



# PARLIAMENT OF VICTORIA

Legislative Council

Legal and Social Issues Committee

## Inquiry into youth justice centres in Victoria

Interim Report

Parliament of Victoria  
**Legal and Social Issues Committee**

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Ordered to be published

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# Committee functions

The Legal and Social Issues Committee (Legislation and References) is established under the Legislative Council Standing Orders Chapter 23 – Council Committees, and Sessional Orders.

The committee's functions are to inquire into and report on any proposal, matter or thing concerned with community services, gaming, health, law and justice, and the coordination of government.

The Legal and Social Issues Committee (References) may inquire into, hold public hearings, consider and report on other matters that are relevant to its functions.

The Legal and Social Issues Committee (Legislation) may inquire into, hold public hearings, consider and report on any Bills or draft Bills referred by the Legislative Council, annual reports, estimates of expenditure or other documents laid before the Legislative Council in accordance with an Act, provided these are relevant to its functions.

Government Departments allocated for oversight:

- Department of Health and Human Services
- Department of Justice and Regulation
- Department of Premier and Cabinet

# Committee membership



**Ms Margaret Fitzherbert MLC**  
Chair  
Southern Metropolitan



**Ms Nina Springle MLC**  
Deputy Chair  
South-Eastern Metropolitan



**Mr Joshua Morris MLC**  
Western Victoria



**Mr Daniel Mulino MLC**  
Eastern Victoria



**Ms Fiona Patten MLC**  
Northern Metropolitan



**Mrs Inga Peulich MLC**  
South-Eastern Metropolitan



**Hon Adem Somyurek MLC**  
South-Eastern Metropolitan



**Ms Jaclyn Symes MLC**  
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## Participating member



**Ms Georgie Crozier MLC**  
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This report is available on the Committee's website.

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# Terms of reference

## Inquiry into youth justice centres in Victoria

On 10 November, 2016, the Legislative Council agreed to the following motion:

That, pursuant to Sessional Order 6, this House requires the Legal and Social Issues Committee to inquire into and report on, no later than Tuesday, 1 August 2017, issues at both Parkville and Malmsbury Youth Justice Centres including, but not limited to —

1. matters relating to incidents including definitions, numbers and any changes to the reporting of incidents;
2. the security and safety of staff, employees and young offenders at both facilities;
3. reasons for, and effects of, the increase in the numbers of young people on remand in the last 10 years;
4. implications of incarcerating young people who have significant exposure to trauma, alcohol and/or other drug misuse and/or the child protection system, or who have issues associated with mental health or intellectual functioning, in relation to—
  - a. the likelihood of reoffending;
  - b. the implications of separating young people from their communities and cultures;
5. additional options for keeping young people out of youth justice centres;
6. the culture, policies, practices and reporting of management at the centres;
7. the role of the Department of Health and Human Services in overseeing practices at the centres; and
8. any other issues the Committee consider relevant.

The reporting date for this inquiry has been extended to 27 February 2018.





# Interim report

## 1 Introduction

The purpose of this Interim Report is to inform the Legislative Council of two issues regarding the Legal and Social Issues Committee's ongoing Inquiry into Youth Justice Centres in Victoria:

- The referral of a matter to the Ombudsman
- The extended reporting dates for the Inquiry's Final Report.

## 2 Referral of a matter to the Ombudsman

At a public hearing on 30 May 2017, the Committee received evidence from Mr Brendan Murray, the former Executive Principal, Parkville College. Mr Murray made an allegation of potential misconduct by the Department of Education and Training (DET), regarding a case in the Supreme Court challenging the Victorian Government's decision to house young offenders in the Grevillea Unit of Barwon Prison. Mr Murray was Executive Principal at the time he provided evidence to the Supreme Court in December 2016.

Mr Murray resigned in March 2017 following a DET investigation into alleged misconduct by Mr Murray. Mr Murray's alleged misconduct concerned an email provided by Mr Murray to the Human Rights Law Centre. The email was from the Department of Health and Human Services (DHHS) dated 21 December 2016 stating what beds detainees from Grevillea would be moved to if the decision was made by the Supreme Court that the young offenders would have to be returned to Parkville and Malmsbury. The Committee was informed that the investigation ceased when Mr Murray resigned and no findings were made.

Mr Murray's allegations were:

- That staff from DET twice tried to influence Mr Murray prior to his giving evidence to the Supreme Court.
- That Mr Murray was told what DET would like him to say in his evidence.
- That the Supreme Court was misled by DET regarding the suitability of the Grevillea Unit of Barwon Prison for use as a youth justice facility.
- That Mr Murray was told that funding for Parkville College may not be renewed in the event of an adverse court outcome.
- That soon after Mr Murray informed DET of his decision to resign the funding concern was resolved. Mr Murray was then told that he would be investigated for misconduct.

The Committee spoke with DET's Secretary, Ms Gill Callister, at a public hearing on 27 June 2017. Ms Callister provided a detailed written statement to the Committee on 27 June, and then gave the following evidence to the Committee relating to the allegations made by Mr Murray:

- That DET did not attempt to influence Mr Murray's evidence to the Supreme Court.
- That DET refutes several matters raised by Mr Murray.
- That Mr Murray's email disclosed information relating to 19 children held in detention at Grevillea, was not authorised by DET, and was the reason for his misconduct investigation.
- That funding for Parkville College was approved on 24 November 2016, prior to Mr Murray's resignation.

## 2.1 Why the Committee is referring this matter to the Ombudsman

Section 16(1) (a) of the *Ombudsman Act 1973* allows Parliamentary Committees to refer a matter at any time to the Ombudsman to investigate, other than a matter concerning a current judicial proceeding. The Ombudsman is required to investigate a matter so referred 'forthwith' and report thereon. Section 25AB describes the manner of reporting.

Mr Murray's allegations are extremely serious. The Committee notes the allegations have been denied by Ms Callister, who provided the Committee with a very detailed written rebuttal, and other material, immediately before she appeared before the Committee.

The Committee's decision is based on the following reasons:

- The Committee has already experienced delays in conducting its Inquiry and reporting to the House. An investigation into this matter would add further delays.
- The Committee is not resourced in a way that would permit a full investigation into this matter.

Therefore, the Committee refers this matter to the Ombudsman for investigation.

## 3 Extended reporting dates

The Terms of Reference for this Inquiry required the Committee to report by 1 August 2017. The Committee twice extended this date: on 9 May 2017 to 6 September 2017; and again on 22 August to 27 February 2018.

These extensions were partly a result of delays in receiving evidence requested by the Committee from DHHS and the Department of Justice and Regulation (DJR). While the majority of requested documents and information were provided to the Committee, many took a significant amount of time and, in some cases, remain outstanding. Six examples are listed below.

- A copy of the *Youth Justice custodial services practice manual* (requested from DHHS 22 February 2017, received 6 April 2017 with some questionable claims for confidentiality that took further time to resolve).
- Two reports by Peter Muir in 2015 and 2016 (requested from DHHS 9 February 2017 and 24 May 2017; the Minister for Families and Children and Youth Affairs claimed Executive Privilege over the reports on 2 June 2017; the Committee summonsed the documents on 16 June 2017, after which the Attorney-General directed the Secretary to abide by the claim of Executive Privilege; the reports, with sensitive information redacted, were then provided to the Legislative Council on 7 September following a Production of Documents motion).
- Responses to questions on notice from Greg Wilson and Julia Griffith of DJR (requested 27 June 2017, received 15 November 2017).
- Responses to questions on notice for Kym Peake, which were then referred on to DJR (requested 14 June 2017, received 15 November 2017).
- Request for a copy of Merlo Consulting's 'Isolations review, Secure Services – DHHS', November 2016 (requested 18 August 2017 from DHHS and 8 September 2017 from DJR, yet to be received).
- Request for a briefing from DJR on the new youth justice facility at Cherry Creek (requested 8 September 2017 after reading information provided to the media by DJR, yet to be received).

The Committee was also delayed because of the way in which documents it received were formatted. For example, isolation records requested on 2 June 2017 and received on 27 June 2017 were presented in such a way as to make analysis extremely difficult, including determining whether the correct authorisation process had been followed. Further, DHHS later advised the Committee that parts of the records were inaccurate. These issues limited the Committee's ability to rely on this evidence, hindering the Inquiry's progress.

It is also worth noting that DHHS provided much greater access to youth justice facilities and records to Penny Armytage and Professor James Ogloff as part of their recent investigation.

The Committee provides this brief summary to the Legislative Council to explain why the Committee has extended its reporting date.

