

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Victoria's Criminal Justice System

Melbourne—Thursday, 21 October 2021

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WITNESS (*via teleconference*)

Dr Karen Hart, Senior Lecturer, Victoria University.

The CHAIR: Welcome back, everyone. This is, as you know, the Legislative Council Legal and Social Issues Committee's hearing for the Inquiry into Victoria's Criminal Justice System.

We are very pleased to have joining us Dr Karen Hart, who is with Victoria University and has done some very great work on the efficacy of community justice intervention and services to increase social capital and reduce incarceration for young doctors. In fact I think that is how she became a doctor, but we will find out more in a moment.

Dr Hart—or Karen, if I could just let you know that all evidence taken is protected by parliamentary privilege today. That is under our *Constitution Act* but also under the standing orders of our Legislative Council. Therefore any information that you provide during this hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat those same statements, you may not have the same protection. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

We are also recording this hearing. We have Hansard sitting in the background. They will send you a transcript. I encourage you to have a look at that and make sure that we have not misrepresented you or misheard you in any way.

We would welcome some opening remarks. We have got your thesis as well. After those opening remarks we will open it up for committee discussion.

Dr HART: Thank you very much to the committee, and good afternoon, everybody. Thanks very much for this opportunity to testify in this inquiry into the very important exploration of what is happening in Victoria's criminal justice system. I have read the transcripts and submissions with great interest, and I am delighted that you have invited me to contribute to those today.

I would like to acknowledge the Wurundjeri peoples of the Kulin nations, the traditional owners of the unceded lands on which I work and live, and I pay my respects to the country and to their elders past, present, future and emerging and of course to those present today at this hearing.

I have been a Senior Lecturer and researcher in criminal justice and youth work at Victoria University since 2019. However, prior to joining VU I spent my career in child protection, court advocacy, youth work and criminal justice for almost 30 years and more recently as CEO of the Youth Junction in Sunshine, designing and delivering crime prevention programs for young people in Melbourne's north-west. Today I am expressing my own views, observations and recommendations distilled from the various roles that I have held as a practitioner and executive in those fields as opposed to the views of any particular organisation. I will, however, draw upon my direct experience from that to exemplify and emphasise some of the points that I want to make to the panel today.

I have also been a long-term member of the Smart Justice for Young People coalition, who you have heard from this morning, and I am fully committed to the key issues that have been raised in relation to the over-representation of vulnerable young people in the system, including those children and young people from Aboriginal and multicultural backgrounds and those from out-of-home care.

I strongly endorse raising the age of criminality from 10 to, at the very least, 14 years of age, if not 16 years, and also to extending the age to 25 years of young people held in prison, in line with the commonly and globally accepted age cut-off for the period of youth within the lifespan. I also strongly endorse the need for well-funded, place-based responses to tackle disadvantage within local communities more broadly, and I acknowledge that criminal activity is only one manifestation of that disadvantage. I acknowledge, importantly, the great majority of people living within our neglected communities in Victoria are faring as best they can against the odds without ever having had to voluntarily or coercively be involved in the criminal justice system.

So today, if you will let me, I want to touch on three main points. I might not get through the third one as much as I would like to because I really want to emphasise the first one, but I am absolutely open to questions after I

have finished my brief overview. The point that I want to raise today is around the significant contribution that the not-for-profit sector makes to the youth justice system and more broadly to the criminal justice system. I also want to look at viable alternatives to remand for young people, because they do exist, they are operational and also there are many organisations who are developing and conceptualising very relevant and contemporary measures that have got great potential to lower the remand numbers that we are so collectively concerned about. And I want to talk about the importance of education and qualifications for staff in the youth justice system and how that can potentially make an impact if those are addressed adequately.

First of all, I want to acknowledge the breadth and depth of work that the not-for-profit sector does for the youth justice system and to emphasise the need to view the work of the sector as being a real, integral component of the system, rather than something that just sits on the sidelines and provides resources at a whim, whenever the system receives funding. I will refer to me, I suppose, throughout this conversation because I have just recently come from the sector.

I want to put to the committee that the perception of the role of the not-for-profit sector has been downplayed, undervalued often ignored and definitely unfunded or underfunded for many years. The not-for-profit sector in Victoria has a diverse range of assets that sets them apart from government, as we know, as they are advocates, campaigners, agitators and sources of vital information on young people's needs. They can provide a critical eye on existing youth services and are innovators that can drive criminal justice change. The not-for-profit sector can respond flexibly to changing needs and can be nimble and adaptable. So in terms of campaigning, their advocacy is able to highlight issues and put forward models of delivery for the government to consider how we collectively develop solutions to our challenges within the youth justice system.

Very importantly, we have a local connection within the sector. In addition to the commitment and independence of the not-for-profit sector, we can provide a greater level of confidence to young people that helps to build and maintain trust with a group of young people—and their families, very importantly—that can be very difficult to engage with. So I guess in terms of what we are able to contribute, in terms of our programming and response, to alleviate the burden on the cost for government is quite enormous.

One of the questions that I want to pose is: has the behaviour that contributes to offending ceased because the numbers of young people have decreased in terms of those that are presenting before the courts and indeed finding themselves in the youth justice system; and have the drivers that we so often cite for young people committing crimes decreased over the years? I would argue very clearly that they have not. That has not changed at all. If anything, the disadvantages have become more apparent. What has changed, though, is the growth of the non-profit sector and its expertise in addressing and tackling the drivers for youth crime, with the great majority of low-level offenders that we would have seen in police cells and prison five or 10 years ago, those issues being very much addressed within the sector.

There are a great deal of not-for-profit organisations which 10 years ago would not have stated explicitly that they work with young people who offend, and in fact it would be easy to count on one hand those organisations in Victoria who were actively working and described themselves as organisations who purely work with young people who offend at that time. I would suggest that this is one of the reasons why youth offending has largely been a police issue until the last 10 years or so—that police were having to arrest, I suppose, their way around this what appeared to be intractable issue 10 years ago in the growth of youth crime. And it is no surprise at all that there has been a significant drop in that and the services started to work more closely together over the last 10 years in this space. The great majority of what had been typically single issue driven not-for-profits like mental health, drugs and alcohol, housing now state clearly that it is unavoidable to work with young people who have an involvement in the youth justice system. And as more services collaborate, this issue has been fully taken on board by not-for-profits as a clear interface issue that impacts their ability to carry out their core business, which can be one of those single issue driven issues, like mental health and drugs and alcohol.

I want to exemplify an organisation, because I believe firmly that it is a success—a model that would be appealing to the committee, to Parliament, to government more broadly—because I am absolutely confident that in it there is abundant evidence to substantiate and support this claim that it has amplified impact on young people involved in the criminal justice system. The Youth Junction not-for-profit out in Sunshine has made a detailed submission to the panel. I have read that submission, and I want to provide a bit of context to the impact that a model of co-located and integrated youth services can make in providing early intervention services and preventative services to young people who most likely would have been drawn into the justice

system in their absence. I can leave that until question time, because I do not want to eat up all of my time, and I am probably getting close to that.

My hypothesis is that it is no coincidence that crime has dramatically fallen in the past 10 to 12 years, and I firmly believe that the increased visibility and activity of the not-for-profit sector has contributed directly to driving down the numbers of young people within the system. The youth support sector are an inextricably important component of the youth justice system, and if we are looking at what works and what work needs to be done, then the not-for-profit sector needs to be considered in the mix of being part of that system and we are the solution to the prevention of crime. And that is for a number of reasons, which I stated earlier, in terms of our adaptability.

One thing that has really struck me is that we have not been looking at the reason for the significant drop in youth crime. That has not been so deeply interrogated as it should be, and I think that only by looking at some of the successes and some of the strengths of what has been achieved over the last 10 or 12 years by, largely, the not-for-profit sector—although in recent years, maybe the last five years or so, there has been an injection of some funds into those not-for-profit initiatives and collaborative initiatives to really bolster the effort of the sector. I see this inquiry as a real opportunity to firmly position the not-for-profit sector within the youth justice system and to maximise its current efforts in terms of how we can further reduce youth crime and also in particular target those increasing numbers of complex young people who are most frequently remanded, which is driving up those remand statistics within the system.

I am sorry that I cannot see anybody, but I am just wondering if I have run out of time and you want me to stop there.

The CHAIR: That would be great, Karen, but thank you. I think what you could not see was the four of us nodding at you, and I am certainly aware that a number of my colleagues have worked in that not-for-profit sector also. I think it is interesting that you point out the decrease in youth crime, yet as we are hearing and as you mentioned, there is an increase in the number of children being remanded. The numbers in our youth justice systems are growing even though our crime rates are declining. So you talked about in some ways embedding the not-for-profit sector within the justice system or certainly that it works closely with the justice system. Now, apart from more financial assistance to the not-for-profit sector, is there anything else that you would recommend to increase that relationship or improve that relationship or embed that relationship between the justice system and the not-for-profit sector?

Dr HART: That is a great question, and thank you. I want to highlight I suppose the one very successful model that I spoke about earlier, the collection of services in Sunshine within the Visy Cares hub, which I hope people have heard about. There are around 14 not-for-profit services, including Orygen, Centre for Multicultural Youth, Headspace, Westjustice, YouthNow, Melbourne City Mission, St Joseph's Flexible Learning Centre and so on, and I apologise if I have left anybody out. This is led by not-for-profit Youth Junction, set up in 2005—a fantastic initiative in its day, and it still is very much so because it is a sustainable model. One of the best ways of demonstrating the efficacy of that co-location of not-for-profit organisations and the collaborative effort that they contribute to the sector is through the development of crime prevention programs for young people, and this is demonstrated in what is highlighted in the Youth Junction submission around the Youth Community and Law program; the Prevent Alcohol and Risk Related Trauma in Youth program, which is the PARTY program, for driving offenders; the Youth Umbrella Project; the Youth Learning Pathways project; and other pipeline projects, such as the youth early intervention project and Target Zero that my colleagues from Westjustice mentioned this morning, which are currently being conceptualised and are looking for funding at the minute.

They all hold a very similar framework, and that is around strong referral pathways from police, from other government departments, from other not-for-profit services, from family, self-referrals, referrals directly from the courts—so opening that door wide so that people can gain access into these programs; so that psychosocial assessments can take place on the young people to determine what all of their issues are in the key areas of family, housing, mental health and so on to be able to build a case management action plan to work with them over a period of three to six months. These programs have been delivered at the front end of the justice system. It is not about diversion, I find it is about deferring the case, adjourning the case, by the magistrate until the young person has undergone this program and is able to go back to court umpteen times across a three- to six-month period through the judicial monitoring process and tell the magistrate, through their own self-

representation, what they have achieved themselves on the program. And there are a number of evaluations that have been carried out in these programs to evidence their efficacy.

The CHAIR: Thank you, Karen. That was a very fulsome response. Thank you very much. I will go to Tania, then Sheena, then Matt.

Ms MAXWELL: Thank you, Chair. Karen, thank you for attending today, and your submission is absolutely incredible. I have to confess I have not as yet read all of the 276 pages. I have ploughed through most of it, but I have printed it for further perusal. Look, at the moment I do not actually have any questions, because what I would like is to be able to take the time to go through that and perhaps ask the secretariat to provide you with some questions to take on notice.

Dr HART: I would very much appreciate that, committee member Maxwell. I am more than happy to do that.

Ms MAXWELL: Fantastic. Thank you.

The CHAIR: Thanks, Karen. That is very generous of you—and your time. Sheena.

Ms WATT: Thank you, Karen, for being with us. Apologies on the tech gremlins. They get the best of us, I have got to say. I have a question about the recent Royal Commission into Victoria's Mental Health System, which I am assuming you are familiar with. There were some recommendations in there around crime prevention and the justice system. I just wonder if you could share with us your views on how the crime prevention effects can better address the often-intersecting findings of mental ill health in our communities and if you have anything more to share around that intersection.

Dr HART: Yes, absolutely. I mean, this is an area that has been very strongly focused on by our great not-for-profit partners in the youth sector, Orygen and Headspace in particular, although there are still other affiliated mental health specialists who have also been addressing this issue. This issue does not operate in isolation, as we all know, and is complicated further by substance use, other pre-existing learning difficulties and disabilities, relationship issues and so on and so on. All of these issues are interconnected and interrelated.

Obviously when a young person is detained in police custody and in remand and in sentenced detention, they bring their mental ill-health issue with them. They may have been engaged in services outside. They may have been in a program or on a pathway to help regulate and balance that for them and address that for them, and once they are taken out of circulation their treatments and interventions are too. It is incredibly disruptive and compounds an already complex and difficult issue for them. And then what we see is until they can get regulated and have that addressed appropriately—and often that takes time, and sometimes that does not even happen in remand, or in police cells it cannot—that exacerbates the situation.

Often young people's mental ill health is a manifestation of earlier childhood traumas, which we have heard the evidence on over the course of this inquiry. It is an issue for the youth justice system, there is no double about it. We can only do so much when we are outside the wall. It is unfortunate that then those efforts are undone and unravelled whenever the young person is detained.

The CHAIR: Sheena, did you have a follow-up?

Ms WATT: Nothing further at this point, thank you.

The CHAIR: Great. Thank you. And Matthew?

Dr BACH: Thanks, Chair. And thanks so much, Dr Hart, for being with us. Dr Hart, I thought I might ask you a question about some of the interconnections between, in particular, the youth justice system and child protection. I note of course your strong commentary about the capacity of Victoria's community sector, and I share your views and note your brief comments about your history working in child protection. It seems to me that, sadly, far too many children who, for one reason or another, become known to the child protection system, then graduate, for want of a better term or a seemingly more caring term, into the youth justice system as well. Are there specific things that you think the community sector could be doing, especially to work with vulnerable children, that they do not have either the capacity to do right now or the funding to do right now, or that government is doing right now but in your view should be shifted over to the community sector.

Dr HART: That is a really good question, and I thank you for that. I think the answer is absolutely yes, and we need to. Funding, as you highlight, is definitely one of the biggest barriers to effective work for the not-for-profit sector in this space. But something needs to be done because the system is in dire straits. Some of the complexity is young people are facing harm, neglect and abuse within their homes and so the system responds by taking those young people out of their homes and placing them in a system that is, frankly, not coping, not functioning effectively, and for a number of reasons. The staff are ill-equipped to deal with them effectively, often the infrastructure is poor, the models of care are virtually non-existent and so really it is containment, but the young people are at liberty. These young people are often very traumatised and they have reached an age where they are at the point of risk-taking, and so invariably when they are left to their own devices, and often with peer influence and pressure, they will end up getting involved in antisocial and criminal activity.

There is not enough interface between the out-of-home care system and the community sector, and that gap needs to be closed in the same way that the gap needs to be closed between the youth justice system and the not-for-profit sector. I think that with very valuable services like Berry Street, the Smith Family and many, many others if they were drawn closer to work and aligned better with the government out-of-home care system we would definitely see better outcomes for those young people. So it is a case of developing a new type of collaborative model that really brings both of those systems together to address these two issues, the one of out-of-home care and the one of youth justice and then that pipeline from out-of-home care to youth justice.

Dr BACH: All right. Thank you so much. Do I have time just for a very, very quick follow-up, Chair?

The CHAIR: Yes, you do, Matt.

Dr BACH: Great. Thank you very much, Dr Hart. You said that models of care are virtually non-existent. Is that comment specifically regarding residential care, as we call it now? Because I noted your comments, and that facts bear you out. The children's commissioner bears you out of course that far too many deeply traumatised kids who end up in residential care then become engaged in criminal activity. Was that comment specific to residential care?

Dr HART: Yes, it was. It was. But there are a number of reasons for that. The notion or the process of care has been eroded largely over many years. What we understood to be caring for young people in a residential environment is not what it looked like 20, 25 years ago, because of the obvious incidents that have happened and allegations and actual proven incidents against staff and between young people. So safeguards have had to be put in place. We hear the evidence around locked cupboards, locked bedroom doors. It does not feel homelike, it does not feel safe for young people, and so there is lots of absconding, or running away they call it now. So it is an unsafe environment, which is ironic because child safeguarding is just so prominent and important now, and I do not think those measures are appropriately implemented in what we know today of current residential care environments. There are models, like the sanctuary model, where there are very therapeutic trauma-informed models of care, where numbers within the environment are very small. Children are specifically selected to live there. There is a good staff ratio to young people, and they have also got wraparound care of psychologists, psychiatrists and others to support their model of care. That is incredibly expensive, but money spent at that end is money well spent to prevent the cost in human terms and in financial terms further down the line.

Dr BACH: Thank you very much, Dr Hart.

The CHAIR: Thank you. Just one quick final question, Karen. We were talking about that ability for the magistrates or that ability for the justice system to refer to not-for-profits, to refer to the amazing range of services that are out there. Is something like a bench book useful so that a magistrate or those involved in the court would actually have a list of all of the remarkable services that are available out in Sunshine or in other parts of the state?

Dr HART: Yes. I mean, that would definitely help, no doubt. But what I find is that the magistrates, if they can trust that a referral point, if they have got confidence that a referral point they are sending young people to is credible, can actually demonstrate that what they are doing is supportive of what the court's processes need and will actually stick true to their word when they say to the courts, 'We will do this and that, engage young people in certain services'—when the courts believe that you have got credibility and you are doing what you say you are going to do with young people, then they will confidently refer young people to you. If they have

not got that confidence, then they will not do that. So I think this is about building those human bridges between the key players in the not-for-profit sector and the magistracy, and so in terms of being able to get access and to provide training to the judicial college to open up those pathways between the sector and the magistracy would make a huge difference, because there is a willingness and there are a number of different programs that the magistrates would embrace, but I think, you know, the confidence and trust needs to be there that people are going to do what they say they are going to do.

The CHAIR: Of course. Thank you so much for today, and thank you for the work that you have done in our community for so many years. We all understand how passionate you have to be to stay in this, to be part of this sector and this really important work. As I mentioned at the outset, you will receive a transcript of today. Please have a look at it and make sure that we did not misrepresent you. Also, we are very grateful that you are willing to take some questions on notice, and we will certainly send those through in the next little while.

Dr HART: Yes, I would be delighted to. Thank you very much again to the committee—through you, Fiona. It is marvellous work that you are doing. I absolutely appreciate everything you are doing. Thank you.

The CHAIR: Thanks, Karen. The committee will take a recess until 1.45.

Witness withdrew.