

29 August 2022

To the Members of the United Nations Subcommittee on the Prevention of Torture,

### **The Smart Justice for Young People Coalition**

Smart Justice for Young People (SJ4YP) is a coalition of over 40 leading social services, health, legal, Aboriginal and Torres Strait Islander, and youth advocacy organisations working together to create change for children and young people who come into contact with the justice system. The group works together to shift political and public attitudes, to advise government on innovative evidence-based approaches, and to challenge policies and practices that harm young people. The coalition is informed by the experiences and voices of young people, experienced practitioners on the ground, leading researchers and health experts, and communities across Victoria.

The Youth Detention Working Group is one of SJ4YP's working groups. The Working Group has identified three priority areas of focus, based on our organisations' and individual members' expertise: equivalency of healthcare in detention, ending the use of solitary confinement and isolation and OPCAT implementation.

### **Ensuring equivalency of healthcare in detention**

Children and young people should not receive a more restricted or lower standard of healthcare because of their engagement with the criminal legal system. The principle that access to healthcare, including mental health care, in youth prisons should be equivalent to what is available in the community is essential to children's welfare. Children and young people held in detention are currently excluded from federal healthcare funding provided through the Medicare Benefits Schedule and Pharmaceutical Benefits Scheme (**PBS**), and from funding support for day-to-day disability care through the National Disability Insurance Scheme (**NDIS**). In youth prisons, there is a need for particular attention to the needs of 'crossover kids' (in contact with the child protection system as well as youth justice), the need for continuity of care between detention and the community, and the impact of time in custody on mental health.

Victoria is unusual among Australian states and territories in not providing healthcare in places of detention through its health department, but instead through a private provider sub-contracted by the Department of Justice and Community Safety. This falls short of international human rights standards, which are themselves inadequate in many respects. There is also a lack of publicly available data and routine reporting on the health of children and young people in detention, and on healthcare in detention, which makes public, independent scrutiny of healthcare needs and access in youth detention extremely difficult.

## Ending solitary confinement and isolation

The use of solitary confinement in prisons has been a growing advocacy focus. In youth prisons, solitary confinement for any period of time should be banned by legislation. Reducing its use or limiting it to 'brief' periods should not be seen as acceptable substitutes.

Practices which are in effect identical to solitary confinement, but operate under different labels, are an increasing concern. In the context of COVID-19, the use of isolation and quarantine have become more widespread. Issues relating to solitary confinement needs to be focused on the practical impacts of detention practices, not tripped up by bureaucratic naming differences. Solitary confinement not only harms children and young people subjected to it - it creates higher risk for staff working in prisons.

While not as harmful as solitary confinement, 'group isolation' - usually justified by operational requirements, and implemented increasingly frequently because of staffing issues - is also a growing concern. This kind of isolation similarly limits social contacts and severely impacts the ability of children and young people to access education and other activities in detention.

## Implementation of OPCAT, including culturally appropriate OPCAT implementation

OPCAT is an international instrument which requires governments to establish 'preventive mechanisms' to inspect and monitor places of detention. It provides a major opportunity to improve conditions in prisons and other places of detention if properly implemented, including with attention to the needs of Aboriginal and/or Torres Strait Islander people. The protocol was ratified by the Commonwealth Government, but implementation is a shared responsibility of State and Territory Governments as well, which has led to some dispute about the correct model and source of funding.

It is critical to ensure that the OPCAT National Preventive Mechanism (**NPM**) in Victoria is compliant with OPCAT, is culturally appropriate, and has the requisite expertise to work with children and young people. The NPM's mandate should extend to all places where children and young people may be deprived of their liberty. NPM staff should include people who have expertise in health issues, and in healthcare governance and delivery in places of detention.

### Recommended places of detention for the SPT to visit:

- Parkville Youth Detention Centre
- Mildura Police Station



Thank you for your consideration, and please do not hesitate to forward any queries, or seek advice or support in advance of or during your visit. Particularly, we extend an offer to provide guidance in relation to effectively engaging with detained Aboriginal and/or Torres Strait Islander children, as our membership includes the Koorie Youth Council, Victorian Aboriginal Legal Service and Victorian Aboriginal Child Care Agency.

Kind regards,

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Victorian Aboriginal  
Legal Service



Aboriginal  
Justice Caucus



KOORIE  
YOUTH  
COUNCIL



VACCA  
Connected by culture



Humanists  
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Centre for  
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the Youth  
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YOUNG PEOPLE'S LEGAL RIGHTS CENTRE INC



VMAC  
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WEstjustice

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