

The Shopfront

YOUTH LEGAL CENTRE

The Secretariat
Review of Police Oversight

24 June 2015

By email: policeoversightreview@justice.nsw.gov.au

Dear Sir

Review of Police Oversight: Submission re Terms of Reference

1 Introduction

The Shopfront Youth Legal Centre is a free legal service for homeless and disadvantaged young people aged 25 and under. The Shopfront has been operating since 1993 and is a joint project of the law firm Herbert Smith Freehills, Mission Australia and the Salvation Army.

The Shopfront represents and advises young people on a range of legal issues, with a particular emphasis on criminal law. Most of the young people we assist as criminal defendants are also victims of abuse with unresolved trauma.

The Shopfront's clients come from a range of cultural backgrounds, including a sizeable number of indigenous young people. Common to most of our clients is the experience of homelessness: most have been forced to leave home due to abuse, neglect, domestic violence or extreme family dysfunction. Moreover, most of our clients have limited formal education and therefore lack adequate literacy, numeracy and vocational skills. A substantial proportion also have a serious mental health problem or an intellectual disability, often co-existing with a substance abuse problem. These young people have difficulty successfully navigating the different bureaucracies related to housing, health care and income support, in addition to managing their legal issues.

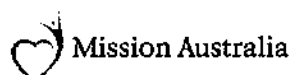
2 Importance of having a robust police complaints process for vulnerable young people

The young people we represent frequently come into contact with police. Our clients often report that such interactions result in adverse outcomes. It is not unusual for an interaction to escalate because of a combination of factors. These often include our clients difficulty in communicating effectively by reason of their vulnerability, and sometimes overzealous and improper conduct by Police.

The avenues and remedies available to this vulnerable client group appear to be limited. This is so, even though the distress and trauma experienced can be significant. There is clearly an imbalance in power between police officers and homeless and disadvantaged young people. It is our experience that the available complaints procedures are not genuinely accessible to this cohort of young people who form our client group. Further, in many instances, there is not available to disadvantaged young people an advocate for them in the complaint process.

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3 General Comments on the Terms of Reference for the Review of Police Oversight

Many of the issues raised in the terms of reference are beyond the scope of our knowledge and expertise at the Shopfront. Therefore we will only be providing general comments and not addressing each specific item in the terms of reference.

We endorse the concept of a single civilian oversight model that is independent, properly funded and resourced, its proceedings are open and transparent and it is easily accessible to vulnerable people such as our client group. We believe that such a model would need to have some form of coercive power, rather than just making recommendations. We also consider that there should be an avenue of appeal available where participants in the process are not satisfied with the outcome.

Independence

Any such oversight body investigating complaints against police must be independent. In our submission, this is one of the significant factors that will promote public confidence in policing and police oversight (as specified in item 5 (c) of the Terms Of Reference). In our view, this will avoid the common perception of bias expressed when "police investigate police."

Transparency

Any investigations carried out by such a body should be transparent. In our view this would assist in providing accountability in relation to the powers and discretions exercised by police (Item 5 (d) of the Terms of reference). A common experience reported by our clients who have made a complaint about police conduct, is that although they are informed that an investigation has been carried out, limited information is provided about how the determination was reached or whether any of the recommendations were actually carried out. The young person therefore feels excluded from the process and suspicious of the result. This is not, in our submission, a desirable outcome.

Accessible complaints system

As discussed above, most of our clients have limited formal education and therefore lack adequate literacy, numeracy and vocational skills. A substantial proportion also have a serious mental health problem or an intellectual disability, often co-existing with a substance abuse problem. These young people have difficulty successfully navigating bureaucracies in their day to day life let alone the challenges of putting together a police complaint. We therefore fully support the requirement in item 5 (e) of the Terms of Reference that a user friendly system should be created for complainants, police officers and other affected parties. We would emphasise that such a system can only be considered 'user friendly' if the disadvantages faced by our client group are taken into account. One option is that a separate division with officers specially trained to assist vulnerable people be set up, which also allows for oral complaints rather than complaints in writing.

4 Conclusion

We represent vulnerable young people whom unfortunately are overrepresented as a group when it comes to interactions with the police force. Many disadvantaged young people we represent report being dealt with inappropriately and this can have a significant impact on their wellbeing.

We endorse the concept of a single civilian oversight model for Police in NSW. However we submit that such a body should be independent, properly funded and resourced, its proceedings open and transparent and that it be easily accessible to vulnerable and disadvantaged members of our community.