

# WHAT CAN BE DONE

28 August 2021

## **SUBMISSION TO LEGAL AND SOCIAL ISSUES COMMITTEE, PARLIAMENT OF VICTORIA INQUIRY INTO VICTORIA'S CRIMINAL JUSTICE SYSTEM**

### **Residential Therapeutic Treatment for Young People suffering from severe alcohol and other drug (AOD) issues**

On behalf of the What Can Be Done Steering Committee we wish to provide a submission to the Victorian Parliamentary Inquiry into Victoria's Criminal Justice System.

We wish to specifically respond to the first two categories listed in the Inquiry's Terms of Reference, namely:

- (1) An analysis of factors influencing Victoria's growing remand and prison populations; and
- (2) Strategies to reduce rates of criminal recidivism.

### **Background**

We are making this submission on behalf of the "What Can Be Done" Steering Committee – 26 people who work in senior positions in Victoria across the fields of drug/alcohol and mental health support services, including psychiatrists, addiction specialists, the CEOs of residential drug and alcohol treatment services, those with lived experience and key advocacy organisations.

The Steering Committee has been convened to progress the recommendations of the Churchill Fellowship Report written by Magistrate Jennifer Bowles entitled "What Can Be Done? Residential Therapeutic Treatment Options for Young People Suffering Substance Abuse/Mental Illness." Jennifer Bowles has been a Magistrate for 23 years and she has sat for most of this time in the Children's Court of Victoria. Magistrate Bowles' Report and recommendations have attracted significant attention.

We have attached a copy of Magistrate Bowles' Fellowship Report, our submission to the Royal Commission into Victoria's Mental Health system (which includes as attachments a 6-page summary of the Report, relevant Youth Parole Board of Victoria statistics and a paper on Human Rights implications) and a link to the University of Queensland's Centre For Policy Futures *Policy Impact Program (2021)* publication which includes Magistrate Bowles' article entitled '*Why can I lock kids up but I can't ensure they receive treatment?*'.

### **(1) An analysis of factors influencing Victoria's growing remand and prison populations**

**87%** of young people in Youth Justice custody have a history of drug and/or alcohol misuse.

**83%** offended whilst under the influence of alcohol and/or drugs.

**67%** are victims of abuse, trauma or neglect.

**41%** have mental health issues.

As these figures clearly demonstrate, there is an inextricable link between those young people in detention and offending whilst under the influence of substances. Far too many children and young people appearing before the Children's Court of Victoria have severe substance abuse and/or mental

health issues. Very few of these young people effectively engage in treatment at present. This so often leads to a revolving door of substance use, offending and detention.

The Steering Committee is unanimously of the view that there is a critical need to support young people who are not effectively engaging with or accessing drug and alcohol therapeutic treatment services at present. In addition to those in custody, many of the young people appearing before the Criminal and Family (child protection) Divisions of the Children's Court of Victoria have been subject to trauma, abuse or neglect. The Court does not have the power to make orders to ensure effective secure therapeutic treatment opportunities are provided for them. Many of these young people lead extremely chaotic and vulnerable lives and are unwilling or unable to make rational decisions about accessing voluntary detoxification or rehabilitation services.

Effective early intervention to address the substance abuse and underlying issues will clearly impact positively on the lives of many of these young people, thereby significantly reducing the long-term remand and prison populations.

## **(2) Strategies to reduce rates of criminal recidivism**

The purpose of Magistrate Bowles' Churchill Fellowship was to examine international mandated residential treatment services to identify whether they can be successful for this cohort of troubled young people who are not effectively accessing existing services. Magistrate Bowles concluded that mandated secure therapeutic residential services are effective, provided the young people receive high quality, professional therapeutic support in a non-punitive environment. Education and training are vital elements of such facilities as is the opportunity to transition to step-down accommodation and follow-up support in the community. She recommends that the Children's Court of Victoria have the power to make Youth Therapeutic Orders for young people, appearing before the Children's Court in criminal, child protection or intervention order proceedings, who are assessed as suitable for such orders (refer to pages 40 - 43 of the Report for the proposed model and critical elements). To address the over-representation of aboriginal children and young people in custody, the therapeutic services provided on the Youth Therapeutic Order need to be delivered in a culturally safe space.

As evidenced by the diversity and seniority of the members of the Steering Committee, there is extensive professional support for the recommendations in the Report. Additionally, Magistrate Bowles' recommendations have been supported by key Victorian State forums and Reports:

Recommendation 19 of the Final Report of the Inquiry into Youth Justice Centres recommended that the Victorian Government '*establish a trial program of Youth Therapeutic Orders based on the What Can Be Done model.*'

The Victorian State Government commissioned 'Youth Justice Review and Strategy meeting needs and reducing offending' Report, conducted by Penny Armytage AM and Professor James Ogloff AM recommended in its Executive Summary (page 14): '*There is also merit in considering a youth therapeutic order for court-mandated therapeutic treatment for young offenders. This has been proposed to address these deficiencies by Magistrate Bowles (2014) and the 'What Can Be Done' Steering Committee.*'

Magistrate Bowles was fortunate to be invited to address the Victorian Ice Action Taskforce convened by the Premier. He committed to having the matter further considered.

We would greatly appreciate the Victorian Government giving serious consideration to the **establishment of Youth Therapeutic Orders, appropriate facilities and therapeutic services to**

**support those severely troubled young people who, without such measures, are at grave risk of falling through the cracks, continuing the downwards trajectory into adult prison.**

We would greatly appreciate the opportunity to appear before the Legal and Social Issues Committee to further discuss our recommendations.

Yours sincerely,

**Magistrate Jennifer Bowles**

**Churchill Fellow**

**Frank Dixon**

**Chair**

**What Can Be Done Steering Committee**

