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Deputy Commissioner Strategy
Victoria Police- Community Consultation
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By email to: VP-COMMUNITY-CONSULTATION-MGR@police.vic.gov.au

16 August 2013

Improving transit PSO public contact at train stations

Dear Deputy Commissioner

The Federation of Community Legal Centres (Victoria) welcomes this opportunity to comment on the Victorian Police Community Consultation- Field Contact Policy and Cross Cultural Training.

We authorise Victoria Police to use whole or parts of this submission for publishing.

About the Federation

The Federation is the peak body for 51 community legal centres (CLCs) across Victoria. The Federation leads and supports CLCs in pursuing social equity and access to justice.

The Federation:

- provides information and referrals to people seeking legal assistance;
- works for law reform to develop a fairer legal system that better responds to the needs of the disadvantaged;
- works to build a stronger and more effective community legal sector;
- provides services and support to CLCs; and
- represents CLCs' priorities and interests.

About community legal centres and why policing issues matter to us

Every year, community legal centres assist over 100,000 Victorians. Over 80% of our clients earn less than \$26,000 a year and around 60% receive assistance from Centrelink. In particular, we assist people with mental illness and intellectual disability, homeless people, young people, Aboriginal and Torres Strait Islander peoples and people from culturally diverse backgrounds.

CLC client groups have the most to gain from criminal justice policies that successfully reduce crime — and the most to lose from policies that are ineffective and discriminatory. The experience of crime is not shared equally across the community. The clients we represent are more vulnerable to crime and accordingly will benefit from effective crime reduction measures to a greater extent. Conversely, many of the groups we represent are more likely to

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be impacted negatively by interactions with the police, for example through the use of move on and stop and search powers.

Endorsement

We refer you to submissions from our member centre Flemington & Kensington CLC and Smart Justice for Young People a coalition of leading community organisations led by our specialist member centre Youthlaw.¹

We have had an opportunity to read these submissions and we endorse the views and recommendations in those submissions.

Improving PSO public contact at train stations

While we are not providing a detailed submission on every aspect of this consultation, we would like to provide some comments around experiences relating to train station Protective Services Officers (PSOs).

Community legal education around PSOs

As a result of concerns around the gradual introduction of 940 armed PSOs at all train stations in Melbourne and some regional stations, we established a community legal project 'Your Rights On Track'.² The project, run in collaboration with Youthlaw and the Mental Health Legal Centre informs people about their rights and responsibilities when dealing with PSOs and advocates for an evidence-based approach to train safety in Victoria.

One of the concerns we have with the introduction of PSOs is around PSOs exceeding or inappropriately using their powers, particularly against young, homeless, culturally diverse, Indigenous and people with cognitive disabilities.

Issues around PSOs asking for personal information

Transit PSOs have a broad range of police-like powers and responsibilities while they are on duty in designated areas on and around train stations.³ These legislative powers include the power, in certain limited circumstances, to request a person's name and address, such as where a PSO believes on reasonable grounds that a person:

- Has committed or is about to commit an offence or may be able to assist with the investigation of an indictable offence.⁴
- Has committed or is about to commit a public transport offence or infringement.⁵

¹ Available at www.communitylaw.org.au/flemingtonkensington/cb_pages/files/Victoria%20Police%20Inquiry%20ABL%20FKCLC%20Submission.pdf and

² Further information about the project is available at www.fclc.org.au/cb_pages/your_rights_on_track_with_psos.php.

³ *Police Regulation Act* (1958) s 118D(1)-(2).

⁴ *Crimes Act* (1958) s 456AA(1).

⁵ *Transport (Compliance and Miscellaneous) Act* (1983) s 218B.

These legislative powers do not extend to requesting personal information such as a person's date of birth.

For alleged offences under the *Crimes Act*, there is a requirement to inform the person of the grounds for the belief that a person has committed or is about to commit an offence so that a person can understand the nature of the alleged offence.⁶

Risk of inappropriate exercise of powers

Based on comments from we have received from commuters from our community legal project *Your Rights on Track*⁷ we have concerns that some PSOs may be exceeding their powers by requesting personal information from commuters in circumstances where there is no lawful basis to request such information.

For example, one commuter indicated to us that in her experience PSOs have asked:

inappropriate questions for no particular reason. They have no right to question people and asking identification details such as address, full name and date of birth, who are not doing anything but minding their own business and waiting to go home.

Another commuter told us he was not advised by PSOs why he was asked for personal information:

I was questioned and had my address recorded by three Protective Services Officers at Richmond station last night while waiting for a friend, without being told why. I was unsure of my legal rights.

An assumption based on the observations of another commuter at a particular station was that the PSOs:

are directed to collect x number [of personal information requests] per shift, they have nothing else to do and EVERY incident of them approaching someone for an ID that I have seen, the person was waiting quietly on the platform.

A potential consequence of these kinds of interactions with PSOs is that some commuters will form negative perceptions about the role PSOs perform.

In some situations where people feel unfairly targeted and then refuse to provide their name and address, there is scope for a PSO to then charge that person with failing to provide those details, irrespective of whether the PSO had grounds to request those details in the first place.⁸ Incidents like this then have

⁶ *Crimes Act* (1958) s 456AA(2).

⁷ www.facebook.com/PSO.YourRightsOnTrack

⁸ *Crimes Act* (1958) s 456AA(3).

the potential to escalate further.

Improving PSO policy around requests for personal information

The current Victoria Police policy that relates to transit PSO does not give any instructions to PSOs as to the limited circumstances in which they can lawfully request a person's name and address.⁹

The policy could be improved by:

- Providing guidance to PSOs on the circumstances in which they can lawfully request a person's name and address with a direction that PSOs should not request such information where there is no legal power to do so.
- Providing instructions to PSOs that they are required to inform a person why they are asking for their name and address when they have lawfully requested that information under the *Crimes Act*.¹⁰

Conclusion

We hope that Victoria Police will consider our comments and endorsements when it makes recommendations in relation to this consultation.

We recognise the importance of this review as an opportunity to improve policing issues in a tangible, positive and productive way and look forward to working with Victoria Police in promoting respectful and accountable interactions between PSOs and commuters.

Please do not hesitate to contact me on 03 9652 1507 or michelle.mcdonnell@fclc.org.au if you wish to clarify any points in our submission.

Sincerely,



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⁹ PSOs CCI Instruction 4/12 Protective Services Officers on the railway network (2013).

¹⁰ See s 456AA(1) and the requirement in s 456AA(2) to inform the person of the grounds so that a person can understand the nature of their alleged offence.