

ELECTION POSITION PAPER

JUSTICE



FEDERATION
OF COMMUNITY LEGAL CENTRES VIC.

RESTORATIVE JUSTICE NOT PRISONS

Half of the people who end up in prison come from only 6 per cent of postcodes.¹ We need a justice system that tackles disadvantage and allows all people, no matter who their parents are, where they grew up, or the colour of their skin, a chance to thrive. We need to tackle the causes of disadvantage and inequality, not lock people up who are experiencing tough times.

- 1. Cut the incarceration rate for people of colour in half.** In the last decade incarceration of Aboriginal and Torres Strait Islander people have increased by 275%. In 2006-07 Aboriginal people made up 6% of the prison population now it is 11%.² We must tackle discrimination in all law reform processes to half the number of people of colour in our prisons by 2020.
- 2. End mandatory sentencing.** We know that dictating sentences leads to unjust outcomes. A judge should not have to sentence a person to prison who has been a victim-survivor of family violence who lashes out at a police officer. To tackle crime we need to look at the causes of crime not tell judges how to do their job.
- 3. Improve bail accommodation to keep people out of prison if they have not been convicted for an offence.** Nearly one in three men in prison has not been sentenced for an offence,³ for women it is almost half.⁴ Many people in prison on remand are there simply because they do not have a home.⁵ Increasing bail accommodation will keep people who have not been sentenced out of prison and families together.
- 4. Expand the Drug Court and the Family Drug Treatment Court (within the Children's Court) including to rural and regional Victoria.** Evidence shows diversion is the best solution: drug diversion programs are proven to reduce rates of offending among participants.⁶ The Government should expand the Drug Court and the Family Drug Treatment Court beyond Melbourne and Dandenong to ensure access in rural Victoria, particularly since regional families already struggle with fewer services.
- 5. Commit to permanently funding Victoria's safe injecting room.** International evidence confirms that safe injecting rooms save lives and set people on the path to dealing with addiction.⁷ The safe injecting room is a crucial way to keep people safe, while diverting those with a drug dependency away from the criminal justice system and toward the medical and social services they need to assist their recovery.
- 6. Lift the ban on pen pal programs in Victorian prisons.** Pen pal programs are a powerful way to improve the mental health of people in prison and improve the skills that people need to access employment and other opportunities outside of prison.

¹ Victorian Ombudsman, 'Investigation into the rehabilitation and reintegration of prisoners in Victoria', September 2015, 5.

² Department of Justice and Regulation – Corrections Victoria 'Annual Prisoner Statistical Profile 2006-07 to 2016-17' – available: <http://www.corrections.vic.gov.au/utility/publications+manuals+and+statistics/annual+prisoner+statistical+profile+2006-07+to+2016-17>

³ Inquiry into youth justice centres in Victoria Final Report, 65-66

⁴ Ryan Tennison, 'Women on remand in Victorian jails costing government \$111k a year', *Herald Sun*, 14 May 2018.

⁵ 1 in 4 people were homeless prior to entering prison. Australian Institute of Health and Welfare, 'The health of Australia's prisoners 2015', 28

⁶ Magistrates' Court of Victoria, Evaluation of the Drug Court of Victoria: Final Report (2014) 4.

⁷ European Monitoring Centre for Drugs and Drug Addiction, Drug consumption rooms: an overview of provision and evidence (June 2017).

YOUNG PEOPLE

Young people should have the world at their feet and endless opportunities to pursue their dreams. For young people in out-of-home care, who are victims of family violence, or whose family is struggling to get by whether they are white, black or a person of colour this is not the case. To send a young person who has experienced disadvantage to jail only further entrenches disadvantage, and can begin a cycle of offending. We need to provide support not prisons and allow all young people a chance to thrive.

- 7. Close children's prisons and invest in education, health and housing for children and their families.** Young people belong with their families and in school, not in prisons. The evidence shows that young people do better when we provide support early rather than seeking punishment or retribution. Commit to close children's prisons and replace them with supportive communities and services to help children thrive.
- 8. Stop Residential Care being a fast track to prison.** One in three young people in out-of-home care require legal help for criminal matter.⁸ Children are being charged with minor offences – smashing a coffee mug or spreading food around. Matters that would not attract police attention had they happen in a family home. Reduce the contact of young people in residential care with police and the criminal justice system by implementing the Care not Custody recommendations.
- 9. Fund programs that support the rights of young people.** Community justice programs are integrated services that provide support and legal advice and representation for young people. Programs such as school lawyer, sporting change legal education, and early support for young people who are victims of family violence, empower young people helps them avoid being trapped in the criminal law system.

RESPECT AND ACCOUNTABILITY FOR OUR POLICE FORCE

Everybody deserves to be treated with respect and dignity in their interactions with the police. For police to be respected they need to be accountable, this requires complaints of police misconduct are investigated independently and that people are not harassed by the police because of who they choose to associate with.

- 10. Fund a fully-independent body to provide oversight and handle complaints about police conduct.** A parliamentary inquiry confirmed that Victoria's 'police investigating police' model was failing to address complaints of misconduct promptly, transparently and effectively.⁹ Victoria urgently needs a human rights compliant and fully independent police complaints system to serve all Victorians.
- 11. Introduce stop and search receipting.** African-Australian men are 2.5 times more likely to be stopped and searched than Caucasian men. To ensure transparency and accountability for policing, and protect all of our civil rights, police should be required to provide receipts that set out the reason why a person is stopped or searched by police.
- 12. Reject proposed anti-association laws.** Police should not be able to target people for arrest and imprisonment based on who they are friends with. This undermines fundamental civil liberties and freedom of association. Similar laws in other states have been misused and abused.¹⁰
- 13. Suspend the roll out of body worn cameras for police officers until proper safeguards are implemented.** Footage from body-worn cameras should be available to people who make police complaints and cameras should not be turned off at the discretion of police officers with no penalties for failing to record critical incidents.

⁸ Victoria Legal Aid, 'Care not custody: A new approach to keep kids in residential care out of the criminal justice system', 2016

⁹ Parliament of Victoria, [Inquiry into the external oversight of police corruption and misconduct in Victoria](#), September 2018.

¹⁰ See NSW Ombudsman, [Media release: Ombudsman report on the NSW consorting law](#), 2016.

14. Roll back the use of military-style weapons by Victoria's police officers. The switch to semi-automatic rifles is unnecessary and poses a danger to the Victorian community.¹¹ Police use of pepper-ball guns and rubber-pellet grenades in public protests will stifle public protest and civic participation.

ACCESS TO JUSTICE

Increasing pressure is on our justice system, with bail laws locking up more people before trials, with mandatory sentencing giving no option but to lock people who plea guilty up, there will be more contested hearings and more need for legal assistance. Aboriginal and Torres Strait Islander people and young people in state care, who are targeted by the police, have a right to access justice.

15. Retain de novo appeals to the County Court. De novo appeals are an important 'safety net' for summary justice system. It can provide a remedy to those in the Magistrates' Court who are unrepresented and have not received adequate legal advice, to the speed at which matters are dealt with in the Magistrates' Court, as well as those who have had serious criminal offences tried summarily.

16. Fund culturally appropriate legal assistance to Aboriginal and Torres Strait Islander children and young people. As a result of racial profiling and other inequalities in the justice system, Aboriginal young people are policed more,¹² and more likely to be held on remand without conviction.¹³ Aboriginal children who interact with the youth justice and child protection systems deserve legal representation.¹⁴

17. Fund legal representation to reflect increased demand and legal need in the community. The raft of new criminal justice policies proposed as part of the 'law and order' agenda means that vulnerable people increasingly depend on support from community legal centres. Legal representation is a right and everyone should have access to it.

¹¹ Farrah Tomazin & Cameron Houston, '[Victoria Police to get military-style semi-automatic guns](#)', *The Age*, 28 March 2018.

¹² Police Stop Data Working Group, *Monitoring Racial Profiling: Introducing a scheme to prevent unlawful stops and searches by Victoria Police report on racial* (2017) 14.

¹³ Amnesty International Australia, *A Brighter Tomorrow: Keeping Indigenous Kids in the Community and Out of Detention in Australia* (2015) 31.

¹⁴ Victorian Aboriginal Legal Service, '[Media release: Lack of funding forces Aboriginal legal service for children to close](#)', 20 September 2018.