

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Victoria's Criminal Justice System

East Melbourne—Monday, 20 September 2021

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Mr Tim Quilty

Dr Samantha Ratnam

Ms Harriet Shing

Mr Lee Tarlamis

Ms Sheena Watt

WITNESS (*via videoconference*)

Ms Carmel Guerra, OAM, Director and Chief Executive Officer, Centre for Multicultural Youth.

The CHAIR: Welcome back, everyone. We are very pleased to be joined for this part of the hearing by the Centre for Multicultural Youth. We have with us the Director and CEO, Carmel Guerra, here today. Carmel, thank you so much for joining us today.

If I could just let you know that all evidence taken is protected by parliamentary privilege, and that is provided by our *Constitution Act 1975* but also the Legislative Council standing orders, therefore the information that you provide during the hearing is protected by law. You are protected against any action for what you say during this hearing, but if you were to repeat the same comments outside this hearing, you may not have the same protection, and anything deliberately false or misleading of the committee may be considered a contempt of Parliament.

We are recording today, so you will receive a transcript of today. Please have a look at it and make sure that we did not mishear you or misrepresent you. Ultimately that will go up onto the committee's website and obviously will form a very important part of the committee's report.

We have received your submission. Thank you very much; it is very comprehensive. If you would like to make some opening remarks, we will then open it up for discussion.

Ms GUERRA: Right. Lovely. Thank you. Thank you for the invitation. I do not know whether I have actually met any of the members of the committee before, so nice to meet you for the first time. I wanted to make five quick points which we think are the high-level points that would be useful to raise today. Can I start by first acknowledging that I am on the land of the Wurundjeri people by the banks of the Merri Creek and so I pay my respects to elders past and present, in the room of course.

I wanted to start by first saying that we tried to engage some young people we work with or who have been through our programs to speak today. Sometimes we have been pretty lucky, Fiona, on these committees to get young people, but we have certainly found with the sensitive nature of this issue none of the young people who we wanted to speak to were willing to come on with me. Because I normally do not come to these without young people with me. I make it one of my mantras—to bring young people with me. I just wanted to say that because it was a bit concerning, I think, when we got that feedback from young people. It probably does not add to the strength of what I am saying but I need you to know that what we are saying comes from our extensive work through the voices of young people. So I just thought it would be useful for you to know, and we are probably not the first group that has told you that either, I suspect.

The CHAIR: No. And, Carmel, we may actually talk to you after this to see if there is a way that we can encourage those young people and if there is another format that might work for them.

Ms GUERRA: Great. Excellent. I would be happy to talk about that. Okay, I will not go into a lot of detail because I know you have read our submission, so I think I am just going to summarise. You probably get an understanding of the kind of organisation we are. We are not what you would traditionally know as a youth justice service provider; we are a statewide agency that works with multicultural young people and families and through that lens have really worked with a very strength-based, youth-informed approach to working with young people, and that is how we have entered through the youth justice system. I myself—it might be in the records—have got a personal history because I am on the Youth Parole Board. I am on the Youth Parole Board as a culturally and linguistically diverse community member expert, so that has given me insights that probably many other people do not have. Of course that carries a high degree of responsibility around the kinds of issues that we address every day.

I wanted to first highlight—I know they did, actually, last week—the Smart Justice for Young People coalition. We want to endorse as a signatory to that the kind of high-level issues they raise—one, about community-led, place-based initiatives to tackle disadvantage; secondly, acknowledging, like we all do, that there is a disproportionate representation of some groups, including Aboriginal, Indigenous and young people from multicultural backgrounds; and thirdly, that we think it is important to raise the age of criminality to at least 14.

The other key things I wanted to highlight are, one, the need to really invest in community-based supports that strengthen integration that we think is missing. We think there needs to be new ways of working with these

communities and cohorts. I think we actually have to really dislodge what we are doing and really look at the reasons why such groups of young people are ending up in the youth justice system in such over-representation. We think there needs to be a much more collective impact. They need to decriminalise, they need to impact on communities with lived experience—those who work with us and experts in the field—and it requires a significant investment in early intervention. Because this same group of young people we are seeing are dropping out of school and fail any sense of belonging. So there is a connection there. That really requires us to work differently, harnessing resources differently and really recognising that these issues impact on a very small number in the cohort of young people who live in our state.

There is a disproportionate attention on this group, but secondly the way resources are probably distributed is not focusing on the areas that we need to divert these young people from crime. You know the figures of this group being the most disadvantaged. I am not going to go through those. But again it requires long-term investment. I think it requires courage for people to know that with a dollar spent today they may not see the results for five years but they should see the results with the siblings of this group and the children that follow.

And we have to involve the communities and families in this conversation, which I think is what is really missing. Hence why we are calling for and have called for for a long time—and it was called for in the Ogloff-Armytage report—a strategy that looks at why this group of young people are so over-represented. We really need to deep dive and put in long-term plans for why this group are so overly represented, whether it is in unemployment figures at the moment, in socio-economic disadvantage or in the youth justice system. Again we think that requires tackling the systemic underlying issues of why this is occurring.

The fourth thing is we need to reform bail. There is no coincidence that the change in bail reform has led to this group being in jail, and there have to be more creative and strengthening models of alternatives to remand at the moment to keep these kids back in the community and back connected. When you look at it there are often at a point equal numbers of young people in detention and on remand, and there is no way to provide any therapeutic intervention to those on remand. Often we are seeing some young people that we are paroling that have spent more time on remand than they have actually spent in youth detention getting any kind of support. So what sort of opportunity have these young people got if that is the kind of system? Personally I understand the reasons why those reform measures were put in at a toxic time of public policy around crime and gangs, but I really think the time now is to be brave and to rethink all those approaches and maybe engage with the sector in looking at more creative ways, because I think there is a real openness to community agencies and communities looking at different ways. We know the role that bail justices play; I am not being critical of them. It is the system, not them.

And then finally the issues around policing: I know there has been a huge shift in the way policing works in community, but we know that there are certain groups who feel they are over-policed—using their language, not mine—and that there is a correlation with their sense of over-policing. Some of the young people we work with go with seeing a police officer, not getting cautioned, bypassing the whole diversionary system and ending up in youth detention with no contact with the youth justice system. Again, that speaks to some failure of the police-community interface.

I might leave it there because I have gone through a whole lot, and I have tried to keep to my 5 minutes. I might have gone 1 minute over, but I just wanted to say they are the kinds of issues we think are at the forefront of conversation.

The CHAIR: That was a whirlwind but a very well rounded whirlwind, as it were, to get through all of those. I might start with that last point that you raised, which was around the over-policing. We are certainly looking at a system in the UK where there were similar fears and circumstances. They started a racial monitoring program where police were actually required to retain statistics about who they were actually stopping and how that policing was happening. Is that something that your organisation has or any of your members have looked at?

Ms GUERRA: No, we have not. I know it has been discussed at the Victoria Police advisory committees that I sit on and other stakeholders do. I think there is a bit of reluctance on VicPol's behalf. I am not quite sure what the reasons are; it would be useful to ask them. But I think that would be part of the problem of gathering the data. I think that is probably the challenge, isn't it, that young people say they are and police say no, they are not doing it. So there has to be some mechanism to see how much of it is a perception. And I am sure some of it is, to be honest, because we do know that some of the young people we work with are very community orientated, so they are more visible. Young people are more visible anyway, so there is a degree that they are.

But I think some way of documenting whether it is real or not would be really useful, actually, in fact, so we would probably endorse that approach.

The CHAIR: Thanks, Carmel. I think again it is just about having that data there so you can evaluate, and then, once you do, you can look at ways of addressing it. Then that I guess sort of goes to this idea of detention as the last resort. In your recommendation around diversion with detention as the last resort, you talk about mandated regulations to strengthen community responsiveness in assessment, decision-making and review processes for determining whether to detain or remand a young person. I wonder if you could speak a little bit more to that and whether your organisation has processes for that child. If we are going to put the child into diversion, do we have culturally appropriate programs?

Ms GUERRA: Great question. The answer to both of those is no, no. There are diversion programs, but our sense is, from what we know of them, they are not culturally tailored. I think this is the biggest failure of our system. We have a world-class youth diversion system, when I speak to my colleagues interstate, and we have the dual track, where we have young people who can be 22 or 23 years old who are vulnerable in the youth justice system. That is fantastic. So I do not think we want to undermine the premise of what we are doing.

I think the issue is that the kind of interventions they have put in place, whether they are diversion or in last resort, have not recognised that the profile of the child we had 10 years ago is not the profile of the child we have in the system now. You know, the predominance is not your young person who has come out of the child protection system. Yes, they are there—there is a large proportion—but there are increasing numbers of a recidivist group who are this group that are culturally diverse, who may have had one or two contacts with the youth justice system and have gone straight from living in the community with their family to a very serious crime to ending up in justice. So that means the kind of early interventions were not there for those young people because they have not been through the trigger system that would have put them in. So therefore you need to reframe your model and you need to start with when they are in the community with the family, with the supports, and say, ‘How do we keep this young person in the community?’. When they have gone from no crime to very high-level, public-facing crime, it requires a different approach, and I do not think we have done that. The youth justice model has not caught up with the profile of the young people that are in the system.

The CHAIR: Yes. Thank you. I will move to the Deputy Chair, Tien Kieu.

Dr KIEU: Thank you, Chair, and to Ms Guerra for being here today and for your organisation’s work in this very important area. I would like to find out from your experiences what you think about the challenges that face particularly the non-Indigenous multicultural youth, including those from a refugee background, what are the most pressing issues for them, what are the problems so that some of the multicultural cohort are over-represented in the justice system, in remand, in custody and so on, and how that would fit into the government’s plan of a youth justice strategic plan, just to reduce the recidivism and also to put diversion and early intervention in place. Could you take us through them, please.

Ms GUERRA: Yes. I could spend the next hour with that, Tien, talking about that, because that is an issue of great passion of ours. So I need to start by saying that this issue is not new. When I started my youth work in the 1990s, I worked intensively with the Vietnamese community. Those of you who are old enough to remember or have read enough will know that there was a very high over-representation of those communities, and particularly young people from the South-East Asian region, for very similar reasons to now, which is they were a group who had experienced alienation and disenchantment. They felt like they did not belong to their family culture. They did not feel like they were accepted in Australia so they engaged in criminal activity, often for financial reasons and for a sense of belonging and for a sense of finding purpose.

Some of that has not changed, so we need to acknowledge that as a country of multicultural groups, even though we have seen Australia integrate and we are generally harmonious, a lot of multicultural groups—and my own family are Italians—there were high levels of poverty when those communities came in until they went through the settlement process. So it is to be anticipated that, with lots of these groups, they will experience poverty, alienation and socio-economic disadvantage in their first, early years of settlement, so that often leads to engagement with police and the criminal justice system. That is not to say they are more involved in crime, but if they represent in areas where they are living in poverty and in families that are struggling often crime becomes a way for them to find their purpose. I think that helps to explain some of that—not completely. There is a lot of other work that has been done, and for some of them it is based on income, for some of them they think you go and steal to get what you want. For others it is about peer pressure, for others it is about a sense of belonging, for others they get involved in crime and then it becomes gang related. You know, there are

lots of complicated kinds of reasons as well as simple reasons for that. I think that is why the response has to be multilayered and speak to those different reasons why young people have engaged in crime as their last resort often, or sometimes as their first resort of problem-solving the issue they have.

Dr KIEU: What do you think about the claim of some that the media has become so sensationalised in its reporting and there is also very bad and negative publicity that may blow the problem up and also bring bad publicity to the community?

Ms GUERRA: Yes, I think that is a really good point. Many young people we speak to, and hopefully we will get a chance to get you to speak to some of them, felt that the whole of the African community, particularly the South Sudanese community, had been labelled as criminogenic because of the experiences of a few, and that was because the media, I think incorrectly and wrongly, identified that they were all South Sudanese young people involved in crime when for some of them, yes, because they are very visible. So if you see a South Sudanese young person or an Islander young person, they are very visible so it can be very confronting for people. I know, I work with those communities. For people it can be very confronting, but the media incorrectly played that out as if that was the key criteria rather than identifying them as young people, and they are not the only young people committing crime. I do think the media has a lot to answer for for the labelling of that community when there are so many young people also doing very well—educated, finishing school—who cannot get a job because employers and society have got a racial lens to employment as well. So that is why these young people often feel angry and that they do not belong, because they see their brothers and sisters, cousins and friends educated with qualifications, and they cannot get a job. So they are kind of caught in the middle, I think, too.

Dr KIEU: Thank you.

The CHAIR: Thank you. Tania Maxwell.

Ms MAXWELL: Thank you, Chair. Carmel, thank you so much for joining us today and for your wonderful submission. I just want to go back to get your opinion on evaluations. Now, we know that there are so many different organisations who are provided with funding. We know that at a federal level Aboriginals have something like \$30 billion a year. We often do not know or see where that money is going, and it has been mentioned previously in our committee. Do you think that we should have a right to know where that funding is going, where it is being spent and what the outcomes are? Because I think to move forward, from my perspective of being involved in that process previously, it is an imperative tool to have in order to determine what is working well or what needs to be perhaps changed, tweaked or whatever. How do you feel about—

Ms GUERRA: I could not agree with you any more. At the moment I am not sure that we know enough what interventions are working and whether they are evidence based. But to be fair to the organisations, that is often because government will fund you—and we are a recipient of the same—to trial a program, and then we will say, ‘We think you need another 10 or 15 per cent to put in an evidence-based, reflective learning evaluation process’, and they will say no. So I think it becomes a catch 22. You need to build some evidence base and some evaluation into any program that is put there.

The second thing is: when you are doing that, I think you also have to move to an evidence base for the kinds of communities we have in Australia. So I do not know whether Sheena will agree with me, but I know through my work with Indigenous organisations that we have been reaching out to that they have talked about the reframing they have had around what a justice intervention program looks like with First Nations people that many of the communities we work with say they would prefer, because at the moment they are putting in interventions that do not talk to them. So we have gone to our sister and brother Indigenous organisations going, ‘Can we have some of your learnings?’, because we think the translation is there, not in models that have come out of the US or the UK that do not speak to the communities we work with. So I think, Tania, it is probably both of those, yes, but I would like to see greater commitment to trying things that have not been tried before that have been tried with other groups that resemble the communities in Melbourne. Like, we are multicultural, there are First Nations, and most of the other programs that you see in the US do not deal with that cohort; most of the programs I have seen translated here do not. And I ask the question, and they go, ‘Well, no, it’s worked there’, but I am going, ‘Let’s look at the city. What does it look like? What does it feel like? Does it feel like Melbourne?’.

Ms MAXWELL: I guess if it is funded, it has got to be funded for a period of time that can sustain and enable those outcomes to be documented.

Ms GUERRA: Yes. And I would say long-term investment. If you look at some of the programs we have looked at, they are really 10-year plans—ideally 10 years with maybe markers there every three to five—which is pretty brave, because that is said to government, who work on four-year, luckily four-year. But I deal with the commonwealth, and it feels like it is 18 months in fact in between the elections; you can never have a conversation about 10-year investment, never mind five years.

Ms MAXWELL: Thank you, Carmel.

The CHAIR: Thank you. Sheena.

Ms WATT: Thanks, Chair. And thank you so much, Carmel. I read with great interest your submission, and thank you very much for that. In your opening remarks you spoke about being a member of the Youth Parole Board.

Ms GUERRA: Yes.

Ms WATT: So I had a question to that, which is: could you talk about what some of the trends or key themes are that we are seeing through the Youth Parole Board? It is a very now and relevant example that I think I would be interested to hear more about—not talking to any particular cases but on trends and themes. What should we know?

Ms GUERRA: Numbers are the lowest that they have ever been from my eight years on the parole board. I do not have the numbers offhand, but I think the system has got a capacity of over 300; I think we are down to 150. So the numbers are very low, but there are huge numbers on remand. I think remand must be close to 100 now, so that tells you something. I do not have the latest figures. So I think that is a very interesting trend. We had remand go down, and now it is back up again. Rates of young people in the system are going down, but the young people he have got in the system now are probably the most difficult, challenging, damaged young people; we have probably got 100 of the most damaged young people in Victoria. So we need to recognise that as well.

The other thing is that I think that the government and the department have been trying to reframe the way they engage, so I want to congratulate them on the changes they have put in place in an environment dealing with a very small cohort of very challenged, damaged young people. So I think some of those changes may take a while to impact. But then again I think the other trend is that, from the young people which I started with, the offences that young people are in with now are much more serious and violent than what they were eight years ago when I first joined the Youth Parole Board. So I think there has been a shift in the types of crime, which correlates with the public perception of them being, you know, possibly more public and more brazen—hence why we have created some kind of sense of fear, I think, in those. Because I have had a member of my family who was burgled, I know the fear that that created in their family. I am aware of that, and we have to take that in mind when we are paroling young people—what they have engaged in and the kind of responsibility they have when they re-enter the community.

The CHAIR: Thank you. Matthew.

Dr BACH: Thanks very much, Chair. Thanks, Ms Guerra. Can I take you back to the comments that you made about your support for the notion of raising the age of criminal responsibility?

Ms GUERRA: Yes.

Dr BACH: Numerous people in the sector who have spoken to me, especially just over the last couple of weeks since I took over the shadow youth justice portfolio—

Ms GUERRA: Yes. Congratulations, by the way.

Dr BACH: Thank you so much. It is great to be able to meet with you.

Ms GUERRA: Likewise. I probably would have written to you; we are in the process of writing to you all.

Dr BACH: That is all right. This is a good opportunity. Obviously there is much support within the sector for the idea of raising the age of criminal responsibility. Numerous people have also said to me, Carmel, that whilst they support that goal, right now the necessary support services are not in place to enable that transition. It has been interesting to me that I have heard that as such a consistent message, so I just want to draw you out

on that and see if that is your view as well and then what we would need to do to be able to get to that place, because I am very open to that conversation and certainly recognise that within the sector there is much support.

Ms GUERRA: Yes, look, that is a really great question, and it is the question that many of us have been working on, knowing that it is unlikely that this will happen in the near future and that we need to build the service system around what the alternative will be. There are some models overseas. I do not know whether this committee is familiar with the kind of models they have put in place in some of the Scandinavian countries and others. I know the numbers are much lower and it is a different cohort, but I think the notion of getting community service organisations with skills to provide a therapeutic, criminogenic, community-building response exists there, Matthew. It is just that we have to create those alternatives for this group of young people, who really are children, and that this group is increasing in number. Going back to Sheena's comment, they are getting younger, and I am not sure that putting them into a youth detention centre is going to add any improvement to them. We need to look at more community-based models that give them a sense of community in home with some wraparound supports—knowing that they have committed an offence and there has to be some consequences for that. So I get that.

I think we have to create something that does not exist. That is probably my simple answer to your question. So I would agree that if you said, 'Do it tomorrow', it will take organisations at least—I would have thought—six to 12 months. Because we probably would not be an organisation that would do that. We would see ourselves as an allied, secondary consultant, but the agencies who could do that would need lead-up time. But with the wonderful out-of-home care child protection agencies we have got, some of them could pivot to this. They just need the design time to do some of this alongside organisations that understand the criminogenic kind of needs for this cohort.

Dr BACH: All right, thank you. So in particular in your mind, Carmel, it would be agencies right now engaged in out-of-home care. And I share your regard for them.

Ms GUERRA: Yes.

Dr BACH: Okay. Thank you very much.

Ms GUERRA: I think so. But you would want to again make sure—because if you look at who is in remand at the moment, it goes back to my principal: you cannot just do a cookie cutter and go, 'Right, we do this in out-of-home care. We're going to translate it'. It is like they did with the Indigenous. They had to reframe, and now you have got Indigenous organisations running them. I think you have to bring the communities in, and in this case I know with the South Sudanese and the Islander communities, they are willing to help. It is just they have never been asked and do not know how to do it and have to partner with those who have got the skills to deliver it. But they will come in and bring in that community strengthening. I would not want to say that they could do it now, because they also have to change their models. They cannot just do it with who is in child protection now, because they are not the young people that are in youth justice. They are a different cohort.

Dr BACH: All right. Thank you very much. That is very useful.

The CHAIR: Thank you, Carmel. That was really interesting, and I do hope that we can organise some form of round table or some format that young people that engage with your organisation would be comfortable in being involved in. We will certainly work towards something there, and we will work with YACVic. I know you are a member of YACVic. So we will come back with that. Pressing questions for Carmel? Yes, Tien.

Dr KIEU: Carmel, thank you very much. You mentioned earlier about the experience you have had with particularly the Vietnamese community, where I came from as well.

Ms GUERRA: I thought you were, yes. But I did not want to assume. I thought you were, by your name, but I do not always like to assume.

Dr KIEU: That is fine. What lessons or experiences could we get from that episode—that has been some years past now—to be used for and applied to the newly arriving communities? Also to that question, because most of the people who are in touch with the justice system share some very basic characteristics, like being from a socially or economically disadvantaged background, family violence, drug or alcohol abuse and a few other things as well, can we use those as precursors so we can then home in on some of the at-risk communities

or individuals so that we can have very early intervention, particularly the siblings of those who are already in the system so that we can then have a reduction in the number of incidences like that?

Ms GUERRA: Look, it is a good question. And again, I could spend another half an hour on that. Yes, we did learn a lot of lessons. Really one of the biggest learnings I had after not being involved in the youth justice system and coming back in 2012 or 2013 was that all the work that people like me did in the 1990s had disappeared, so there was no corporate history or knowledge that was shared. So for me the biggest thing is: how do you ensure that whatever is set in place stays there? Even if the numbers drop, you need to have the system in place to ensure that you are culturally responsive to the groups that are in the system. That is my greatest learning. If we had kept some of those practices in, I think the justice system would have been better prepared and less shocked by what they have found, having now gone, 'I don't know what to do', because they did not learn the lessons from the past. They were not embedded in the system in some way.

Dr KIEU: That is good. So once again the retaining of the corporate memory and also the data collection as well—we came across that again and again.

Ms GUERRA: Yes, the data collection and also a focus that there is no multicultural unit within youth justice. There are multicultural staff within the youth justice system, but they do not have a champion. They do not have someone who is in the department who leads this work. That in itself would be a big step because it would mean there was someone at a senior level whose role would be to ensure that this issue is looked after as numbers go up and down—because they will, and we want them to go down.

Dr KIEU: We do all want that.

The CHAIR: Yes. Carmel, thank you so much. And as I mentioned at the start, you will get a transcript of today. Have a look at it. If you need to make any changes, please let us know.

The committee might just pivot straight to our final witness for today. Carmel, thank you again. On behalf of the committee, we really appreciated your candour and everything today.

Ms GUERRA: Yes, lovely—and lovely to meet you all that I have not met. I look forward to getting groups of young people to meet with you, so we will follow that up, Fiona, with Sam and the others.

The CHAIR: Terrific. We will work on that.

Ms GUERRA: Thank you for the opportunity. Bye.

The CHAIR: Thank you.

Witness withdrew.