



Scrutiny of Acts and Regulations Committee  
Parliament House  
Spring Street  
East Melbourne VIC 3002

1<sup>st</sup> June 2017

By email: [sarc@parliament.vic.gov.au](mailto:sarc@parliament.vic.gov.au)

Dear Committee Members,

**Justice Legislation Amendment (Protective Services Officers and Other Matters) Bill 2017**

Youthlaw is writing to express our grave concerns regarding the introduction of the *Justice Legislation Amendment (Protective Services Officers and Other Matters) Bill 2017* (the Bill).

The Bill provides PSOs with a range of additional police powers with the objective to deter, prevent and detect ant-social behaviour and crime and to improve feelings of safety.

The *Protective Service Officers (PSO) Bill* expands PSO powers to the extent they can randomly stop and search children for weapons and drugs without warrant, request their name and address, and apprehend children under an emergency care warrant. The bill extends the scope of transit PSOs' powers to enable the exercise of those powers both at, *and in the vicinity of*, a designated place. The powers of concern are:

- Requesting name and address of suspected offender or person with information about an indictable offence (Division 4 of part 2)
- Randomly search members of the public in a specified place, as part of a planned 'control of weapons' operation under the Control of Weapons Act 1990.
- Conduct warrantless searches for drugs of dependence under part VI of the Drugs, Poisons and Controlled Substances Act 1981;
- The bill amends the Victoria Police Act 2013 and various other acts to enable transit PSOs to exercise their powers at or 'in the vicinity of' a designated place.
- Apprehend a person under an emergency care warrant under the Children, Youth and Families Act 2005 (Division 1 of part 2)

Youthlaw is extremely concerned that these expansions of powers in the Bill are inconsistent with fundamental human rights in the *Charter of Human Rights and Responsibilities Act 2006* (Charter), especially as they limit the rights of children and young people, particularly:

- the right of every child, without discrimination, to protection in his or her best interests (section 17(2))
- Section 13(a) of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with
- Section 8(3) of the charter provides that every person is equal before the law and is entitled to equal protection of law without discrimination.

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We believe there is a real danger that these new powers will lead to an increase in harassment of children and young people and arbitrary “teen” or racial profiling of vulnerable young people. Youthlaw lawyers hear many stories already of young people feeling targeted by PSOs and harassed for their personal details. This expansion of powers will compound the problems. In this regard we refer the Committee to *Tracking Protective Services Officers: Insights from the first three years* (Federation of Community Legal Centres Victoria; April 2015).<sup>1</sup>

We also refer the Committee to an IBAC report from 2016 *Transit Protective Services Officers - An exploration of corruption and misconduct risks*<sup>2</sup> identified a key area of risk in relation to PSO conduct which included assault and excessive use of force.

In relation to giving PSOs power to apprehend a child under an emergency care warrant under CYFA, we note that these children will be predominately from the out of home care system, and most likely will have been charged (often for a breach of a minor house rule) by a police member who has attended a residential care facility. So by then empowering PSOs in this way to apprehend these children who have already had this negative experience of police, fails to protect these children in their best interests and compounds, rather than addresses poor relations and policing practice.

The Statement of Compatibility expressly states that parts of the Bill (such as searches of children for drugs or weapons) are not compatible with human rights. Minister Neville determined sections that effectively means children can be stopped and searched randomly in a public place for a weapon within a designated area are incompatible with the charter in relation to section 13(a) and section 17(2). *“However, the government believes that this legislation is important for preventative and deterrent reasons, including the protection of children.”*

We dispute this assertion. These proposals are not grounded in an demonstrated evidence base. We note that the Victorian Auditor-General's

Office audit of the effectiveness of the PSO program in 2016 found that while there is evidence that people who travel on trains at night feel safer due to PSOs, there is insufficient data to assess the impact, if any, that PSOs have had on crime rates.<sup>3</sup>

And we respectfully submit these limitation are neither ‘reasonable’ nor ‘demonstrably justifiable’, but rather there as less restrictive measures available that avoid infringing in this way on the rights of children and young people.

Youthlaw recommends the following less restrictive measures:

1. We submit Government not expand PSOs powers as proposed in the Bill, or
2. Children below 18 years be made exempt from random police search powers.
3. That any person stopped and searched under the Bill to be given a receipt
4. That Government consult further, particularly about the need for additional training and skills for PSOs to work respectfully and appropriately with children with complex issues.

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<sup>1</sup> See: [http://www.fclc.org.au/cb\\_pages/your\\_rights\\_on\\_track\\_with\\_psos.php](http://www.fclc.org.au/cb_pages/your_rights_on_track_with_psos.php)

<sup>2</sup> See more at: <http://www.ibac.vic.gov.au/publications-and-resources/article/transit-protective-services-officers#sthash.diy2Xrl.dpuf>

<sup>3</sup> [http://www.audit.vic.gov.au/reports\\_and\\_publications/latest\\_reports.aspx](http://www.audit.vic.gov.au/reports_and_publications/latest_reports.aspx)

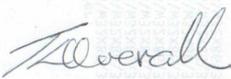
While the Government states PSOs are “highly trained” undergoing a 12-week training course at the Police Academy, which gives them the same training as police officers in respect of their specific community protection functions. We respectfully submit this doesn’t equip them sufficiently with the skills to respond to and interact professionally and appropriately with children and young people, especially those with complex needs

Similarly to police officers, PSOs are trained to execute search powers that form part of their functions. This includes receiving training in relation to conducting searches of children. However it is useful to note this actually involves three one-hour training modules with a focus on working with children, namely:

- Week One: Adolescent development and how this intersects with policing.
- Week Three: Young people and referrals.
- Week Eight: Scenario on young people at a railway station which explores the assistance that can be provided by internal to police and external from police resources.

We submit PSOs would need additional training and higher skills to enable them to have the power to arrest a person who has breached their parole, conduct searches for illicit drugs, and request names and addresses from young people.

Yours sincerely

A handwritten signature in cursive script that reads "T Overall". The signature is written in black ink on a light-colored background.

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