strong transparency and accountability to ensure that the treatment of young people meets their needs and upholds their human rights.

### WHO ARE THE YOUNG ADULTS IN PRISON?

To develop effective policies to address criminal behaviour of young adults, it is critical to understand the background and characteristics of the majority of those who offend. Various studies show that a large proportion of young adult prisoners are caught in a complex web of disadvantage, including poverty, exposure to trauma and neglect, psychiatric illness, substance abuse, cognitive impairment and developmental immaturity. Like any young adult,

their brains are still developing, a fact which affects their capacities for impulse control, judgement, foresight and planning for the future.

The rate of offending is highest among young adults, yet their crimes are frequently non-violent and of a comparatively less serious nature. Public order and drug offences account for more than half of offending by this cohort. Their offences are often based on impulse and/or a response to peer pressure. We also know that young people are the most likely to reoffend upon release from prison – the recidivism rate for those under 24 in Victoria is 52.7 per cent, 8 per cent higher than for the overall adult population of people leaving prison.

Aboriginal and Torres Strait Islanders are overrepresented in our prisons, as are people with cognitive impairment. These groups, present with particular support needs that are currently not being met.

**“Young adults in adult prison are subject to bullying, rape and grooming from older prisoners; they have little opportunity for personal development and generally feel unsafe. This environment is not one that is conducive to positive behaviour change.”**

Despite this confronting reality, and the knowledge that young adults are a group that would benefit from tailored responses reflecting their continued brain development and particular vulnerabilities, there is at present only one dedicated youth unit within the adult system. While it has shown positive signs towards reducing recidivism, this unit caters for only 35 young men, a fraction of the 861 young adults currently incarcerated. There is no equivalent for young women.

Jesuit Social Services recommends that the Victorian Government provides specialist youth units in adult prisons so that their needs for safety and tailored rehabilitation can be met. In particular, there is need for tailored support for young adults with cognitive impairment, and culturally appropriate support for Aboriginal and Torres Strait Islander young adults.

### THE SYSTEM

In the ten years to 2017, the adult prison population in Victoria grew by 71 percent – or 3,006 additional individuals – to 7,189 people (the rate also increased from 104.6 prisoners per 100,000 adult population in 2007 to 145 prisoners per 100,000 adult population in 2017). Parole and changes to bail laws are largely responsible for this: the adult remand population soared more than 150% over the

same period, and 38 percent of young adults in prison are on remand. This significant increase sits uncomfortably with the fact that the number of young offenders over recent years in Victoria has decreased, with the most recent statistics showing the number of offenders aged 20-24 decreased by 8 per cent over the previous 12 months.

There are serious problems of overcrowding in our state's prisons. The negative impact on prisoner conditions – including access to recreation spaces and time out of cell – is unacceptable. Alarming, the government is responding by building more prisons rather than focusing on prevention, diversion and rehabilitation, which would help reduce the prison population and enhance community safety at the same time.

One particular area of concern previously documented by Jesuit Social Services is that of prison culture and staffing. While the demands of working with a group of people whose behaviours can be very challenging must not be minimised, research has shown that the focus of prison staff culture is often on maintaining control rather than creating an environment that promotes rehabilitation. This is in stark contrast to many of the successful models we have studied in other countries.

It is evident that investment in staff training would benefit both the officers themselves and those under their supervision. We believe there is need for a minimum workforce qualification that includes modules on trauma, cognitive disability and mental health, de-escalation techniques and motivational interviewing. We believe these enhanced skills would assist prison staff in dealing appropriately with young adults with challenging behaviour, and leave offenders better able to reintegrate upon release into the community.

In addition, the level of staffing should be increased to ensure prisoners are treated humanely at all times. While we strongly oppose the growing incarceration rates, we recognise the current reality of overcrowding and that our justice system is struggling to cope with the pressure from increasingly punitive policies. We endorse increased staffing as an interim measure while efforts in prevention and diversion reduce the pathways into prison. Overstretching staff not only damages the health of prison workers, but can also give rise to the mistreatment of prisoners.

## ISOLATION

Strategies for managing challenging behaviour in prisons often involve the use of isolation, restraints such as body belts or shackles, medical restraint (through medication) and teargas. Solitary Isolation can mean 22 hours a day with little or no human contact in a room which may have little light or ventilation. This is currently used on people in our prison system for lengthy periods.

It is of utmost concern that there is no transparency or available data around the use of isolation and restraints. Nevertheless, through our work with young adults during and after their incarceration, Jesuit Social Services has

formed a reasonable understanding of current practices. It seems that use of isolation is an accepted behaviour management tool, particularly for young adults with challenging and complex needs.

Particularly concerning is the fact that some people are in isolation for months, even years. Very often there is little significant contact with staff during this time, and certainly little or no access to programs or activities. It has also been documented by the Ombudsman, and known by our staff, that some people are released directly from isolation into the community.

These practices have extremely deleterious effects on people's physical and mental health. They can lead to disorientation, anxiety and depression, hallucinations, psychosis, self-harm and suicide. They can result in gastrointestinal problems, migraine, weight loss and deterioration of eyesight, as well as aggravation of prior medical conditions.

Typically, young adults who have experienced isolation struggle on release with everyday tasks, and manifest constant hypervigilance. They have little hope for their future in the community; many reoffend, often more seriously, and return to prison.

**“A compelling example of the challenges associated with moving from isolation to the community is James (not his real name) who was transferred to an adult prison at age 16. At age 19 he moved directly from isolation in prison into a flat. His inability to adapt to his new circumstances was evidenced by his efforts to replicate the conditions of his isolation. He made his bathroom into a cell; he spends his time there, listening to radio, preparing his food in the bathroom, and sleeping in the bath.”**

Jack (not his real name) often spends most of his time cleaning the house, and walks laps of his backyard and his hallway. Walking laps was what he did during his isolation in prison and he finds these actions comforting. He also often paces in public places and experiences anxiety around other people. Jack recently celebrated his 25<sup>th</sup> birthday in the community, but locked himself in his friend's bedroom for the day as he found this experience overwhelming.

Jesuit Social Services believes there is a need for strict controls over the use of isolation of young adults in prison. Isolation should be used only as a last resort when all de-escalation strategies have failed and there is a risk of serious harm to the prisoner or others. It should never be used as a punishment, nor as a way of managing behaviour.

The government should legislate for a presumption against the use of isolation. When it is used, isolation needs to be subject to daily review by a qualified mental health professional, and any term in isolation must be kept to an

absolute minimum. In line with internationally accepted standards, isolation of a person should never extend beyond 14 days, and only the most extreme circumstances could justify this period.

We recommend that the Victorian government require all prison operators to record data on the use of isolation and restraints in Victorian prisons and that this data be made public.

## POST PRISON

Given the high public profile of some crimes by people on parole in recent years in Victoria, the parole system has been tightened, meaning that parole is now much more likely to be denied than previously. In 2012 – 2013 parole was granted for 83 per cent of applications and five years later that had been reduced to 58 per cent.

For many people in the community this may appear to mean greater safety. However, it actually means that many young adults are "straight released": they move back into the community with no conditions and without supervision or supports.

**“Young people leaving adult prisons are a highly vulnerable group, with compromised mental and physical health and a high post-release mortality rate. In addition, young adults have a higher propensity to reoffend. It is clear therefore that the risk of harm is exacerbated by straight release.”**

When someone is straight released having come directly from isolation, the risks are even higher. We recommend the Victorian government ensure that no young adults are released directly into the community from isolation.

Jesuit Social Services acknowledges there are some transition programs in place but believes there is need for greater resourcing of models which offer ongoing, coordinated and youth-focused practice, both before and after release. It is essential that programs address the key difficulties facing young adults, including pathways to education, employment, housing, and reconnection to family and community. Interventions also need to help them to recognise the impacts of their offending and address the behaviours which lead them to offend.

## ACCOUNTABILITY

Jesuit Social Services has previously raised concerns, as has the Ombudsman, about the lack of transparency and accountability within Victoria's prison system, particularly in relation to treatment of prisoners. The Justice and Assurance Review Office is not independent of Corrections Victoria and not required to publicise concerns.

In 2017 Australia ratified the Optional Protocol to the Convention against Torture. In time this will provide greater

oversight, encourage more holistic and therapeutic practice, and provide young people in prison with a voice. However, these processes will take time to implement and the need for accountability in Victoria is urgent. We recommend that the Victorian government immediately establish an independent custodial inspectorate that is responsible for overseeing prisons in Victoria and that reports directly to Parliament.

Prison deprives young adults of liberty – that is the punishment. Once in prison the focus should then be on strengthening their capacity to make a successful transition back into the community. Knowing some people are in prison may help the community to feel safe; ensuring that prison is a safe place for young adults where their chances of rehabilitation are maximised will truly contribute to the desired outcome of a safe community.