

Rights of passage: The experiences of Australian-Sudanese young people

A report by the Victorian Equal Opportunity
& Human Rights Commission



Victorian Equal Opportunity
& Human Rights Commission



Victorian Equal Opportunity & Human Rights Commission

Level 3, 380 Lonsdale Street Melbourne Victoria 3000

Advice Line	(03) 9281 7100
Telephone	(03) 9281 7111
Facsimile	(03) 9281 7171
TTY	(03) 9281 7110
Interpreters	(03) 9280 1995
Toll Free	1800 134 142 (country callers)
Email	information@veohrc.vic.gov.au
Website	www.humanrightscommission.vic.gov.au

DISCLAIMER: This information is intended as a guide only. It is not a substitute for legal advice.

YOUR PRIVACY: The Victorian Equal Opportunity & Human Rights Commission complies with Victorian privacy laws and the confidentiality provisions of the *Equal Opportunity Act 1995*. Our privacy policy is available online at www.humanrightscommission.vic.gov.au/privacy or by contacting the Commission.

Authorised by the Victorian Equal Opportunity & Human Rights Commission, 3/380 Lonsdale Street, Melbourne, Victoria 3000

Printed by Printmode, 125-133 Thistlethwaite Street, South Melbourne Vic 3205. December 2008

Copyright: © Victorian Equal Opportunity & Human Rights Commission (2008). No part may be reproduced by any process except with permission from VEOHRC or in accordance with the provisions of the Copyright Act 1968 (Cwlth).

ISBN: 978-0-9757342-9-2

About this report

The information provided to the Victorian Equal Opportunity and Human Rights Commission (Commission) is, to the best of our knowledge, accurate. The Commission has sought to report this information fairly and accurately. In some cases names and case studies presented in this report have been altered to protect the identities of individuals while still allowing them to have a voice. Some quotes were gathered from larger group meetings where individual names were not collected.

Use of terminology

The research initially targeted young people from African backgrounds generally but through the course of the consultations came to focus on the largest group of Australian-African young people in the City of Greater Dandenong – young Australians from Sudanese backgrounds. A few young people of Congolese and South African backgrounds were also interviewed.

The Commission has chosen to use “Australian-Sudanese young people” to describe young Australians who are born in Sudan or identify as having a Sudanese ancestry or background. The term Australian-Sudanese emphasises what many young people told us through the report that they were proud Australian citizens, identified as Australians and wanted to be considered as part of the mainstream Australian community and given the same opportunities.

The report refers to both Australian-African young people and Australian-Sudanese young people. The term Australian-African young people is used when including Australian-Sudanese and other Australian-African community members. The term Australian-Sudanese is used when the research is specifically and only referring to Australians of Sudanese backgrounds.

Acknowledgements

The Commission acknowledges the considerable time and effort that all the young people who participated in the research gave. Many of these young people met with the researchers after school and disrupted homework assistance and sports games to contribute.

The Commission was overwhelmed by community organisations and young people who wanted to contribute to the research. The Commission specifically thanks community youth organisations that assisted in notifying young people of the research and specifically Claudia Akabah (Centre for Multicultural Youth), Springvale Community Aid and Advice Bureau, South Eastern Region Migrant, South Sudan Equatorian Association, Springvale Monash Legal Service, the Lost Boys Association and Mission Australia.

The Commission also received support from the City of Greater Dandenong Council and appreciate its willingness to work with the Commission on this project and support of the launch of the report.

Other invaluable assistance for the research came from Sally Curtain, from the Department of Justice, whose knowledge and experience in the Southern Region assisted in the identification of key stakeholders.

Table of contents

Acronyms and abbreviations	4	9. Legal and consumer rights	39
1. Executive summary	5	9.1 Responses	39
1.1 Background to the report	5	9.2 Driving in Victoria	40
1.2 Methodology	6	9.3 Consumer law	41
1.3 Key findings	6	9.4 Complaints processes	42
1.4 Conclusion	9	9.5 Recommendations	42
2. Summary of recommendations	10	10. Education	43
3. About the research project	13	10.1 Barriers to education	43
3.1 Research aims	13	10.2 Current strategies and gaps	45
3.2 Methodology	13	10.3 Recommendations	46
4. Background	15	11. Health	48
5. Policy and legislation	17	11.1 Recommendations	48
5.1 Social policy	17	12. Sport and Recreation	49
5.2 Defining discrimination and relevant legislation	18	12.1 Recommendations	50
6. Public space and safety	22	13. Services	51
6.1 Neighbourhood and community	24	13.1 Recommendations	52
6.2 Safety	25	14. Employment	53
6.3 Recommendations	25	14.1 Recommendations	56
7. Representation by media and leaders	27	15. Accommodation	57
7.1 Recommendations	29	15.1 Recommendations	58
8. Police	30	Bibliography	59
8.1 Stop and search	31	Appendix 1	
8.2 Public spaces	32	– Organisations consulted	60
8.3 Allegations of police abuse	32		
8.4 Death of Liep Gony	33		
8.5 Police community engagement	35		
8.6 Young people’s understanding of their rights	36		
8.7 Police and human rights	36		
8.8 Recommendations	38		

Acronyms and abbreviations

ACMA	Australian Communications and Media Authority
AHRC	Australian Human Rights Commission
AMEP	Adult Migrant English Program
AMES	Adult Multicultural Education Services
CALD	Culturally and Linguistically Diverse
CAV	Consumer Affairs Victoria
CEH	Centre for Ethnicity and Health
CGD	City of Greater Dandenong
CHARTER	<i>Charter of Human Rights and Responsibilities Act 2006 (Vic)</i>
CMY	Centre for Multicultural Youth formerly known as Centre for Multicultural Youth Issues
COMMISSION	Victorian Equal Opportunity & Human Rights Commission
DEECD	Department of Education, & Early Childhood Development (Victorian Government)
DEEWR	Department of Education, Employment & Workplace Relations (Commonwealth)
DHS	Department of Human Services (Victorian Government)
DIAC	Department of Immigration and Citizenship (Commonwealth)
DIIRD	Department of Industry, Innovation & Regional Development (Victorian Government)
DOJ	Department of Justice (Victorian Government)
DPCD	Department of Planning and Community Development (Victorian Government)
EOA	<i>Equal Opportunity Act 1995 (Vic)</i>
ESL	English as a Second Language
LGA	Local Government Area
MLOs	Multicultural Liaison Officers
MYAG	Multicultural Youth Action Group
NAP	New Arrivals Program
NESB	Non-English Speaking Background
OHS	Occupational Health & Safety
OPI	Office of Police Integrity
PACMAC	Police and Community Multicultural Advisory Committee
REIV	Real Estate Institute of Victoria
RRTA	<i>Racial and Religious Tolerance Act 2001 (Vic)</i>
SCAAB	Springvale Community Aid and Advice Bureau
SELLEN	South East Local Learning and Employment Network
SEMMA	South East Melbourne Manufacturer Alliance
SERMRC	South Eastern Region Migrant Resource Centre
SME	Small and Medium Enterprises
SMLS	Springvale Monash Legal Service
SRV	Sport and Recreation Victoria
VCAL	Victorian Certificate of Applied Learning
VEOHRC	Victorian Equal Opportunity & Human Rights Commission
VFST	Victorian Foundation for Survivors of Torture
YACVIC	Youth Affairs Council of Victoria
YRIPP	Youth Referral and Independent Persons Program

1. Executive summary

This report examines the experience of young Australian-African people in the City of Greater Dandenong. It aims to provide insight into the systemic issues impacting upon this group from the unique perspective of the young people themselves. In doing so, the report provides a snapshot of a local community at a time where specific and difficult issues were being encountered.

The report has been prepared consistent with the Victorian Equal Opportunity and Human Rights Commission (Commission) responsibilities to seek to undertake research to reduce discrimination under section 162 of the *Equal Opportunity Act 1995* (Vic) (EOA) and to gather information from the community in line with its responsibilities to administer the *Racial and Religious Tolerance Act 2001* (Vic) (RRTA).

Consistent with the Commission's responsibilities under the *Charter of Human Rights and Responsibilities Act 2006* (the Charter), the report examines the issues raised using a human rights framework to describe and analyse the factors young people report as impacting upon their daily lives.

In response to community requests, the report's primary purpose is to provide a voice for Australian-Sudanese young people. Accordingly, the research methodology was grounded in the active participation of community members, consistent with a human rights framework and their right to public participation.

1.1 Background to the report

Youth and race are two attributes that can increase the risk of social exclusion. A combination of these attributes – youth combined with new arrival status (in particular those who reach our shores as refugees) – can increase the struggle for people trying to navigate Australian life as well as having a voice.

The Australian-African (mostly Sudanese) community are among Australia's newest migrants and have borne some of the same challenges faced by other migrant communities entering Australia.

In Victoria a large proportion of these migrants and refugees live in the City of Greater Dandenong. Many of them are young and still familiarising themselves with life in Australia and how it works. As with previous groups of migrants, children and young people often carry the task of bridging the gap between the broader community and their more cautious and less confident families.

The death of 19-year-old Liep Gony at Noble Park Railway Station in 2007, and comments by high profile public figures about Australian-Sudanese people before and after that incident appeared to precipitate increased negative feeling about Australian-African migrants in the Dandenong area. It was felt by members of the Australian-Sudanese community, in particular its young people, who experienced it as racism in overt and indirect actions from a range of quarters in the community. As a result many of them reported concerns about their personal safety in public.

One avenue of support sought by the community was from the Commission. We were invited to three large and a number of smaller meetings where the community came together to request assistance. Some of these meetings were initiated by young people and others through elders in the community via the African Think Tank. As a result of these discussions, the Commission undertook this research.

Our research proceeded on the hypothesis – which was confirmed – that there was a strong commitment on the part of Federal, State and local government, police and non government agencies to meet the needs of the Australian-Sudanese community and to enable their full participation in community life.

The Commission notes that since the research was initiated in February 2008, significant resources have been allocated to allow the CGD and State Government agencies to respond to the needs of the Australian-African community. In July 2008 the Victorian Attorney-General, Hon Rob Hulls, announced a Legal Services Board grant of \$100,000 to the Springvale Monash Legal Service to develop a plan for combating racism in their community and the Minister for Youth Affairs and Minister assisting the Premier on Multicultural Affairs, Hon James Merlino, launched a \$1.2 million program in the City of Greater Dandenong - Connecting At Risk Young People Initiative – a program that will provide a range of responses including outreach and a process to better connect vulnerable young refugee people to services.

The Commission has endeavoured, in this research, to report on the experiences of Australian-Sudanese young people in relation to racial discrimination and vilification. This included how the young people consulted experienced and

responded to the services offered to them. The research investigated potential adjustments that might be made and where community supports, services and initiatives were working well, and where they were not. The Commission hopes, by way of this report, to build on the significant work that has already been undertaken by State and local government authorities and non-government agencies to help the community deal with the challenges it faces. The goal is for the Australian-African community to feel safer, more secure and confident in their new country – and for them to be empowered with access to health and community services and supports, education, jobs, homes and the better future they came here hoping for.

In pursuit of this goal, the Commission acknowledges that by focusing on this specific community, in this specific location, it has a bigger, broader ambition - of a more tolerant, more harmonious and fairer place for everyone in this State. It is hoped that the findings of this report can help inform better service responses, to protect and promote the human rights of Australian-African young people, thereby enriching the whole community. In keeping with the Commission's aim to provide Australian-African young people with a voice, this report reflects their local recommendations for change. The Commission notes that the recommendations may be relevant to other local government areas and in some cases, are organisational and/or of State wide significance.

1.2 Methodology

The methodology – outlined in more detail in section 3.1 of this report – provided members of the Australian-African community and their representative bodies with an opportunity to speak freely and confidentially to the Commission about their experiences. The research aimed to empower Australian-African community members to take part in public life and express their experience and to be heard. About 30 community organisations, police, employers and schools also provided their perspectives. In total, more than 200 Australian-African young people and a number of stakeholder groups participated in the research project (a full list is provided as an Appendix).

Following a literature review, the research was conducted in an eight-week period in February to April 2008. In consulting broadly – and using meetings, workshops, questionnaires/surveys and one-on-one interviews – the Commission aimed to discover a clear picture of what the experience of this community was and how it might be addressed.

While other quantitative data was used to support findings, relying primarily on self reported experiences in one locality necessarily contains some limitations as to extrapolating results to the wider community. Nevertheless, the consistency of messages from the Australian-Sudanese young people participating in this research provides powerful evidence of the need to protect and promote their human rights.

1.3 Key findings

Public space and safety

The ability to move about safely in the community is a basic human right. Community safety engages a number of rights contained in the Charter, including the right to equality, freedom of movement and security of the person.¹ The RRTA may also be engaged in relation to safety and social inclusion.

The death of Liep Gony and the aftermath of critical and even hostile attention to the Australian-African community resulted in the young people of these communities generally feeling more fearful. The public spaces these young people used – for social interaction, for learning and for connectivity are sites where they have increasingly reported verbal or physical racist attacks such as waiting for public transport. This is reported in more detail in Section 6.

The young people's responses – to travel in groups and to stay away from the necessary support services available to them – compounded the problems. For example, to travel in a group was interpreted by some people as 'gang' behaviour. In trying to remain safe, young people were subject to further racism - as evidenced by the experiences outlined in this report of remarks and taunts they experienced while going about the normal daily business.

It is not just fear of verbal and/or physical attack that affected these young people. Our researchers found that some young people doubted their right to be in public spaces by virtue of who they were. This extended to use of public transport – a necessary part of the life of anyone who is young, or newly arrived to Australia, since a driver's license and private car transport is not an option.

1. *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, ss 8, 12, 21

Media and leaders

When stereotypes frequently applied to young people were applied to the Australian-Sudanese young people in the City of Greater Dandenong, intense media attention ensued, fuelled unhelpfully by the comments of high profile public figures including the then Federal Minister for Immigration and Citizenship, Hon Kevin Andrews.

While the local media has featured a number of positive stories about the Australian-Sudanese community it seemed to the young people consulted that more often the manufactured dramatic stories of racial unrest gained the most attention and space.

While a range of codes and standards apply to media coverage of cultural diversity, these appear not to have restrained all those who participated in the coverage at the time.

The Commission recognises the importance of a free and independent media – but the community also expects fairness. The recourse when there has been unfair portrayal is limited – particularly for those who are young, inexperienced and unfamiliar with the regulations and codes that apply to media activity and how to negotiate them. There is work to be done in this area.

Police

Perhaps one of the most challenging relationships to negotiate is that between the Victoria Police and the Australian-Sudanese community in the City of Greater Dandenong area. Police have a difficult task to balance the role of law enforcement with community liaison, and ultimately community expectations.

The Commission is concerned that the Victoria Police interactions with this community are not always aligned with the overall intent of the Human Rights Charter, and specifically, the rights to equality and freedom of movement enjoyed by all Victorians.²

We are particularly mindful of complex policing issues that were facing the community at the time the research was conducted and of specific positive initiatives for young Australian-Sudanese people instigated since then by Victoria Police. The Commission acknowledges the important leadership shown in high levels of Police command, regarding these local initiatives and the sustained commitment to effective community policing. However, the Commission also recognises that it is in day to day policing that cultural change and support will be measured by the community.

It is apparent that the response or approach to policing can vary. Based on public comment as well as discussions with police for this research, there are two general views. One, that it is important to develop and maintain ties and good relationships with the community, while the other focuses upon the need for a ‘hard line’ approach to policing.

It is clear that there is positive work being done by the police and Australian-Sudanese young people. Victoria Police are committed to building strong relationships – particularly through the work of the Multicultural Liaison Officers (MLOs) in the district, as well as the cross-cultural training they do with other police in the force.

However, the young people who spoke to the Commission consistently raised the concern that they felt police discriminated against them (for example, moving them on in public spaces more than non-Australian-Sudanese young people, stopping and questioning them or searching them more often than others).

Many anecdotes reported to researchers referred to police using insulting, racially based language and/or unfair treatment based on race. Community workers who work with the Australian-Sudanese community in the region also raised the interactions between young people and the region’s police as an ongoing concern.

Sometimes the negative events and interactions between individuals appear to be a result of misunderstanding and miscommunication, which can stem from a problem as basic as a language barrier. There are other disconnects between established programs and new initiatives, which cause confusion and frustration within and between the police and the Australian-Sudanese community – particularly the young people, who are sometimes overlooked in the quest for solutions.

In addition, the community’s young people have limited knowledge about how to seek redress if they feel they have been treated unfairly by police. Along with limited understanding – for example, on how to lodge a complaint and with whom – there was also a fear that to do so may result in reprisals.

² *ibid*, ss 8, 12

Legal and consumer rights

The legal system creates challenges for any new Australian resident. It can be confusing and intimidating for those who were born and raised here. Culturally appropriate explanations and information about the legal system are limited.

It is not uncommon for members of this community to have vastly different experiences of what 'justice' is and how a legal system works (in particular, the notion of 'flexibility'). The court system itself, as a concept, is unfamiliar to some sections of the community, who may not understand the delay between the 'crime' and the judgement or punishment.

With limited numbers of interpreters and limited knowledge or understanding about the legal system, the human rights of the Australian-Sudanese community before the legal system are open to risks. An example identified by those consulted relates to driver's licences and interactions with VicRoads. The community reported limited opportunity to become fully informed about the process and the obligations associated with obtaining and keeping a car driver's licence in Victoria. Another example is the signing of common consumer contracts, such as those for buying furniture or mobile phones.

Education

For young people, one of the first big struggles of their entry into the mainstream Australian community begins in the school grounds. Many have arrived in the country with limited or no experience of formal education and encounter barriers to succeeding within it. The structural and interpersonal discrimination they face often causes them to leave the system altogether, despite the aspirations of their families and communities. To leave education early is a primary risk factor in a cycle of disadvantage.

The young person's ability to cope – with the structure and the curriculum – is challenged by language and unfamiliarity with the processes. They commonly reported experiences of hostility in the school grounds from their non-Australian-Sudanese peers. This research found an underlying unease in responding to racism in some schools.

There is pressure from their families and themselves to succeed in education in their new country. This is despite their sometimes traumatic experiences pre-arrival and lack of understanding about how the education system works. In spite of the significant resources and programs available to support these young people, significant obstacles remain.

For example, the program designed to teach them proficiency in English struggles to do so to a level where they can properly cope with the demands of the curriculum. This severely curtails the most basic entry level requirement to succeed in formal education.

Health

Similarly health services face challenges trying to service the needs of the Australian-African community. Where culturally-specific programs are in place, they are heavily used and as a result, access can be difficult.

The Charter recognises the right to equality and cultural rights.³ The EOA also prohibits less favourable treatment in goods and services, which includes health care, based on race or language.⁴ Currently there appear to be gaps in the extent to which these rights are being realised.

Sport and recreation

Participation in local sport and recreational activities was embraced by young people in the Australian-Sudanese community but their involvement was frequently restricted because of poor access to transport or financial limitations. Participation was also hindered because of racism.

³ *Charter of Human Rights and Responsibilities Act 2006* (Vic) *ibid*, ss 8, 19

⁴ *Equal Opportunity Act 1995* (Vic), s 42

Services

Services specifically developed to meet the needs of Australian-Sudanese young people are emerging in the region. However, a number of challenges face local council and government agencies involved in connecting services to young people. Some of these difficulties could be mitigated with better, broader and more direct communication with young people themselves. The Commission urges all government agencies involved in the development of these programs and services to recognise the right of Australian-Sudanese young people to have a say in decisions about their lives. They also have a right to have programs provided that are practically accessible to them – by public transport and by the way they are communicated and promoted.

Employment

The Commission is concerned about anecdotes from Australian-Sudanese young people that appear to reveal high levels of discriminatory employment practices in the region. There were accounts of Australian-Sudanese young people being overlooked for front-house positions, being told to find work at an ‘African’ business or being subjected to verbal racial abuse at work.

This group of young people is vulnerable in the employment setting – because they are young, low skilled and evidently reluctant to complain for fear of retribution. Some action is being taken and this is commendable – for example, some local employers have developed a reputation for fair and supportive employment practices. There has also been funding increased for apprenticeships at the local TAFE. Much more is needed, however, to ensure equal opportunity in employment for this community.

Accommodation

Discrimination was also reported in access to rental accommodation. A great deal of work is needed to further educate those who work in managing rental properties.

1.4 Conclusion

The Commission recognises the effort, range and variety of policies and programs being provided by government, Victoria Police and community organisations in the CGD, as well as the commitment and effort of Australian-Sudanese young people to contribute and participate in their new environment.

Young people’s experiences of discrimination are contrary to Victoria’s clear commitment to multiculturalism, equality and a fair society that embraces diversity and supports growth and productivity, with a strong focus on ensuring human rights for all.

The experiences in this report highlight the challenges that face government and non-government institutions to provide culturally appropriate and accessible services to Australian-Sudanese young people.

Addressing systemic discrimination is critical to reducing Australian-Sudanese young people’s disadvantage and ensuring their inclusion in the Victorian community. Young people’s reluctance to complain, as well as barriers to making complaints, makes it even more important to address their experience of discrimination at a systemic and structural level.

The recommendations contained in each section of this report draw attention to specific areas of discrimination and the potential work and responses needed within a human rights framework.

The Commission is committed to working in collaboration with the whole of government and at a local level to support Australian-Sudanese young people to fully realise their human rights. We look forward to progressing the recommendations contained in this report.

2. Summary of recommendations

The Commission makes the following recommendations:

Public space and safety

1. That young Australian-Sudanese people have a direct and genuine involvement in the whole of government strategy: *Connections for At Risk Young People* and associated planning by the City of Greater Dandenong Council including:
 - Considerations of how fear and discrimination faced by Australian-Sudanese young people can be prevented and social inclusion and community harmony enhanced
 - Processes identified to address the safety concerns of the community which is at times incorrectly directed and blamed on Australian-Sudanese young people.

The findings of this report to be included in the planning process by the City of Greater Dandenong Council regarding the *Connections for At Risk Young People*.

2. City of Greater Dandenong Council and VicUrban to consult young people and ensure public spaces are inclusive in the revitalisation of Central Dandenong and other urban developments.
3. City of Greater Dandenong Council to continue to be resourced to provide young people with low cost and accessible recreation and meeting spaces.
4. The Commission to support community organisations to provide information and training to Australian-Sudanese young people in the City of Greater Dandenong on how to respond and deal with racial discrimination in public spaces.
5. City of Greater Dandenong Council to continue to resource and emphasise intercultural community programs that involve co-operation among people from different backgrounds, with the aim of breaking down stereotypes and increasing understanding, and developing an awareness that different groups often have the same, not conflicting interests similar to VicHealth's Building Bridges Scheme.⁵

Media and leaders

6. The Communications Law Centre to provide community based organisations with media information and resources explaining how to make a complaint to media outlets, Australia Communication and Media Authority, other media monitoring mechanisms such as Media Watch as well as under the *Racial and Religious Tolerance Act 2001* (Vic) and the *Racial Hatred Act 1995* (Cwlth).
7. The Commission to work with the Australian Human Rights Commission (AHRC) to distribute its Media Guide on good practice and to ensure that the media is aware of the Industry Code on the Portrayal of Cultural Diversity that advises against using racial descriptors.
8. The Commission to seek funding to develop a social marketing campaign to address negative attitudes and behaviours towards Australian-African young people. The campaign will educate and dispel stereotypes to overcome interpersonal discrimination that includes victim blaming and scapegoating.

Police

9. Victoria Police to develop a strategy to promote the important role of Multicultural Liaison Officers (MLOs) and community policing within Victoria Police and City of Greater Dandenong operational police.
10. Multicultural Liaison Officers in the City of Greater Dandenong, in consultation with community, to develop Local Plans as per the Victoria Police Multicultural Statement, with clear strategies and guidelines based on best practice community policing models, human rights and equal opportunity principles.
11. Victoria Police in the City of Greater Dandenong to research and review question and search powers in response to allegations of racial profiling and compliance with the *Equal Opportunity Act 1995* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic). Research findings to be reported to the Commission through annual reporting on the operation of the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

⁵ Building Bridges is a VicHealth grants scheme that aims to improve mental health and wellbeing by promoting positive contact and co-operation between people from migrant and refugee backgrounds and others in the community.
<<http://www.vichealth.vic.gov.au/Content.aspx?topicID=282>> at 22 November 2008

12. Victoria Police in the City of Greater Dandenong to prioritise human rights and equal opportunity education and training in relation to how police exercise their powers. Training to be reported to the Commission through annual reporting on the operation of the *Charter of Human Rights and Responsibilities Act 2006* (Vic).
13. City of Greater Dandenong police to carry out an independent audit to review current practices against human rights principles and standards.
14. Victoria Police to request information and training from the Centre for Multicultural Youth (CMY) about the Youth Referral and Independent Persons Program (YRIPP).
15. Springvale Monash Legal Service (SMLS), in conjunction with youth community organisations, to provide education to young people about police rights and responsibilities independent of police.

Legal and consumer rights

16. The Department of Justice to resource education to newly arrived refugees and migrants in the Southern Region to ensure young people are better aware of the legal system and their rights and responsibilities.
17. VicRoads to review its language services policy and ensure staff are trained to use interpreters and provide accessible information.
18. The Commission to prioritise the provision of community education and information about human rights and equal opportunity to the City of Greater Dandenong.

Education

19. The Department of Education and Early Childhood Development (DEECD) to promote the principles and strategies in its new multicultural policy currently being finalised in City of Greater Dandenong schools.
20. Southern Region DEECD to provide professional development and training for all schools in the City of Greater Dandenong on how to identify and deal with racism and discrimination based on a whole of school approach which includes curriculum. Training to be reported to the Commission through annual reporting on the operation of the *Charter of Human Rights and Responsibilities Act 2006* (Vic).
21. The DEECD to continue to promote guidelines to ensure English as a Second Language (ESL) Index funding is only used to address the needs of ESL students.
22. The DEECD to continue to prioritise and resource a comprehensive transition program for young people exiting the ESL New Arrivals Program and moving into mainstream schools.
23. DEECD to develop comprehensive data and analysis on the outcomes of the ESL New Arrivals Program and to ensure On Track targets include refugee young people.
24. City of Greater Dandenong schools to deliver information sessions to engage and inform parents about the education system and culture in Australia beyond translated materials.

Health

25. The Department of Human Services (DHS) and Southern Health to deliver systematic and on-going training and education for nurses and doctors in hospitals on culturally appropriate service provision and language services policies to ensure effective use of interpreters. Training to be reported to the Commission through annual reporting on the operation of the *Charter of Human Rights and Responsibilities Act 2006* (Vic).
26. The Centre for Ethnicity and Health to work with the Dandenong District Division of General Practice to deliver training on the use of interpreters and working with culturally and linguistically diverse communities.

Sports and recreation

27. Sport and Recreation Victoria (SRV) to promote Play by the Rules, an interactive web-based resource designed to help schools, sporting associations and clubs ensure that sport is safe and free from discrimination and harassment⁶ and to make training available for local sporting organisations in the City of Greater Dandenong.

⁶ The Play by the Rules on-line training courses are specifically designed for athletes, administrators, coaches and umpires. These courses are free and can be completed in your own time. Play by the Rules is a joint initiative between the Victorian Equal Opportunity and Human Rights Commission and Sport and Recreation Victoria.

28. City of Greater Dandenong Council and State Government to prioritise and plan for a low cost youth recreation space located close to public transport.
29. SRV to support an inclusive sports sector through embedding inclusive practices in State Sporting Associations funding agreements.
30. SRV with Centre for Multicultural Youth to pilot a mentoring initiative at local club level in the City of Greater Dandenong as a possible VicHealth Building Bridges Project – to encourage Australian-Sudanese youth engagement in local sporting clubs.

Services

31. City of Greater Dandenong Council to be resourced to work with the Commission to train community and government organisations on the integration of human rights into their organisational practice and policies.
32. The Settlement Committees in the Cities of Greater Dandenong, Casey and Cardinia to review youth issues based on this report and make recommendations to the Commonwealth Department of Immigration and Citizenship for resettlement support and services for Australian-Sudanese young people.

Employment

33. The Commission to pursue localised implementation of the recommendations included in its employment discrimination report *Harnessing Diversity*⁷ and specifically:
 - That the Commission and Victorian Multicultural Commission work with employer groups to run social marketing campaigns in conjunction with the Skilled and Business Migration Unit highlighting the value and importance of migrants to our economic growth and that there is zero tolerance in Victoria for racism and discrimination in the workplace.
 - That the Commission work with small and medium enterprises in the City of Greater Dandenong to promote the importance of equal opportunity workplace policies and training and education about the diversity of the Australian-Sudanese employers experience.
 - The Commission to provide equal opportunity training to Job Networks in the City of Greater Dandenong and promote the Commission's A Fair Go for Job Seekers: Best Practice Guidelines for the Recruitment Industry and Employers⁸ to Job Network providers and the recruitment sector.

Accommodation

34. That the Department of Human Services (DHS), through funding service agreements with housing service providers, monitor and provide training on culturally appropriate service provision and development of language services policies to ensure effective use of interpreters.
35. That the Department of Human Services be resourced to work with the Commission to train community organisations in the City of Greater Dandenong on the integration of human rights into their organisational practice and policies.
36. The Commission to continue to work with and educate property managers/real estate agents/landlords about the *Equal Opportunity Act 1995* (Vic) by organising information sessions in collaboration with the Real Estate Institute of Victoria and the redistribution of the *New Country, New Home* publication.⁹
37. Springvale Community Aid Advice Bureau (SCAAB) and Springvale Monash Legal Service (SMLS) to explore a young renters program based on the Peninsula Legal Service model.

⁷ VEOHRC 2008, *Harnessing Diversity: Addressing Racial and Religious Discrimination in Employment*

⁸ VEOHRC 2005, *A Fair Go for Job Seekers: Best Practice Guidelines for the Recruitment Industry and Employers* <<http://www.humanrightscommission.vic.gov.au/information%20for%20employers/recruiting%20for%20a%20fair%20go/best%20practice%20guidelines.asp>> at 22 October 2008.

⁹ *New Country, New Home* <<http://www.humanrightscommission.vic.gov.au/publications/new%20country%20new%20home/>> at 29 October 2008.

3. About the research project

3.1 Research aims

In February and March 2008 two Victorian Equal Opportunity and Human Rights Commission (Commission), project workers undertook a research project under subsection 162(2) of the *Equal Opportunity Act 1995* (Vic) (EOA) into discrimination faced by Australian-African young people in the City of Greater Dandenong (CGD). This area includes the Melbourne suburbs of Noble Park, Dandenong, Springvale, Keysborough and Lyndhurst. Under subsection 162(2) of the EOA the Commission may undertake research into any matter arising from, or incidental to the operation of the Act.

This research was initiated in response to concerns raised with the Commission by Australian-African community members and agencies in the CGD in the previous six months. Initiation of the research recognised the potential systemic nature of the issues being raised and the limitations in dealing with these issues through the Commission's complaints-handling process. Previous community consultations by the Commission had identified specific barriers to making complaints of discrimination faced by individuals from culturally and linguistically diverse (CALD) communities include fear, age, recent arrival and lack of knowledge of complaints mechanisms.¹⁰ The use of the EOA section 162 power also allowed for a more flexible and solution-based approach to the issues raised.

The specific aims of the research were to:

- respond to community concerns of race discrimination faced by Australian-African young people in the CGD
- collect information from the community in line with the Commission's responsibilities to administer the EOA and the *Racial and Religious Tolerance Act 2001* (Vic) (RRTA)
- identify systemic trends in discrimination in order to make specific recommendations to government
- identify a range of strategies and responses for the Commission to address alleged discrimination facing Australian-African young people, and

3.2 Methodology

In response to community requests, the report's primary purpose is to provide a voice for Australian-Sudanese young people. It is not based on a large survey or on quantitative research methods. Instead, the methodology provided members of the Australian-African community and their representative bodies with an opportunity to speak freely and confidentially to the Commission about their experiences. A further aim was to help Australian-African community members understand, claim and exercise their rights. This is linked to respecting the right of community members' to take part in public life and have opportunities to express their experiences and to be heard.

The Commission recognises that relying primarily on self-reported experiences in one locality necessarily contains some limitations for extrapolating results to the wider community. Nevertheless, the research methodology provided a unique insight into the lived experience of young Australian-Sudanese people, from the perspective of service providers, community elders and young Australian-Sudanese people themselves.

The Commission initially identified more than 80 stakeholders for this research. Letters were sent to these agencies asking them to participate. The list included employer groups and mainstream community agencies as well as ethno-specific organisations.

A media release informing the community about the research and calling for participation was distributed, which resulted in media coverage in the local newspapers.

There was significant interest from young people, community, government agencies, schools, police, employers and other stakeholders wishing to submit their views and experiences to the research. The Commission project workers consulted 30 stakeholders and more than 200 young people as well as receiving written submissions.¹¹

Some community members and organisations expressed concerns that our research would draw further negative attention to the community and that it may be used against them. This reflects their fears of misrepresentation and a

¹⁰ VEOHRC Community Consultation Tool, unpublished internal research (2005–2007)

¹¹ See Appendix 1 for a full list of organisations consulted

repeat of negative attention drawn to the community in October and November 2007. During the research process, the community members were reassured by the Commission that the research was to inform government policy and that this was its primary focus and purpose.

The Commission conducted the consultations at accessible locations and offered the use of interpreters. An overview of the research was provided at the start of each consultation. An overview of the Commission and its role in addressing discrimination and promoting human rights was provided as a community education component of the research. Individuals were asked to provide examples of good practice in addressing discrimination in the area as well as examples of discriminatory experiences.

Although the title of the project initially indicated a focus on Australian-African young people, the research ultimately focussed on the largest group of Australian-African young people in the CGD – young people of Australian-Sudanese backgrounds. A few young people of Congolese and South African backgrounds were also interviewed.

Most of the young people interviewed were at school and a few were working. The age of the young people interviewed ranged from 12–25 years.

To supplement the main research, the Commission undertook an extensive literature review. Use of quantitative data from other research was used to inform the report findings and recommendations.¹²

In August 2008, the Commission distributed a draft report to the community and government agencies that has been consulted, as well as to all State Government Department Secretaries. Media outlets were also approached for feedback. A meeting was organised to present the draft report to Australian-Sudanese community members and organisations and gain their feedback.

After gathering and incorporating feedback, the Commission has finalised the report.

¹² See Bibliography

4. Background

The diversity and high levels of social disadvantage in the City of Greater Dandenong (CGD) are reflected in local demographics. Greater Dandenong encompasses an area of 129 square kilometres in Melbourne's south-east, approximately 24-km from the central business district. There are an estimated 131,000 people in the city.¹³

According to the Commonwealth Department of Immigration and Citizenship (DIAC) Settlement Database, 7,538 Sudanese arrived in Victoria between 1996 and 2006. Just over a third of these (36% or 2,184) settled in the CGD. These people are primarily from South Sudan and are from two large ethnic groups: Dinka and Nuer. The majority (85%) Sudanese living in CGD have arrived the last five years. The largest number of new arrivals are aged 10–19 years, (1,895) and 20–29 years (1,770).¹⁴

There are 27,000 residents in CGD aged 11–25 years, accounting for one-fifth of the population. Young people come from 126 birthplaces, including Vietnam (6%), Cambodia (4%), India and Afghanistan (3%) and Sudan, Sri Lanka, Burma and China (2% each). Based on these statistics there are about 540 young people of Sudanese background aged 11–25 years in the city. About one in 20 young people has limited English-speaking skills and this is most prevalent among those who speak Dari, Persian, Dinka and Nuer.

In the CGD generally, 16% of young people leave school before Year 11, compared with 11% across Melbourne.¹⁵ Nearly 50% of all young people from Sudan, Afghanistan and Macedonia leave school early, compared with 17% of those born in Australia and less than 10% from India, Sri Lanka, China and Vietnam. Such generally unfavourable educational outcomes are reflected in participation in higher education – just 29% of 19–20 year olds in the city attend university and other tertiary institutions, compared with 41% of those across Melbourne.¹⁶

Employed residents of City of Greater Dandenong, aged 15–24 years, work largely in retail (25%), accommodation and food services (13%) and the manufacturing sector (12%). Unemployment rates among 20–24 year olds declined from 18% to 12% in the decade to 2006. However, local unemployment remains higher than the metropolitan level (8.9%) despite a 10% rise in the number of jobs in the city: from 67,000–73,000.

While unemployment rates are highest among young people from Sudan (40%) and Afghanistan (25%), the largest numbers of unemployed people are from Australia, (633). In the CGD 7% of 15–19 year olds (600 young people) and 15% of 20–24 year olds (1,400 young people) are neither in paid employment nor enrolled in education. This is the second highest level of disengagement in Melbourne.¹⁷

Most of the Australian-Sudanese young people in the CGD arrived in Australia on refugee visas. While there is no standard 'refugee experience', refugees have – by definition – been forced to flee their country of origin because of war or persecution.

Many refugee young people have come to Australia with their immediate or extended family. Others have come as unaccompanied minors or with non-parent carers, such as siblings.¹⁸

Despite the immense difficulty of resettlement and recovery, refugee young people often make remarkable progress and bring a wealth of resources and strengths to the Australian community.

The refugee experience can bring about qualities such as:

- resilience and resourcefulness
- adaptability
- strong commitment to the family and the value of community, and
- a strong desire to achieve educationally.¹⁹

Through the course of this research, the Commission came across a number of highly articulate young people who were organising their own youth groups to support their peers. Members of the youth arm of the South Sudan Equatorian Association and the Lost Boys Association are two examples.

¹³ CGD Council 2007, *Social Conditions in Greater Dandenong*

¹⁴ SERMRC 2007, *Sudanese in South East Melbourne: Perspectives of a New and Emerging Community*, p 15

¹⁵ CGD Council 2007, Fact Sheet, Social Profile – Young People

¹⁶ Ibid, p 2

¹⁷ Ibid, p 2

¹⁸ CMY 2006, Information Sheet – Refugee Young People and Resettlement, p 1

¹⁹ Ibid, p 1

For many young people newly arrived in Australia, adolescent development can be compounded by the traumatic nature of the refugee experience, cultural dislocation, loss of established social networks and the practical demands of resettlement. Refugee young people must negotiate education and employment pathways, learn a new language and culture, make new friends, and navigate unfamiliar and complex social systems (such as Centrelink, Australian laws and public transport), while also negotiating individual, family and community expectations. Many have been in refugee camps a long time – some up to 10 years – and their pre-settlement experiences will have implications for service needs and settlement experiences in Australia.²⁰

Research by the Centre for Multicultural Youth Issues, now known as the Centre for Multicultural Youth (CMY), indicates that a young person's resettlement experience will depend on how they negotiate the expectations and value systems of their cultural community and the broader Australian community. Whether young people feel accepted and able to create a sense of belonging and identity will depend on factors such as:

- racism and stereotyping in the broader community (including in schools and the media)
- access to culturally-appropriate sport and recreation opportunities
- positive dialogue between young people and community or religious leaders about expectations,
- opportunities for meaningful participation in community debates, structures, groups and environments.²¹

Alienation and marginalisation are largely dependent on the settlement support and acceptance that young people experience. The extent to which a young person is able to build on strengths and effectively negotiate systems will determine whether they experience a growing sense of mastery and comfort in Australia, or alienation and marginalisation.²²

A positive sense of identity is critical for all adolescents and especially for those recovering from the experience of being a refugee. The Victorian Foundation for Survivors of Torture notes that racial prejudice and new humiliations can further exacerbate a young person's recovery from trauma and exacerbate feelings of shame and loss of identity.²³

20 RRAC 2002, *Strategy for Refugee Young People*, p 14

21 CMY 2006, Information Sheet – Refugee Young People and Resettlement, p 3

22 Ibid, p 2

23 Victorian Foundation for the Survivors of Torture Interview, 17/3/08

5. Policy and legislation

5.1 Social policy

The City of Greater Dandenong (CGD) has a long history of accepting and successfully settling migrants – from the European migrants of the 1950s and 1960s to South American and Vietnamese migrants in the 1970s and 1980s. The city is the most culturally diverse locality in Australia, with residents from 156 different birthplaces. Over half (56%) of its population was born overseas and 51% come from nations where English is not the main spoken language.²⁴

This cultural diversity is reflected in the range of religious faiths adhered to by residents of Greater Dandenong. These include Buddhism (15%), Islam (8%), Hinduism (2%) and Christianity (52%).²⁵ In 2007 the CGD was one of the first local government councils to affirm its commitment to human rights and cultural diversity through the implementation of a Charter of Human Rights and Responsibilities Framework.

Discrimination is contrary to the Victorian Government's commitment to addressing disadvantage and promoting multiculturalism, as articulated in a number of policy documents. Included in the goals of the Victorian Government's vision, *Growing Victoria Together*, is a fairer society that reduces disadvantage and respects diversity, recognising that 'there are still significant barriers to opportunity and a need to strengthen the opportunities and expectations of all Victorians for an equal chance.'²⁶

In 2008 the Victorian Government released its action plan: *A Fairer Victoria: Strong People, Strong Communities*. One of the four priority areas for action outlined in the report is 'improving education and helping people into work', particularly by removing barriers to workforce participation. *New Directions for the Victorian Justice System 2004–2014*²⁷ and the Attorney-General's Justice Statement 2²⁸ highlight the Government's commitment to maintaining human rights and addressing disadvantage through the modernisation of anti-discrimination law, reduction of systemic discrimination and strategies to promote attitudinal change.

Nevertheless, the research findings suggest that Australian-Sudanese young people in the CGD experience systemic and interpersonal discrimination as a result of their race. This can prevent them feeling a part of the wider Victorian community and impact on their full participation and settlement.

The experiences of discrimination identified by the Australian-Sudanese community in this research play a significant role in contributing towards disadvantage. Discrimination has a negative impact on the fair distribution of life chances, including access to education, employment, housing and good health. As such, it limits human rights and social inclusion.²⁹

Research by VicHealth has identified the cost of discrimination to the whole community: 'As well as affecting individuals, discrimination has the potential to harm us all by undermining harmonious community relations and social cohesion, compromising productivity and placing an unnecessary burden on our health, welfare and legal systems.'³⁰

The research findings indicate that discrimination must be addressed to ensure social cohesion. It also shows a need for social policy interventions to create shared values and common goals, and combat inequality.

The need to address social inclusion for building and sustaining economic prosperity and social participation and cohesion in the future has been highlighted by the recent report of the Ministerial Advisory Committee for Victorian Communities: *Social Inclusion: The Next Steps for a Fairer Victoria* (2007).

This reflects an international trend and focus. For example, the Canadian Government has established an Interdepartmental Policy Research Sub-committee on Social Cohesion, which describes social cohesion as, 'an ongoing process of developing a community of shared values, shared challenges and equal opportunity within Canada, based on a sense of trust, hope and reciprocity among all Canadians.'³¹

24 CGD Council 2007, *Social Conditions in Greater Dandenong*, p 1

25 CGD Council 2007, Fact Sheet, Social Profile – Young People

26 DPC 2005, *Growing Victoria Together: A Vision for 2010 and Beyond*, p 2

27 *New Directions for the Victorian Justice System 2004-2014*, May 2004

28 Attorney-General's Justice Statement 2, October 2008

29 Link, B & Phelan, J 2001, Conceptualising Stigma, *27 Annual Review of Sociology*, pp 363-385

30 VicHealth, *More than Tolerance: Embracing diversity for health – Discrimination affecting migrant and refugee communities in Victoria, its health consequences, community attitudes and solutions*, 2007, p 10

31 Markus, A & Dharmalingam, A 2008, *Mapping Social Cohesion: The Scanlon Foundation Surveys Summary*, p 5

The recently released Scanlon Foundation Surveys (2007) mapped social cohesion in Australia, including in the CGD.³² The survey found that almost five out of 10 people from non-English speaking backgrounds (NESB) reported discrimination in a 12-month period. It also found a minority of respondents (23.5%) born in Australia, with both parents born in Australia, who reported negative attitudes towards aspects of immigration and settlement policy.³³

The findings in the Scanlon Surveys point to a society 'that is succeeding in establishing and maintaining a high level of positive outcomes within the domains of belonging, social justice and worth.' However, it also states that there are 'indicators of concern within the domains of participation and acceptance, with a significant level of misunderstanding between birthplace groups and experience of discriminatory and hostile behaviour.'³⁴

The challenge for policy is to foster increased participation in community life within areas of high migrant concentration, and develop an understanding and appreciation of the migrant experience, of the difficulties of resettlement in unfamiliar environments and alien cultures, of the personal impact of discriminatory acts and of the contribution that migrants have made and continue to make to Australian society.³⁵

5.2 Defining discrimination and relevant legislation

The Commission plays a critical role in addressing disadvantage and promoting social cohesion in the Victorian community through its primary purpose to prevent and reduce discrimination and assist all Victorians to experience equality and a 'fair go' through the administration of the *Equal Opportunity Act 1995* (Vic) (EOA) and the *Racial and Religious Tolerance Act 2001* (Vic) (RRTA), and through performing its various functions under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Charter).

Equal Opportunity Act 1995 (Vic)

The objectives of the *Equal Opportunity Act 1995* (Vic) include promoting recognition and acceptance of everyone's right to equality of opportunity and eliminating, as far as possible, discrimination against people on the basis of various personal characteristics.

Discrimination is treating someone unfairly or less favourably because of a personal characteristic. In Victoria it is against the law to discriminate against someone because of their actual or assumed race.³⁶ Race itself is defined broadly and includes colour, descent, nationality, ancestry, ethnicity and ethnic origin. It also includes discrimination on the basis of actual or imputed characteristics associated with a particular race.³⁷

It is also against the law to discriminate on the basis of a number of other personal characteristics including: age, breastfeeding, carer status, disability/impairment, gender identity, industrial activity, lawful sexual activity, marital status, parental status, physical features, political belief or activity, pregnancy, religious belief or activity, sex, sexual orientation, employment activity and family responsibilities.³⁸ Discriminating against a person because they are associated with someone else who has one of these characteristics is also against the law.

Discrimination laws only apply to public behaviour, not to private conduct. Public areas covered by the law include employment, the provision of goods and services, accommodation, education, sport, clubs, the disposal of land and local government.

In addition to direct discrimination (which occurs when someone is treated unfairly and is disadvantaged because of one of the personal characteristics listed above), the *Equal Opportunity Act 1995* (Vic) also prohibits indirect discrimination. Indirect discrimination occurs when a requirement or practice that may not appear unfair, and may be applied to everyone, in fact discriminates against people on the basis of a particular characteristic. For example, a policy to provide services in English and not use interpreters could result in less favourable treatment and indirect discrimination against people because of their race. For a policy or practice to amount to indirect discrimination it has to be unreasonable.

32 The National survey consisted of 2,000 Australians and was stratified by geographic areas included CHD as one of the five local government areas surveyed.

33 Markus, A & Dharmalingam, A 2008, *Mapping Social Cohesion: The Scanlon Foundation Surveys Summary*, p 5

34 Ibid, p 16

35 Ibid, p 16

36 *Equal Opportunity Act 1995* (Vic) s 7

37 Ibid, s 7(2)

38 Ibid, s 6

In this research we refer to systemic discrimination, sometimes called organisational or institutional discrimination. This encompasses discriminatory practices carried out by state and non-state institutions.³⁹ It occurs when the law, and/or policies practices disadvantage specific groups. Institutional discrimination involves the application of beliefs, values, presumptions, structures and processes by the institutions of society (be they economic, political, social or cultural) in ways that result in differential and unfair outcomes for one or more social groups.

Institutions validate these rules and understandings, which are often seen as being universal, but which actually reflect and protect dominant social interests.⁴⁰ In the past, institutional discrimination has been quite overt, as in the case of apartheid in South Africa or the White Australia Policy. Today it is more likely to be a product (whether deliberate or unintentional) of the ethno centric viewpoints of policy and decision makers.⁴¹ Institutional discrimination is often invisible. It occurs when an institution or system take the dominant group as 'normal' and as the standard against which minority groups are judged as inferior or 'abnormal'. Institutional discrimination creates an environment within which inter-personal discrimination (discriminatory interactions between individuals) can flourish as conduct is, at best, unchallenged or at worst condoned.

Whether institutional or inter-personal, the impact of discrimination on a young person's development can be greatly affected when the person internalises the racism. This occurs when marginalised populations accept negative societal beliefs and stereotypes about themselves. Such discrimination is premised on the assumption that, in a racially stratified society, one response of populations defined as inferior would be to accept as true the dominant society's ideology of their inferiority.⁴²

Racial and Religious Tolerance Act 2001 (Vic)

Under the RRTA, racial and religious vilification is behaviour that incites or encourages hatred, serious contempt, revulsion or severe ridicule against another person, or group of people, because of their race or religion. Public verbal or written discussion, including over the Internet, is against the law if it denigrates, insults, belittles or maligns a person on the basis of their race or religion.

Racially stereotyping comments, off-hand remarks or racist jokes are unlikely to be considered as vilification. For example, calling someone a 'whingeing Pom' or a 'towel head', or telling a religious joke may be offensive but would not, on its own, be considered vilification.

The RRTA also prohibits 'serious vilification', which includes intentional intimidation, threats of physical harm, damage to property or the intentional incitement of others to do this. Serious vilification is the most extreme form of vilification and is a criminal offence subject to six months of imprisonment, a \$6,000 fine or both. The serious vilification provisions of the RRTA are administered by Victoria Police.

Complaint handling by the Commission under the EOA and the RRTA

The Commission helps resolve complaints of discrimination and vilification by offering a free and impartial resolution service. The aim is to help people resolve disputes by mutual agreement. If a complaint cannot be resolved at the Commission, the person who made the complaint has the option of asking for it to be referred to the Victorian Civil and Administrative Tribunal (VCAT). If a complaint is referred to the Tribunal, it will hear evidence from both sides and decide whether the complaint has been proved.

Even though the Commission's processes are designed to be accessible and as informal as possible, it can be difficult for some people to make complaints. This is particularly relevant to this research. Age, lack of familiarity with the legal system and language barriers can make it extremely difficult for young Australian-African refugees to pursue complaints when they experience acts of discrimination and vilification. To help address this, the EOA and RRTA allow a third person or representative body to lodge a complaint with the Commission on behalf of someone who believes they have been subjected to discrimination or vilification.

Another limitation on the capacity of the RRTA to provide redress for the types of vilification detailed in this report is that, in order to make a complaint, one must be able to name the person or people acting in a vilifying way. In many instances, the person or group engaging in vilification is a complete stranger.

39 Krieger, M 1999, *Embodying inequality: A review of concepts, measures and methods for study*, *International Journal of Health Services*, Vol. 29, No. 2, pp 295-352

40 Gopalkrishnan, N 2004, *Cultural Diversity and Civic Participation in Queensland*, Centre for Multicultural and Community Development, University of the Sunshine Coast.

41 VicHealth 2007, *More than Tolerance: Embracing Diversity for Health – Discrimination affecting migrant and refugee communities in Victoria, its health consequences, community attitudes and solutions*, p 6

42 Williams, DR & Williams-Morris R 2000, *Racism and Mental Health: the African American experience*, *Ethnicity & Health*, Vol. 5 No. 3/4, pp 243-268

Such limitations with the laws highlight the need for racial and religious discrimination and vilification to be addressed at a systemic or structural level that involves community building and education.

Charter of Human Rights and Responsibilities Act 2006 (Vic)

The Charter is an important law that sets out our freedoms, rights and responsibilities. The Charter focuses on civil and political rights, and includes well-known democratic rights such as the right to vote and freedom of expression. This formal recognition of our human rights is designed to protect people from injustice and allow everyone to participate in and contribute to society.

The Charter recognises that all people are born free and equal in dignity and rights. It is founded on the principles: that human rights are essential in a democratic and inclusive society that respects the rule of law, human dignity, equality and freedom; that human rights belong to all people without discrimination; and that the diversity of the people of Victoria enhances our community. Government departments and public authorities must observe these rights when they create law, set policies, provide services and make decisions. This means that Government, public servants, local councils, public schools, Victoria Police and others are required to act in a way that is consistent with the human rights protected under the Charter.

The Charter recognises that human rights are not absolute but may be limited in certain circumstances. Under section 7 of the Charter, rights may be limited but only when justified in a free and democratic society based on human dignity, equality and freedom.

For example, the right to freedom of expression may be restricted in order to respect the rights and protect the reputation of other people or for the protection of national security, public order, health or morality. This allows a balance to be struck between people's rights and a need to protect the broader public interest.

The Charter contains 20 rights. The following is a summary of those rights that are most relevant to the issues Australian-African community members and representatives raised with the Commission during the course of this research.

The right to recognition and equality before the law – this right is contained in section 8, which provides that:

- every person has the right to recognition as a person before the laws
- every person has the right to enjoy his or her human rights without discrimination, and
- every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.

The Charter, like the *Equal Opportunity Act 1995 (Vic)*, recognises that in order to achieve real equality it is sometimes necessary to engage in special measures that might otherwise be considered discriminatory.⁴³

Section 9 of the Charter recognises the right to life as of fundamental importance. This right includes the right not to be arbitrarily deprived of life, and also to allow people to live with full human dignity. It requires Governments to take active steps to ensure that the right to life is upheld in the highest manner possible. A broad interpretation of this right may include access to healthcare, especially where government must take positive steps to promote health.⁴⁴

Section 12 protects the right to enter, leave and move freely within Victoria and to choose where to live. This right to freedom of movement is relevant to the use of public space as well as the right of people to move around and pass through public areas without restraint.

The right to privacy and reputation [s.13] includes the right to not have your privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and to not have your reputation unlawfully attacked. The exact meaning of privacy is not easy to pinpoint. It can most broadly be understood as the right to be left alone and more narrowly as the right to control personal information, including information relating to one's physical and social identity.

Section 15 of the Charter upholds the right to freedom of expression, this includes the right to seek, receive and express information and ideas of all kinds. For this right to be fully realised the provision of information in accessible formats including the use of interpreters may be required.

⁴³ *Charter of Human Rights and Responsibilities Act 2006 (Vic)* s 8(4)

⁴⁴ For example, overseas courts have found that hospitals are under an obligation to provide life sustaining treatment where it is in the best interests of the patient

The right to freedom of association is recognised in section 16(2) of the Charter. This protects the right of individuals to join others to formally pursue a common interest. Like other rights contained in the Charter, freedom of association may be limited where it can be demonstrated that a restriction is justified in a free and democratic society.⁴⁵ For example this right is sometimes limited in order to protect safety and public order.

The role of families and the special needs of children are also recognised in the Charter. Section 17 contains provisions covering the protection of families and children, it states:

- families are the fundamental group unit of society and are entitled to be protected by society and the State, and
- every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

Section 18 of the Charter affirms the right of every person to take part in public life. This ensures that people can speak up and participate in community affairs. This right is about the inclusion and participation of all community members, including young people.

Section 19 of the Charter recognises cultural rights and provides that anyone from any particular cultural, religious, racial or linguistic background must not be denied the right to enjoy his or her culture, to declare and practise his or her religion and to use his or her language.

Under section 21 people have a right to security of person. The notion of security of person is potentially very broad and in some circumstances may mean that government agencies are required to take steps to protect a person from the actions of another person where their security is at risk.

⁴⁵ *Charter of Human Rights and Responsibilities Act 2006 (Vic) s7(2)*

6. Public space and safety

Public spaces provide young people with venues for learning and developing social competence, independence and interdependence. Public spaces allow and require people to interact with others.

Limited access to transport and dedicated spaces means young people rely heavily on public spaces for their socialising.⁴⁶

A democracy requires public spaces that encourage the widest diversity of people to gather and interact. From this perspective, young people are legitimate users of public spaces as it allows them an opportunity to participate in economic, social and cultural life.⁴⁷

Most of the young people consulted indicated that they had experienced racism and discrimination in public space – for example while walking on the street, waiting for public transport or travelling on trains and buses. The behaviours reported included racial abuse, threats and the throwing of wine bottles and eggs.

Both service providers and young people felt that this treatment had increased since October 2007, following the death of Liep Gony. Liep was a 19-year-old Australian-Sudanese man living in the City of Greater Dandenong (CGD), who was beaten to death by a small group of people near the Noble Park railway station. Comments made in the media by the Immigration Minister, Mr Kevin Andrew's about the inability of Australian-Africans to adjust to the Australian lifestyle added to the public debate around this event.

Young people reported feeling scared and being reluctant to go out in public. They indicated not feeling safe walking by themselves because of racist experiences and said they preferred to travel with friends for safety reasons. Service providers said that community members were too scared to access their services in Noble Park at this time.

Young people consistently identified experiences of discrimination that made them feel excluded from the Australian community and had a dehumanising impact. The examples of experiences, comments and behaviour reported to the researchers include:

- ***Black dog are you from Noble Park?
You little Nigger what are you doing here?***
Young woman, Congolese background, meeting with young women attending Centre for Multicultural Youth Sports Program in Springvale, 28/02/08
- ***Black monkey***
Sarah, 17 years old, Australian-Sudanese background, 12/03/08
- ***A friend and I were walking in the street and we were called chocolate bunnies, but another person told that racist person off.***
Young women, meeting with young women attending Centre for Multicultural Youth Sports Program in Springvale, 28/02/08
- ***Our neighbours are racist; when people visit us our neighbours abuse them and have even put a water hose on our friends.***
17-year-old woman, Australian-Sudanese background, South Eastern Region Migrant Resource Centre Homework Program, 13/03/08
- ***In November last year I was reading a book waiting at Noble Park Station to go to Sunshine when a man on the opposite platform yelled, 'why are you carrying that book you are pretending to be white.' I responded by saying there is no difference between black and white; 'I am the same and just carrying a book.' The male responded 'I will kill you like your brother.' I said, 'I don't want to fight, I don't have any problem with anyone, I can't tell you not to kill me.' Then he sent two young male friends on their bikes over to my side of the platform. I called the police but a train came and the boys escaped on the train. So I rang the police again and told them not to bother coming.***
David, 20 years old, Australian-Sudanese background, 13/03/08
- ***Go back to your country (at Noble Park train station).***
Ganu, 23 years old, Australian-Sudanese background, 29/02/08

⁴⁶ Crane, P 2005, *Space Invaders? Young People and Public Space Forum Report*, YACVIC, p 16

⁴⁷ Ibid, p 16

- **Swearing from cars happens all the time.**
Meeting with Australian-Sudanese young women, South Eastern Region Migrant Resource Centre Homework Program, 12/03/08
- **I feel angry when I am yelled at in the street, this is Aboriginal land, but they only just said sorry to them.**
17-year-old woman, Australian-Sudanese background, South Eastern Region Migrant Resource Centre Homework Program, 12/03/08
- **We are made to feel that we are not welcome here in Australia.**
South Eastern Region Migrant Resource Centre Homework Program, 12/3/08
- **As a worker I have observed poor treatment of young people in banks, Centrelink, VicRoads.**
Meeting with Government agency refugee worker, 14/03/08
- **Just because three of us are walking down the street it doesn't mean we are a gang.**
26-year-old Australian-Sudanese male, 29/02/08
- **People are afraid of us; people walk faster and keep turning around if you are walking behind them. (They) Move bags as (they are) scared you are a thief.**
20-year-old male, Interview with Australian-Sudanese Youth Worker and young person, 06/03/08

Community workers indicated that traders in Noble Park had been highly critical and vocal in their complaints about people from Australian-Sudanese backgrounds congregating in public spaces, near their shops and 'looking for trouble'. Traders also alleged youth gang activity. It was reported that traders had used strong language such as; 'this is the beginning of the end of Noble Park' in their letters and protests to Council and police.

- **I was accused of stealing in a shop; I didn't get an apology even after the police came and viewed that security camera. They were racist and just didn't want Australian-Sudanese girls coming to their shop.**
Sarah, 15 years old, Australian-Sudanese background, 11/03/08
- **Shopping in Noble Park, I get followed all the time; I have explained to the guard I am just shopping not stealing.**
David, South Eastern Region Migrant Resource Centre Homework Program, 12/03/08

Young people's fear to occupy public space was reflected when a researcher met a young person at the Dandenong Plaza. When the suggestion was made to sit in the food court he asked 'are you sure we can sit here without getting in trouble?'

- **I have been told at Dandenong night clubs, 'we will not let you in as you do not treat women properly and you get into fights'.**
26-year-old male, meeting 29/02/08

Many of the young people consulted relied heavily on public transport to get to school, work and recreation. Train stations are hubs where young people wait and meet friends who attend different schools and live in different area. Young people identified public transport as a space where they are subjected to discrimination.

- **I can't wait at bus stops as I get abused.**
17-year-old male, South Eastern Region Migrant Resource Centre Homework Program, 12/03/08
- **There is no direct bus to Springers Leisure Centre so we wait at Noble Park train station for the CMY youth worker to pick us up and take us to soccer but now we are told to move on by police and not allowed to wait outside the train station.**
Meeting with young people attending Centre for Multicultural Youth Sports Program in Keysborough, 29/02/08

A sense of being scrutinised in public and treated less favourably was also expressed through experiences with public transport ticket inspectors/authorised officers. A number of young people expressed feeling singled out on public transport by ticket inspectors and interrogated for concession cards and valid tickets.

- **At Melbourne Central everyday on way to class I am always asked to show concession card. (I am) Sick of it.**
Meeting with young Australian-Sudanese Youth Worker, 06/03/08

The Commission acknowledges the work being done by the Department of Transport and by public transport operators in training authorised officers in conflict resolution strategies, cross-cultural training and how to work with young people. However, these are the experiences that young people reported to researchers.

Young people's experiences in the CGD are supported by other research that suggests that, when young people congregate, they are often regarded as a nuisance and that this can be a particular issue for multicultural young people who may be judged by stereotypes, especially about 'gang' behaviour.⁴⁸ Public space has been documented extensively as the site of numerous tensions between competing principles, policies, processes and people.

These tensions around young people's use of various forms of public space often arise from a combination of:

- limited amenity for young people, including a lack of 'things to do'
- the way a space is designed
- large numbers of young people using a particular space at a particular time;
- interactions between young people and authorities
- behaviour – most commonly behaviour that is considered unsafe, annoying or 'anti-social' by some others rather than behaviour that is criminal
- difficult situations young people are in: for example, whether they are affected by substances and/or their marginalisation from other areas of life, such as homelessness.⁴⁹

The presence of young people in public space is often construed as dangerous and disruptive and as a result there has been increasing control and surveillance of young people who 'hang out' in public space. Strategies to address the concerns of older members of the community often result in the exclusion of young people from public space.⁵⁰

6.1 Neighbourhood and community

The CGD Council supports a number of intercultural community festivals and programs. The Council has been extremely supportive of one of the first Interfaith Networks in Australia, which encourages interaction between people of different faiths.

Misunderstandings and lack of cohesion and positive contact between neighbours was identified through the Commission's research. The Springvale Monash Legal Service (SMLS) advises Australian-Sudanese community members about neighbourhood disputes on the basis of race – for example, when a neighbour is seeking an intervention order against them.

- ***After my mother's death I dropped notes in my neighbours' letter boxes...saying that I may be having some visitors over to my house, as is our custom. But they still called the police complaining that my visitors were parking illegally. When the police came they could see that there were no illegally parked cars. Only one neighbour gave her condolences.***

Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08

- ***Neighbours complained to the real estate agent that my kids were playing on their bikes in the street.***

Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08

- ***Their kids keep throwing their balls into my garden, those little golliwogs they stink.***

Telephone caller to researchers, 19/02/08

- ***My Sudanese friend had an 'Anglo' girlfriend. When she took him home for dinner her mother told her that she was not happy with her seeing a black person.***

Angok, male, Australian-Sudanese background, meeting 26/03/08

- ***My brother tells me about fights between the Sudanese and Pacific Islanders at night.***

17-year-old woman, South Eastern Region Migrant Resource Centre Homework Program, 12/03/08

- ***I live next to a Sudanese family, I say to the kids, tell your mother to come over for a cup of tea. She never does. Do you think I have done the wrong thing?***

80-year-old woman who migrated to Australia 50 years ago

48 Francis, S & Cornfoot, S 2007, *Multicultural Youth in Australia: Settlement and Transition*, CMY, p 27

49 Crane, P 2005, *Space Invaders? Young People and Public Space Forum Report*, YACVIC, p 15

50 YACVIC 2003, *In the Spotlight: Young People and the Media*, p 5

6.2 Safety

A number of agencies talked about an unrealistic fear in the community towards Australian-Sudanese community members and young people, which they surmised to be at least in part based on physical features. For example, it was noted on a number of occasions, without negative intent, that the new Australian-Sudanese arrivals were 'so black and tall'. Agencies noted that these highly visible points of difference drew comment and attention.

After the death of Liep Gony, young people said they felt unsafe in public spaces. Social indicators for the CGD in 2006/7 reflect slightly higher levels of people in the community not feeling safe than the Victorian average. For example, when walking alone in their local area during the day, 88.8% of people in the CGD felt 'safe' or 'very safe', compared to 95.8% in the Southern Metro Region and the Victorian average of 96.0%. When walking alone at night, 47.4% of persons in the CGD felt safe or very safe, compared to 64.6% in the Southern Metro Region and the Victorian average of 66.5%.⁵¹

The CGD Council Drug Action groups have a history of being able to constructively respond to perceptions of local safety and fear of youth. The CGD is currently reviewing the Drug Action groups and is in the process of establishing a community safety committee that would look at researching rates of crime and community perceptions of safety.

It was noted by some that the local community has seen a lot of change in the last five years, with new population groups emerging. In some situations, the resulting lack of cohesion has fed fear and safety concerns.

This view is reflected by statistics that the proportion of residents born overseas has risen from 38% in 1991 to 56% in 2006.⁵² The high numbers of Australian-Sudanese refugees placed in the local area with limited warning and support was raised as a key factor affecting social cohesion in the area. A number of both government and non-government stakeholders identified a need for better planning and communication between the Commonwealth Department of Immigration and Citizenship (DIAC) Local Government Area's and service providers.

The Commission notes the May 2008 announcement by DIAC to fund the *Making Connections* project. This will be jointly conducted by Adult Multicultural Education Services, the Centre for Multicultural Youth and the South Eastern Region Migrant Resource Centre. The project will enable each organisation to conduct a range of activities in Greater Dandenong and Casey to improve community relations and will focus on building greater understanding and interaction between the young people and older residents. In announcing funding of the project, Parliamentary Secretary for Multicultural Affairs and Settlement Services, Mr Laurie Ferguson, made the following statement:

'It is crucial for the wellbeing of the whole community that both newcomers and existing residents have opportunities to make connections with each other, so we can avoid the problems that result from isolation, fear and misinformation.'

6.3 Recommendations

The research highlights significant experiences of interpersonal discrimination and vilification directed towards Australian-Sudanese young people in the form of verbal abuse and less favourable treatment in a variety of public spaces, including local neighbourhoods and by institutions.

Young people reported that these experiences impact on how safe they feel to access services as well as on their participation in the community. Positive intercultural interactions seemed to be limited and this appeared to fuel mistrust, stereotypes and conflict.

VicHealth has documented the need for more intercultural programs such as:

- initiatives to promote learning about other cultures and to address false beliefs and stereotypes
- anti-discrimination/pro-diversity community and school-based education programs
- programs increasing contact and co-operation among groups between whom there is social distance.⁵³

51 The University of Melbourne 2007, Community Indicators Victoria <http://www.communityindicators.net.au/wellbeing_reports/greater_dandenong> at 22 October 2008.

52 Australian Bureau of Statistics QuickStats <<http://www.abs.gov.au/websitedbs/d3310114.nsf/Home/census>> at 30 June 2008

53 VicHealth 2007, *More than Tolerance: Embracing Diversity for Health – Discrimination affecting migrant and refugee communities in Victoria, its health consequences, community attitudes and solutions*, p 10

In the UK, a Community Cohesion Review Team was set up to investigate the underlying causes of public disturbances of 2001. It used the words 'community cohesion' to emphasise the role of community values and attitudes in the quest to repair ethnic relations. It developed a definition of a 'cohesive community' as one where:

- there is a common vision and sense of belonging for all communities
- the diversity of people's different backgrounds and circumstances is appreciated and positively valued
- people from different backgrounds have similar life opportunities, and strong and positive relationships are being developed between people from different backgrounds in the workplace, in schools and within neighbourhoods.⁵⁴

The reported incidents in this research clearly illustrate that the right of young people from Australian-Sudanese backgrounds to move about freely, enjoy and use public space and have equal access to services is being limited. This is contrary to their rights of equality, freedom of movement and security of the person. Australian-Sudanese young people's inclusion and participation may be dependent on safety and ability to access public space. Thus the right to take part in public life may also be limited for these young people.

Allegations of shopping centres and shops denying young people access or treating them less favourably because of their age or race could form the basis of a discrimination complaint to the Commission. Racial abuse in public spaces could also amount to a breach of the *Racial and Religious Tolerance Act 2001* (Vic) and be the subject of a complaint to the Commission.

The Commission recommends:

1. That young Australian-Sudanese people have a direct and genuine involvement in the whole-government strategy: *Connections for At Risk Young People* and associated planning by the City of Greater Dandenong Council including:
 - considerations of how fear and discrimination faced by Australian-Sudanese young people can be prevented and social inclusion and community harmony enhanced
 - processes identified to address the safety concerns of the community, which are at times incorrectly directed and blamed on Australian-Sudanese young people
 - the findings of this report to be included in the planning process by the City of Greater Dandenong Council regarding the *Connecting At Risk Young People Initiative*.
2. That the City of Greater Dandenong Council and VicUrban consult young people and ensure public spaces are inclusive in the revitalisation of Central Dandenong and other urban developments.
3. That the City of Greater Dandenong Council to continue to be resourced to provide young people with low-cost and accessible recreation and meeting spaces.
4. The Commission support community organisations to provide information and training to Australian-Sudanese young people in the City of Greater Dandenong on how to respond to and deal with racial discrimination in public spaces.
5. That the City of Greater Dandenong Council continue to resource and emphasise intercultural community programs similar to VicHealth's Building Bridges Scheme that involve co-operation among people from different backgrounds. The aim of these programs will be to break down stereotypes, increase understanding and develop an awareness of different groups within the community and their often similar rather than conflicting interests.⁵⁵

⁵⁴ Cattle, T 2004, *The End of Parallel Lives? The Report of the Community Cohesion Panel*, The Home Office, London as used by *Mapping Social Cohesion: The Scanlon Foundation Surveys Summary*, p 40

⁵⁵ Building Bridges is a VicHealth grants scheme that aims to improve mental health and wellbeing by promoting positive contact and co-operation between people from migrant and refugee backgrounds and others in the community
<<http://www.vichealth.vic.gov.au/Content.aspx?topicID=282>> at 22 November 2008

7. Representation by media and leaders

The local Dandenong media has published good news stories and this research revealed that the local council has worked with local media to encourage positive images and stories about the Australian-Sudanese community. In its response to this report, Network Ten indicated that as well as reporting news stories at Noble Park related to the death of Liep Gony, it had broadcast other stories such as a football game between Australian-African young people and the police. Despite these examples of portraying young Australian-African people in a positive light, the Commission's researchers were repeatedly told that there was a general fear of the media and a feeling that the media misrepresented the Australian-African generally and the Australian-Sudanese community specifically.⁵⁶

There was a sense in the community that only 'bad' stories made the news and that this was out of proportion to reality. Those consulted specifically raised the media controversy after the death of Liep Gony, which they felt blamed Australian-Sudanese young people and community for his death.

- ***After Liep Gony's death, Today Tonight camped in Noble Park for two weeks. Young people were scared about being filmed and felt harassed by media. (They were) scared to go to Noble Park to access youth services because of (the) media presence. The media misrepresented Noble Park (by) taking photos of Noble Park to make it look like a ghetto.***

Meeting with South Eastern Region Migrant Resource Centre and Springvale Community Aid and Advice Bureau youth workers, 12/02/08

Many young people spoke about feeling that they were being publicly punished and shamed by comments made by the then Federal Minister for Immigration Mr Kevin Andrews and reported in *The Age*, in which he said:

- ***I have been concerned that some groups don't seem to be settling and adjusting into the Australian way of life as quickly as we would hope and therefore it makes sense to put the extra money in to provide extra resources, but also to slow down the rate of intake from countries such as Sudan.***

Former Federal Minister for Immigration, Mr Kevin Andrews as reported in *The Age*, 01/10/07⁵⁷

Community organisations told the researchers that after these statements were published the streets of Noble Park were empty and people experienced abuse in other parts of the CGD.

Similar dismay was expressed about the City of Greater Dandenong (CGD) Councillor Peter Brown's statements, and their impact, blaming the Australian-Sudanese community following a stabbing at Springers Leisure Centre in January 2007. Councillor Brown was reported in a letter to the editor of *The Age* as saying:

- ***We have enough problems in Greater Dandenong, and the residents in Keysborough South do not need Springers or any other place similar, to be a congregation point for hundreds of Sudanese from all over Melbourne who bring their tribal differences with them erupting into violence.***

This is not multiculturalism: it is madness — a madness witnessed in Cronulla early last year, and being repeated in Keysborough by a different ethnic group.

Australia should not be the repository for global social and ethnic problems in the misguided belief that we can solve them...

Councillor Peter Brown, Letter to Editor published in *The Age*, 09/01/07⁵⁸

The ability of the Australian-Sudanese community to counter misleading media was demonstrated in the response to the misuse of CCTV footage from a Noble Park bottle shop. The footage made headline news on a number of commercial television stations in October 2007 and was used by some media outlets to 'show' young Australian-Sudanese people stealing from a bottle shop and to perpetuate a myth that Noble Park was at the mercy of out-of-control Australian-Sudanese youth. The Sudanese Lost Boys Association of Australia contacted ABC1's *Media Watch* about the footage and, when scrutinised, it became clear that the images did not at all show Australian-Sudanese young people stealing.

⁵⁶ Dr Helen Szoke, CEO VEOHRC met with 30 HOA community leaders through the SCAAB Leadership Dialogue on the 13 October 2007

⁵⁷ Former Federal Minister for Immigration, Mr Kevin Andrews, as reported in: 'Minister cuts African refugee intake' *The Age*, 2/10/07 <<http://www.theage.com.au/news/national/minister-speaks-on-africans/2007/10/01/1191091031242.html>> at 22 October 2008

⁵⁸ Councillor Peter Brown, 'No, this is not multiculturalism - it's madness', Letter to Editor published in *The Age*, 9/01/07 <<http://www.theage.com.au/news/letters/no-this-is-not-multiculturalism-8212-its-madness/2007/01/08/1168104919459.html>> at 22 October 2008

In another example, local media used a photo of young people who were involved in a mentoring project (which aimed to provide good role models in their community), but titled the photo 'troubled youth'.

- ***We used to get respect but this changed in 2004 after the media started writing more stories about Sudanese and drink-driving.***

Community Meeting with South Sudan Equatorians Association in Victoria, 16/03/08

Multicultural Youth Action Group (MYAG) is a network of agencies working with young people in the cities of Greater Dandenong, Casey and Cardinia. They wrote a letter to the local media raising concerns and calling for fairer representation.

In response to the media portrayal and the comments by the Mr Kevin Andrews, Centre for Multicultural Youth developed a youth pledge highlighting Australian-African young people's contributions and calling for community support.⁵⁹

The negative impact of media coverage and comments by political leaders were reflected in statements to the researchers.

- ***If a leader can say these things, what hope do we have?***

Angok, Australian-Sudanese male, meeting 26/03/08

- ***I was waiting at VicRoads and a woman asked me if I killed people. I was forced to explain to her that not all Sudanese people are killers and danger and trouble.***

Meeting with Australian-Sudanese community worker at South Eastern Region Migrant Resource Centre, 12/02/08

- ***A friend told me that African people are making trouble so the Government is going to take them away.***

Meeting with Australian-African young person 27/02/08

- ***I am aware of Sudanese young people having a bad reputation from news in The Age.***

Meeting with Australian-Sudanese young male, 29/02/08

- ***After October last year some Sudanese were so scared they moved to Moe.***

Meeting with Southern Health worker, 29/02/08

The media representation of young people has been the subject of much research concluding that news items concerning young people are mostly limited to the controversial and emphasise the problematic nature of young people. This serves to create and reinforce stereotypes about young people.⁶⁰ Young people see a clear link between the way they are portrayed in the media and the way they are perceived in the community.⁶¹ Stereotypes can lead to fear and suspicion of young people among other members of the community and young people often feel misunderstood and discriminated against. Research has highlighted that reports tend to associate young people as the perpetrators of crime when, in fact, young men in particular are most likely to be the victims of crime.⁶²

The Australian Human Rights Commission (AHRC) is currently updating its Media Guide, which aims to promote good practice in reporting on racial issues. The Guide will focus on reporting ethnicity and race through the use of case studies showing that certain journalistic practices may lead to race-focused coverage. It also includes information cards for journalists, posters and annexure detailing complaint cases against racial reporting, the *Racial Hatred Act 1995* (Cwlth) and the contact details of institutions that deal with media reporting and racial vilification.

59 CMY Youth Pledge <<http://www.CMY.net.au/MulticulturalYouthPledge>> at 22 October 2008

60 YACVIC 2003, *In the Spotlight: Young People and the Media*, p 2

61 Ibid, p 2

62 Ibid, For example, 2003 ABS statistics for NSW indicate that 38% of victims of robbery were young men aged 15–24. Australian Bureau of Statistics 2003, *Crime and Safety in Australia*, Cat no. 4509.0 and Australian Bureau of Statistics 2007, *Recorded Crime – Victims, Australia*, Cat no. 4510.0

7.1 Recommendations

The media is governed by its own codes, standards and industry advisory notes, which are registered with the Australian Communications and Media Authority (ACMA). ACMA regulates broadcasting services in Australia, which includes supporting the development of codes of practice for the industry to ensure community safeguards. ACMA administers the complaints system set down in the *Broadcasting Services Act 1992* (Cwlth).

The Commercial Television Industry Advisory Notes on the Portrayal of Cultural Diversity stipulates that media is governed by the *Racial Discrimination Act 1975* (Cwlth) and the correlating state laws (which includes the RRTA in Victoria). It also encourages reporters and program producers to respect all people regardless of national, ethnic or linguistic background and to avoid the unwarranted introduction of race or ethnicity into a story. This particularly applies to the unnecessary use of ethnic-specific labels in reporting on suspected or convicted criminals.⁶³

The Commission recognises the importance of a free and independent media in a democracy and the positive work the media has done in revealing discrimination and other human rights abuses. Nonetheless, it is a concern that Australian-Sudanese young people feel so highly scrutinised and negatively portrayed by the media and the wider community, and that the reporting of comments of some high-profile leaders have provided the vehicle by which racism can be promulgated. There is a need to address the community's access to media complaints mechanisms as well as for local council and other agencies to respond to incorrect representation of the Australian-Sudanese community and promote positive stories.

The Commission recommends:

6. The Communications Law Centre provide community-based organisations with media information and resources explaining how to make a complaint to media outlets, Australian Communication and Media Authority, and other media-monitoring mechanisms (such as *Media Watch*) as well as under the *Racial and Religious Tolerance Act 2001* (Vic) and the *Racial Hatred Act 1995* (Cwlth).
7. The Commission to work with Australian Human Rights Commission (AHRC) to distribute its Media Guide on good practice and to ensure that the media is aware of the Industry Code on the Portrayal of Cultural Diversity, which advises against using racial descriptors.
8. The Commission seek funding to develop a social-marketing campaign to address negative attitudes and behaviours towards Australian-African young people. The campaign will educate and dispel stereotypes to overcome interpersonal discrimination that includes victim blaming and scapegoating.

⁶³ The content of free-to-air commercial television is regulated under the Commercial Television Industry Code of Practice. This has been developed by Free TV Australia and registered with the Australian Communications and Media Authority (ACMA). Free TV Australia represents all of Australia's commercial free-to-air television licensees. <http://www.freetv.com.au/Content_Common/pg-About-Free-TV.seo> at 22 October 2008

8. Police

The Commission notes the complexities of policing in the local area and recognises that this research provides a snapshot within the City of Greater Dandenong (CGD) at a time where specific and difficult community issues were being encountered.

We are particularly mindful that complex policing issues were facing the community at the time the research was conducted and of specific initiatives for young Australian-Sudanese people instigated since then by Victoria Police. The Commission acknowledges the important leadership shown in high levels of police command with respect to these local initiatives and the commitment to effective community policing. However, the Commission also recognises that it is in day-to-day policing that the effectiveness of cultural change and support will be measured by the community.

Victoria Police indicated to the researchers that the Australian-Sudanese community is under-represented in crime statistics in the CGD.

Research by the Springvale Monash Legal Service also indicates that Australian-Sudanese Victorians are largely law-abiding citizens and quotes the police as saying they are '...a hard-working and contributing group within the broader community, but because of their background and the hardships they have faced they sometimes find Australian laws and customs difficult to understand.'⁶⁴

Young people and agencies raised the positive relations they have with Victoria Police at senior levels and the commendable work and accessibility of the Multicultural Liaison Officers (MLOs). The important role MLOs play in providing regular education sessions to community groups as well as the cross-cultural training to other police in the region was highlighted.

Another example of proactive communication between Australian-Sudanese young people and Victoria Police was the convening of a meeting in November 2007 (in conjunction with CGD Youth Services). The purpose of this meeting was to explain the establishment of the SERAZAN Taskforce, which aimed to address youth-related problems and street crime in the CGD, and to clarify that the taskforce was not targeting Australian-Sudanese young people.⁶⁵ Some young people have also indicated that they would like more interaction with the police.⁶⁶

- ***Some police are good – like the ones who come and play basketball with us at Menzies Park.***

17-year-old Australian-Sudanese woman, South Eastern Region Migrant Resource Centre Homework Program, 12/03/08

Despite the concerted effort and work by Victoria Police, especially at a senior level, young Australian-Sudanese people and workers consistently expressed to the Commission that the biggest issues facing them is their experience of policing. They reported a general feeling that the police treat them unfairly because of their race. The Multicultural Youth Action Group (MYAG) has also identified the relationship between police and youth people as an issue and has established a working group.

The most commonly reported complaints to the Commission's researchers were:

- young people being regularly stopped and questioned by police in public, sometimes several times in a single day
- police asking young people to 'move on' without citing a legitimate reason
- alleged racist comments made by police
- young people being searched in public
- police allegedly refusing to provide their details if young people requested them – in some cases, these requests acted as a trigger for police aggression.
- police allegedly refusing to respect young people's right to silence, beyond submitting name and address –allegations that, in some cases, the assertion of this right acted as a trigger for police aggression.

⁶⁴ 'Media reports of rampant Sudanese crime do not accurately reflect reality', *Oakleigh Monash Leader/Springvale Dandenong Leader* (Melbourne), 18 April 2007 and Masanauskas, J, 'Crime trend a concern', *The Herald Sun*, 2 November 2005

⁶⁵ Meeting with Acting Senior Sergeant Glenn Northeast, Springvale Police Station, 20/02/08

⁶⁶ Meeting between young people and elders organised by CGD Youth Services, 25/11/07

8.1 Stop and search

Young people and community workers reported to the Commission that they felt police sometimes tried to stop and question, or move on, young people when they were legitimately occupying public space. There was a feeling that this happened more for them than other groups.

- ***The police they always tell us, 'we doing our job', but I don't think they (are) really doing their job when they get frustrated and then they (are) the one that takes their hand on you first. That's not, they supposed to protect us, not to be unfair, you know. (Not to say) 'you're not co-operating' (then) just start beating you up for nothing. Because we just want to know, if they got enough reason for wanting to take our names down, or telling us you can't hang here, or don't walk in a group, then we would understand that, but there's no reason. And when we try to ask them, then they get frustrated or think we (are) being smart. They think we (are) being smart and that's when things really get out of control.***
Confidential written submission by a community organisation working with young people, received 27/03/08
- ***I don't hang around the street as (I am) scared of police.***
19-year-old Australian-Sudanese male, 26/02/08
- ***High police presence and questioning in Noble Park from November 2007 put young people off accessing services.***
Meeting with South Eastern Region Migrant Resource Centre and Springvale Community Aid and Advice Bureau youth workers, 12/02/08
- ***Whenever they see black people, they slow down or follow us.***
Meeting with young men attending Centre for Multicultural Youth Sports Program in Keysborough, 29/02/08
- ***One day we were walking home after soccer training in our soccer uniform (and) police asked us: 'Are you wearing gang colours?'***
Meeting with young men attending Centre for Multicultural Youth Sports Program in Keysborough, 29/02/08
- ***They are always watching us, even while we play soccer.***
Meeting with young men attending Centre for Multicultural Youth Sports Program in Keysborough, 29/02/08
- ***I am just waiting to catch a train and police will ask, 'What are you doing here?'***
Meeting with Australian-Sudanese young male, 29/02/08
- ***Every day, I tell you, every day you get down by Noble Park, even though you (are) in school uniform or whatever (and) they ask (for your) ID, you know. That's just pissed me off badly.***
Confidential written submission by a community organisation working with young people, received 27/03/08
- ***A recently arrived African client of three months, who was not Sudanese, was asked by police to show his ticket at the train station. He did not realise the police were speaking to him so he kept walking and spat on the ground. The police searched him, found his ticket, (and) so fined him for spitting. (A) CMY youth worker rang police to explain that the young person was very recently arrived and did not understand English. The police officer kept on referring (to) her client (as) Sudanese, even though he was not, and said he could not let him off.***
Meeting with youth workers from Dandenong-based Centre for Multicultural Youth, 19/02/08
- ***A client was in Dandenong Mall with his girlfriend when approached by a police officer yelling at him that he had failed to attend a court case. The young person was extremely humiliated so I accompanied him to the police station to clarify the situation. The police officer read out the paper work and then realised it was the wrong person. The police officer said he looked like another Sudanese person. No apology (was) received. (The) young person (was) too scared to make a complaint.***
Meeting with government agency refugee worker, 14/03/08

- ***I was walking down the road with my bicycle to the milkbar, when a police officer stopped me and asked 'Is this your bike and can I have your ID?' I responded, 'Why do you want to see my ID?'***

The police officer said, 'I have a gun and have the right to ask for your ID.'

I said, 'Yes you have the right to ask for my ID but for a purpose, what is your purpose?'

I then told the police, 'OK I don't have my ID.' The police (officer) then handcuffed me. I then told him my ID was in my top pocket but since they had now handcuffed me they could take me to the police station.

When we got to the police station, the police officer left me in the car. Another officer came out and apologised to me.

Australian-Sudanese male, meeting 29/02/08

8.2 Public spaces

- ***What I really hate, (is when) the police, they get calls from the community or residents or whatever, because we like to hang out in a group, you know just brothers, cousins, and they think that's a gang, when it's not a gang, man. You know like, they think it's gangs. Why you wearing this, why you wearing that. They say people are worried in the community, because we walk in (such) large groups, but why would they be worried when we don't do anything, you know?***

Confidential written submission by a community organisation working with young people, received 27/03/08

One young man told the researchers that Australian-African young people, rather than being a threat, are particularly vulnerable and needed to occupy public spaces in groups for personal safety. He said this perception was justified in their eyes by the death of their friend, Liep Gony.

- ***What's up with them when we hang together as a group. You don't call that a gang, you call that a family man, we (are) a family, we (are) cousins. You (have to) walk together, man. (If) you walk by yourself you get murdered. You know, it's just not good. They just like to pick on us. And then they like to call us stuff, like (a) gang, but we (are) not (a) gang, you know we like to hang around with each other, because if you hang out on your own... some shit (is going to) happen, you know, like what happened to my friend (Liep), he was hanging around by himself and they just jumped him and stuff.***

Confidential written submission by a community organisation working with young people, received 27/03/08

8.3 Allegations of police abuse

It is recognised in modern policing that the highest standards of police conduct apply and any allegations of police abuse should be investigated in a transparent manner. The Commission recognises that the reliance on self-reported experiences in this research contains some limitations. Nevertheless, the consistency of messages from the Australian-Sudanese young people participating in this research provides powerful evidence for the Victoria Police to continue their significant work on protecting and promoting human rights.

- ***Police use bad language to young people when searching us - 'nigger'.***
Meeting with Australian-Sudanese male youth, Lost Boys Association, 28/02/08
- ***There was a fight outside Springvale basketball. Young people who were bystanders did not want to give their names (and) as a result police started yelling at (the) young people, 'This is how we do it in Australia.' The young people (were even) more scared (to) give (their) names.***
Meeting with youth workers from Dandenong-based Centre for Multicultural Youth, 19/02/08
- ***Police antagonise you by swearing at you. I have heard of friends being hit by police.***
Meeting with Australian-Sudanese young person, 27/02/08

- ***I had been in Australia for 18 months when I was pulled over by police last year and told, 'Get out of the car, monkey.' The police officer swore and pushed me. I was driving with my Ls by myself. The police officer spoke to me quickly and I did not understand what he was saying. (He) then gave me a fine and said sarcastically, 'Have a nice day, I certainly will.' I have made a complaint to the Office of Police Integrity (OPI) but am confused about the reason for the fine and the OPI process.***

Australian-Sudanese young person, 29/03/08

- ***Since November last year police seem more brutal; we are stopped by police and are asked to get out (of the car) and then police body search us and search our cars.***

Meeting with Lost Boys Association, 28/02/08

- ***One police officer got assaulted last year (and) now there is a perception by young people that police are retaliating.***

Australian-Sudanese young male, 29/02/08

- ***Police organise games of soccer with us but (that) doesn't make a difference (to) how they treat you.***

Australian-Sudanese young male, 29/02/08

8.4 Death of Liep Gony

Throughout the consultations Liep Gony's death and the subsequent government, media and police activity was raised as being very distressing. Young people felt targeted by the police response to the event.

One submission to the Commission said police provided 'mixed messages' about the causes of Liep's death and police responses to it. Victoria Police were at pains to claim that there were no 'race' issues involved in the incident and that, accordingly, policing efforts in the area are not, and would not be racially targeted. This included Police Command from the highest levels, including Chief Commissioner Christine Nixon, and the Multicultural Liaison Unit.⁶⁷

At the same time, other senior police stated publicly that officers were dealing with 'boy soldiers' and a 'tribe mentality' of refugees who came from a 'culture of violence'. These officers, pledged that police resources would be boosted to address the violence:

We will take a very hard response to the packs of youths in the area with increasing numbers of police. We've got a brawler van with large numbers of police attached to it, which we will concentrate in the Noble Park area and the railway station. We've also got a number of canine units which will also support us.⁶⁸

Some members of the police went so far as to use the opportunity to actively and publicly criticise the command's 'community policing' attempts:

We've got to get away from the warm and fuzzy style of policing. We've got to get back to a stronger, pro-active type of policing to prevent this behaviour and street offences, particularly street-related crime, from occurring in the first place.⁶⁹

Liep's friends reported that police increased their presence in the CGD. They believed this was done specifically to target them in response to their friend being killed.⁷⁰

⁶⁷ Senior Detective Tony Gentile from Dandenong CIU, quoted in *The Herald Sun*, 28/09/07

- James Waterson, Dandenong MLO, quoted in 'Police move to quell "gang war" fears', *The Age*, 28/09/07, <<http://www.theage.com.au/news/national/police-move-to-quell-gang-war-fears/2007/09/28/1190486520125.html>>
- James Waterson, quoted in 'Bashed teenager in critical condition', *The Age*, 27/09/07, <<http://www.theage.com.au/news/NATIONAL/Bashed-teenager-in-criticalcondition/2007/09/27/1190486431739.html>> at 27 March 2008
- Christine Nixon quoted in 'Police in denial on gangs: Andrews', *The Australian*, 04/10/2007
- As quoted in confidential written submission made to the Commission by a community organisation working with young people received: 27/03/08

⁶⁸ Assistant Commissioner Paul Evans in 'Teenager dies after Noble Park bashing', *Herald Sun*, 08/09/07

⁶⁹ Confidential police source quoted in 'Teenager dies after Noble Park bashing', *Herald Sun*, 08/09/07

⁷⁰ Confidential written submission made to the Commission by a community organisation working with young people, received 27/03/08

One submission to the Commission indicated that police in the CGD had already planned what the submission describes as a 'racial profiling' operation, several weeks before Liep was killed. The aim of this operation was alleged to be to 'crack down' on African young people congregating in public space. This included increasing patrols to target, search and 'move on' groups of Australian-Sudanese young people anywhere they were found congregating publicly in the CGD. According to one youth worker, when these plans were announced to a youth work network meeting, they were met with dismay and a request from youth workers to be informed of when the operation would start. The police refused to meet the request on the grounds that if youth workers 'got there first' then there would be no arrests, and the police would not be able to justify their increased use of resources.⁷¹

A number of service providers expressed a distrust of police and said that this was exacerbated when, in response to Liep's death, Victoria Police Multicultural Liaison Officers convened a 'reference group' to work on 'problem solving'. The police stated explicitly that this group would not be used for intelligence gathering.⁷² The police also explicitly sought to exclude youth workers from participating in this group. Concerns were raised about the power imbalances between police meeting with young people by themselves and the need for advocates and support of young people.

On the night of Liep's funeral, a police officer was assaulted in a park. A confidential written submission made to the Commission alleged, that at a Youth Network Meeting at a date not specified, one of the Dandenong Multicultural Liaison Officers stated that a number of young Sudanese men would not be attending an upcoming Australian-Sudanese youth development camp because they were going to be 'picked up' by police. When questioned, the officer responded that one of the young people that was attending the police 'reference group' had put forward names of some young people who had allegedly been involved in the assault. The officer said that, as a result of this information, these young people would probably be in police custody at the time of the camp.⁷³ The officer was very positive about this 'powerful information' being put forward and stated that he and police command were working on a media release stating that the Australian-Sudanese community had put forward the 'trouble makers' from within their ranks, thereby demonstrating that the rest of the community was in fact 'good'.⁷⁴

The following concerns about this episode were raised with researchers in one submission:

- It was alleged that the Multicultural Liaison Officers blurred the boundaries between 'problem solving' and intelligence gathering for the purposes of prosecution.
- It is not clear whether the 'informant' intended the information to be used in investigating the incident.
- It was alleged that there was of a conflict of interest facing serving officers attempting to undertake community work.
- The episode also provided a reason for young people not to trust the Multicultural Liaison Officers and other 'community policing' practices.⁷⁵

In addition, there was a concern raised that police had passed information to the media about Liep's death and about crime being committed by Australian-Sudanese.

71 A Youth Resource Officer disclosed these events during a Multicultural Youth Action, Policing Sub-Group Meeting, 20/09/07 as stated in confidential written submission made to the Commission by a community organisation working with young people, received 27/03/08

72 Youth Network meeting – as stated in confidential written submission made to the Commission by a community organisation working with young people, received 27/03/08

73 Confidential written submission made to the Commission by a community organisation working with young people, received 27/03/08

74 Youth Network meeting – as stated in confidential written submission made to the Commission by a community organisation working with young people, received 27/03/08

75 Confidential written submission made to the Commission by a community organisation working with young people, received 27/03/08

8.5 Police community engagement

A number of agencies and young people identified particular concerns with the community policing that has taken place in the CGD. These are reflected in one detailed, confidential submission made to the Commission, which addressed a broad range of matters, including the following:⁷⁶

- Community policing practices suffer from a very low degree of respect in the broader police force, and this lack of respect undermines their efficacy.
- There is a perceptions that community policing does not take into account the experiences of systemic racism. The emphasis on building good relationships with two 'nice' Multicultural Liaison Officers does not change young people's experience with other sections of the police force.
- Community policing practices occur alongside 'hard tactics' including intentional dispersal, increased patrols and police numbers, and racial profiling.
- Community policing is based on false assumptions that do not take into account systemic social tensions such as class, race and gender and try to diminish the role that these factors play. A blanket approach to increasing 'community engagement' does not consider whether contact with young people is welcomed or not or that it may not be experienced by all African people as positive.

Proponents claim that community policing practices primarily concern 'problem solving', but youth workers have found that police agendas and interests are prioritised, over the key concerns of young people. In reality, police officers undertaking community work are often privy to intelligence about specific offences. The boundaries between 'problem solving' and 'intelligence gathering' are thus blurred. A direct conflict of interest then arises: does the officer betray the community's trust, or withhold potential evidence pertaining to a crime?

Other community workers reported that they felt soccer programs and other sporting activities that are organised by the police are motivated by the objective of being 'seen' to be doing something; that they are reactive rather than strategic or reflecting longer term commitment to dealing with the issues. Some of the feedback that supported this notion included:

- ***I do activities with police and have openly told MLO police about issues we experience but (to) no result. Trust is being eroded as (nothing) changes.***
Australian-Sudanese youth worker and young person, 6/03/08
- ***MLOs work well but mainstream police (have) no idea. MLOs need to train other police.***
Meeting with South Sudan Equatorians Association in Victoria community, 16/03/08
- ***Young people (are) scared to assert (their) rights as (they then) feel... hassled by police.***
Youth worker at Dandenong-based Centre for Multicultural Youth, 19/02/08

Young people and agencies who worked with them raised concerns that the establishment of a Memorandum of Understanding (MOU) between Springvale Police and Australian-Sudanese community elders did not involve consultation with young people. The MOU identified a list of Australian-Sudanese elders that could be called on by police to support a young person who may be at the Springvale police station but to date it does not appear that the MOU has been used. Significantly, a program already exists to support young people in the way the MOU appears to be trying to do. The Youth Referral and Independent Persons Program (YRIPP) seeks to address the lack of co-ordinated legal support and advice services. It provides a 24-hour phone number for police to access trained volunteers to support young people through interviews. These independent persons' are also able to assist the young person in accessing further legal advice and support services.

76 Ibid

8.6 Young people's understanding of their rights

A commonly cited reason for conflict between young Australian-African people and police is that 'young African people do not understand the role of the police in Australia', due to 'a lack of awareness and education.'⁷⁷ One submission said this 'lack of understanding' is either baseless or over-emphasised and that it is a common justification for increased police intervention into Australian-African communities in the name of 'education'. Furthermore, stipulating that 'misunderstanding' is the cause of conflict actively diminishes the role that systemic racism and class disadvantage plays in social conflict and the ensuing discrimination faced by young people.⁷⁸

Reports to the researchers by agencies working with young people suggested that, in fact, young Australian-African people typically have a relatively sophisticated understanding of police powers and their own rights in relation to those powers. Rather, it seems that they have been very disappointed by the way police have treated them in Australia, and believe that they would have the support of the broader community if their stories were told.

- ***They (were) like 'Nah, we (are) just doing our job', that's what they always tell us. They think we don't know what (is) part of their job and what's not. So every time you have the right they just tell you, 'Ah, we (are) doin' our job, and shut up (and) don't be smart arse'. You try to make sense, and then you get in trouble, that (is) what really happens.***

There was this one time (when) we were walking home, because the bus(es) were finished, down in Dandenong North. These police came to us and they (started) talking to us about some resident (who) called them up saying there's been people in the street making noise. Then they (asked us) our name ..., where we live and all that just in case they get a call back ... then they will know who to talk to. Then after that we co-operated ... one policeman he told me, 'Stay out of trouble, don't make any more trouble, because you guys are really disturbing the peace in this country.' ... (he said), 'Your type is the one disturbing the peace in this country, such a peaceful country.' When I heard that I started cracking at him back, and then he came up to me (and) started grabbing my shirt and choking me ...

He knows he's the police (and) he can win. We can't do anything, we (are) just normal people living in the community, and for that he's just using that power just to arrest us, not to do his job properly.

Confidential written submission by a community organisation working with young people, received 27/03/08

There appears to be a common perception among the affected communities that there is currently no effective official channel through which to pursue the issues they raised with researchers. Young people indicated they were aware that complaints has been made to the Office of Police Integrity (OPI) and the Ethical Standards Department, particularly in the Flemington area, with limited outcomes. The experience of community organisations supporting young people pursuing complaints through official channels, such as the Office of Police Integrity and the Ethical Standards Department, has left them frustrated.

8.7 Police and human rights

The Commission notes the important role police play in protecting human rights. An Independent Commission on Policing for Northern Ireland, set up as part of the Good Friday Agreement, noted that the philosophy of policing being founded upon human rights principles was critical to changing the militaristic and hierarchical culture that had developed in the police over years of sectarian violence. A report by this commission stated: 'We cannot emphasise too strongly that human rights are not an impediment to effective policing but, on the contrary, are vital to its achievement ... Upholding human rights and upholding the law should be one and the same thing.'⁷⁹

77 These reasons have been repeatedly cited by social workers (MYAG meetings 5/2/08 and 20/10/07) and by Police (MLOs from Dandenong address Sudanese Youth forum on 11/12/07) and Police officers (MYAG Policing sub-group 20/10/07; MLOs from Dandenong address Sudanese Youth forum on 11/12/07)

Confidential written submission made to the Commission by a community organisation working with young people, received 27/03/08

78 Confidential written submission made to the Commission by a community organisation working with young people, received 27/03/08

79 Report of the Independent Commission on Policing for Northern Ireland 1999, p 8, para 4.4, <<http://www.belfast.org.uk/report.htm>>

Human rights in Victoria

Under the Victorian Human Rights Charter, Victoria Police must explicitly take into account the human rights of the community they serve. This also needs to be informed by an appreciation that the powers and role of Victoria Police means it is uniquely placed to fundamentally influence the realisation of rights protected under the Charter.

The allegations made and issues raised by Australian-Sudanese young people in the course of this research engage a broad suite of rights including:

- the right to equality before the law, including not being subjected to different treatment on the basis of their race and/or age
- the right to freedom of movement – including not being stopped unnecessarily or arbitrarily by police, or asked to move on from public spaces they are otherwise entitled to occupy
- the right to freedom of association – including the right to join others to formally pursue a common interest
- the right to privacy – arbitrary searches and the manner in which they are conducted raise considerations in relation to this
- the right to security of person – given repeated statements by individuals that they do not feel safe in the community
- the right to freedom from discrimination – a range of police activities can also constitute a service under the *Equal Opportunity Act 1995 (Vic)* and allegations of discriminatory conduct on the part of police could be the subject of a complaint to the Commission.

The experiences of the young people consulted for this research, and described by them or people who work with them, are not unique to CGD or new to people from non-English speaking backgrounds (particularly new arrivals). The experience has been documented for refugee youth across Melbourne and overseas in several studies.⁸⁰

The common themes of these studies showed that:

- young people from non-English speaking backgrounds were more likely to be stopped and questioned by police than those born in Australia
- racial profiling was either believed to be deliberate or, if not, seemed evident from the racial disparity in police stop and search powers,
- there was a belief that racism existed in the police forces, at least in a minority, and was usually covert.

Research supported by Victoria Police in 2007 indicated that attitudes towards community policing are heavily influenced by the leadership of individual stations and specialist units. Consequently community policing often remains ad hoc and not linked to organisation-wide approaches to working with communities.⁸¹ Police members who work regularly with a Multicultural Liaison Officer (MLO) routinely recorded the importance of, and their admiration for, the MLOs they worked with, particularly in educating police about cultures, customs and basic language skills. Many police faced with time and resource constraints tended to 'leave' issues relating to CALD communities to the MLOs.⁸²

In Australia, Victoria Police has been at the forefront in addressing racism in the police force and encouraging greater and better relations between the police and minority communities.

Victoria was the first state to reduce the number of racial descriptors from 14 to four, removing 'Middle Eastern' as a descriptor. It was the first state to introduce a Multicultural Advisory Unit as part of its Operations Unit, using bilingual sworn and unsworn staff to advise police on multicultural issues and provide cross-cultural training for police members. In addition, the unit provides information on the role of police to Victorians from culturally and linguistically diverse (CALD) backgrounds. In 1985 it also established the Police and Community Multicultural Advisory Committee (PACMAC) which is a joint committee between Victoria Police, the Victorian Multicultural Commission and CALD community members. PACMAC facilitates consultations between police and members of relevant communities in selected locations across Victoria.

80 Forrest et al 2007, Experience of discrimination among refugee youth in Melbourne, *Good Starts for Refugee Youth*, Refugee Health Research Centre
Chan, J 1999, *Changing Police Culture: Policing in a Multicultural Society*, Cambridge University Press, Melbourne
Engel, R, Calnon, J, and B Thomas 2002, Theory and Racial Profiling: Shortcomings and Future Directions in Research, *Justice Quarterly*, Vol. 19, No. 2, pp 249-273
HREOC 2007, *Report to the Department of Immigration and Citizenship on the Unlocking the Doors Project*
Wortley, S 2003, Hidden Intersections: Research on Race, Crime, and Criminal Justice in Canada, *Canadian Ethnic Studies*, Vol. 35, No. 3, pp 99-117
Berman, G 2007 *Institutional Racism in Victoria: Always and Everywhere a Different Phenomena Policing: A Case Study*

81 Neville-Wright, D et al 2007, *Counter-Terrorism Policing and Culturally Diverse Communities Final Report*, p 19

82 *Ibid*, p 21

More recently Victoria Police introduced Regional Multicultural Liaison Units, based in the five regions of Victoria Police. MLOs are based in these units liaise with various community and religious leaders within their region to establish mutual trust and open up communication between the police and the CALD communities in their region. The Victoria Police Multicultural Advisory Unit has also initiated language-specific Neighbourhood Watch Projects and trained police in specific cultures and languages.⁸³

Research is also currently being undertaken to examine issues around people from CALD backgrounds undertaking policing as a career. This research is in addition to a 2006 census of all Victoria Police staff – part of the Victoria Police Diversity Strategy, which includes attraction and retention initiatives to produce sustained growth in the diversity of its workforce. The Victoria Police Multicultural Statement 2007 further articulates Victoria Police’s commitment to cultural diversity and indicates that police will develop local plans in response to the policy aims.

The Commission notes the significant work being undertaken by the Victoria Police Human Rights Project Team. This team has held human rights seminars and is currently co-ordinating a series of pilot projects, which seek to document good practice as well as identify risks and deficiencies at police and regional operational levels.

In addition to the multicultural program, the Office of Police Integrity (OPI) was established to ensure that police corruption and serious misconduct is detected, investigated and prevented. The OPI provides a formal complaints process that is available to members of the public. The Commission notes that the OPI has translated a general brochure in the Dinka and Sudanese Arabic languages. This, however, does not guarantee that migrants will either be aware of the complaints process or feel safe enough to make the complaint.⁸⁴

8.8 Recommendations

The Commission notes the significant work being done by Victoria Police in the CGD and the organisation’s commitment to human rights. However, in light of consultations with Australian-Sudanese young people and other stakeholders, the Commission is concerned that trust in the important role of Victoria police is being eroded. There appears to be a need for a review of the role of community policing in the CGD and a clearer understanding of its purpose and impact, as well as an audit and review of practices against the principles of the Charter and the EOA.

The Commission recommends:

9. That Victoria Police develop a strategy to promote the important role of Multicultural Liaison Officers and community policing within Victoria Police and City of Greater Dandenong operational police.
10. That Multicultural Liaison Officers (MLOs) in the City of Greater Dandenong, in consultation with the community, develop Local Plans as per the Victoria Police Multicultural Statement, with clear strategies and guidelines based on best practice community policing models, human rights and equal opportunity principles.
11. That Victoria Police in the City of Greater Dandenong to research and review question and search powers in response to allegations of racial profiling and for compliance with the *Equal Opportunity Act 1995* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic). Research findings are to be reported to the Commission through annual reporting on the operation of the *Charter of Human Rights and Responsibilities Act 2006* (Vic).
12. That Victoria Police in the City of Greater Dandenong prioritise human rights and equal opportunity education and training in relation to how police exercise their powers. Training is to be reported to the Commission through annual reporting on the operation of the *Charter of Human Rights and Responsibilities Act 2006* (Vic).
13. That City of Greater Dandenong police carry out an independent audit to review current practices against human rights principles and standards.
14. That Victoria Police request information and training from the Centre for Multicultural Youth about the Youth Referral and Independent Persons Program.
15. That Springvale Monash Legal Service, in conjunction with youth community organisations, provide education to young people about police rights and responsibilities and that this training is independent of police.

⁸³ Berman, G 2007, *Institutional Racism in Victoria: Always and Everywhere a Different Phenomena Policing: A Case Study*

⁸⁴ HREOC 2003, *Isma: Listen: National Consultations on Eliminating Prejudice Against Arab and Muslim Australians*

9. Legal and consumer rights

The legal system can be intimidating and confusing, even for those born and educated in Australia. So it was not surprising that, during consultations for this project, young people and agencies identified a number of challenges faced by the Australian-Sudanese community, as new arrivals, in fully understanding the legal system. This research found that there were major gaps in the way information is presented to this emerging Australian community about the law, and the legal system – including penalties and how the process works.

- **Most Sudanese try to be good citizens but they face difficulty trying to understand the laws.**
Belshou Amum, Sudanese Community Association of Australia⁸⁵
- **People's experience in regards to law is different. They try to make law work according to their timetable, and they don't understand the severity of law. I don't have the money so I wait to pay the fine. There are other priorities such as reuniting with family overseas.**
Yien Thiang Luong, Sudanese Liaison Office Australia

Research by Springvale Monash Legal Service (SMLS) found that differences between Australian law and the tenets of Sudanese customary law contribute to challenges in understanding the Victorian legal system. For example, it reported that those caught thieving in rural South Sudan will often be required to compensate the victim, although the precise penalty may vary depending on the intent of the offender and their personal circumstances.⁸⁶

- **If, for instance, someone stole food in order to prevent the starvation of their family, their penalty (under customary law) would be more likely to be lenient in comparison to a theft committed by a less needy offender.**
Springvale Monash Legal Service Comparative Analysis of South Sudanese Customary Law and Victorian Law, p 49

Young people indicated to the Commission that often elders do not understand the process of the legal system and that a case may be waiting to go to court. 'They think that young people should be punished more severely by police or that the legal system is not dealing with legal issues.'⁸⁷

The limited number of qualified interpreters in Australian-Sudanese community languages places particular pressure on their availability. This compromises full access to the legal system and makes it difficult for the legal system to operate fairly and efficiently. The ability to understand rights are diminished because interpreters are not available. It was mentioned that some in the community struggle to understand the full impact of Community Based Orders and Intensive Corrections Orders and the significance of breaching these orders, such as going to jail.

The SMLS notes that anecdotal evidence points to Australian-Sudanese clients experiencing harsher penalties since the drink-driving case of Australian-Sudanese refugee Taban William Gany. Mr Gany was a repeat drink-driver who had a blood alcohol reading of 0.175 per cent when he crashed into the yard of a Dandenong primary school in May 2006. In the experience of the SMLS, a non-Australian-African would be less likely to receive a conviction for a similar crime, yet Australian-Africans are recording convictions. A youth worker reported hearing a magistrate say to her client: 'We need to teach your community a lesson, you do not know how to drive.' The solicitor involved in the case was surprised but feared his relationship with that particular magistrate would be jeopardised if he tackled the issue.⁸⁸

9.1 Responses

Two initiatives were highlighted by young people and community organisations as good examples of assistance to multicultural young people and their families while managing supervision orders and diversion programs. These were the Multicultural Youth Justice Worker's program, funded by the Department of Human Services (DHS), and the employment of ethno-specific workers who speak community languages.

Legal advice for Australian-Sudanese youth is available through the SMLS, which also provides community legal education in local schools. Legal advice is also available through some youth services working with young people. The Youth Referral and Independent Persons Program (YRIPP) provides support through legal processes and facilitates access to legal advice.

85 SERMRC 2007, *Sudanese in South East Melbourne: Perspectives of a New and Emerging Community*, p 35

86 SMLS 2008, *Comparative Analysis of South Sudanese Customary Law and Victorian Law*, p 49

87 Meeting with Lost Boys Association, 28/2/08

88 Meeting with Director of the Springvale Monash Legal Service, Helen Yandel, 20/02/08

The Department of Justice (DOJ) Southern Region has organised a 'Justice Dialogue' between Australian-Sudanese community members and the Children's Court, providing community members with the opportunity to meet with the Magistrate and gain a better understanding of family law.

Community feedback was that it was very useful to help them understand the legal system. A worker based at the Magistrates' Court reported that when community members visited the Magistrates' Court they were surprised to see a number of non-Australian-Sudanese in court. The Australian-Sudanese leader remarked, 'So it's not just Sudanese who drink and drive.' Some young people indicated they would like to visit the Magistrate and gain more information about the legal system.⁸⁹ In some cases, greater understanding about the law and how it is enforced may dispel some of the misunderstanding about the law being applied unfairly to the Australian-Sudanese community.

The Justice for Refugees initiative, funded in the 2008 Victorian State Budget, will contribute significantly to providing a responsive justice system and information to new arrivals. The DOJ received \$8.2 million to improve the responsiveness and accessibility of Victoria's justice system for refugees. The initiative will provide culturally appropriate information through community educators as well as early intervention and diversionary programs.

9.2 Driving in Victoria

A number of young people and workers indicated that they had come into contact with police and the legal system through driving-related matters.

According to a report by the SMLS, in Sudan there are few roads and not much vehicular traffic. Car ownership is limited and few people possess a valid drivers' licence. Driving in South Sudan tends to be restricted to the wealthy, so most people have little experience of driving and are unfamiliar with the high level of regulation involved in owning a car and driving in Victoria. In Sudan there is some perceived flexibility of negotiation with law enforcement officers over traffic violations.⁹⁰

Costs associated with getting a licence and running a car, as well as fewer opportunities to practise driving (because relatively few members of the community have full licences), were given as reasons why some Australian-Sudanese people in the past have taken the risk of driving illegally.

Reported reluctance by VicRoads to use interpreters was identified as a reason for some community members not fully understanding that you cannot drive alone on L-plates.⁹¹ A report by the Centre for Multicultural Youth (CMY) in 2005 identified a number of key concerns that decreased young people's chances of obtaining a license:

- A lack of confidence in their English language proficiency meant Australian-African young people did not attempt the VicRoads exam.
- Failing on their first attempt meant that they were less likely to try again without additional, intensive support.
- VicRoads does not offer the test in their community language.⁹²
- Poor access to information, and not having access to information in order to become fully informed, potentially has the effect of indirect discrimination.

A young person who still did not fully understand the consequences of driving without a licence told the researchers: 'My uncle's wife was having a baby so he drove her to the hospital on his L's. On his way back from hospital he was caught. The police did not understand.'⁹³

VicRoads has worked with the South Eastern Region Migrant Resource Centre (SERMRC) and Adult Multicultural Education Services (AMES) to provide driver education to newly arrived communities and translated information. The KarKulture program was identified as a good program to teach young people about driver education. The project is facilitated by SERMRC, Mission Australia and the Victoria Police and is funded through VicHealth. It aims to promote intercultural contact by bringing a diverse range of young people together to learn about driving and work on a common goal of fixing a car. The New Hope Foundation and Frankston City Council's driver education program (which offers child care and other supports) were also identified as good practice driver education programs.

89 Meeting between young people and elders organised by CGD Youth Services, 25/11/07

90 SMLS 2008, *Comparative Analysis of South Sudanese Customary Law and Victorian Law*, p 57

91 Meeting with government agency worker with refugees, 14/03/08

92 CMY 2005, Submission on: Young Driver Safety and Graduated Licensing

93 Meeting with Sudanese male youth referred by Mission Australia, 29/02/08

Consumer Affairs Victoria's (CAV) multicultural programs are working jointly with VicPolice and VicRoads on developing a project proposal to educate refugees about laws related to motor cars (the Sheriffs and RACV will also be approached for inclusion of information in the project).

9.3 Consumer law

A few young people described difficulties with debt after entering into consumer contracts they could not afford or signing terms and conditions they did not understand.

- ***A friend bought a car from a car yard. As we were driving it home from the yard, the car broke down. (We) took (it) back to (the) car yard but (they) refused to fix the car. (We) called police, (but the) police did nothing and told us we would have to sue the car yard.***

Australian-Sudanese young male, 27/02/08

Recent research by the SMLS found that many South Sudanese in Victoria come from highly agricultural societies in rural South Sudan and their lack of familiarity with consumer law means they have trouble understanding it. Because of different life experiences, South Sudanese Victorians often do not understand the terms and conditions of contracts they enter into and a lack of English speaking or reading skills exacerbates the misunderstandings. Research shows that South Sudanese may also not understand other rights and duties they have under contracts, such as the concept of 'cooling-off' periods.⁹⁴ This research also explains that financial transactions in South Sudan are usually on-the-spot cash payments or a trading of goods or services, often involving cattle, which are of primary importance in many tribal groups in Sudan. Banks and credit card facilities are not available, particularly in rural South Sudan. Many South Sudanese Victorians may lack experience with, and knowledge of, concepts such as credit transactions, late payments or charges.⁹⁵

In recognition of the high needs of the Australian-Sudanese community, last year CAV conducted more than 36 information sessions in the CGD in 2007. These covered a range of topics including buying and selling motor cars, tenancy, credit, shopping services, scams and incorporated associations. A key theme of all meetings and presentations was to highlight Consumer Affairs Victoria's compliance and enforcement activities. People were encouraged to lodge complaints about rogue traders with CAV and seek advice when they do not understand consumer transactions. CAV is also particularly keen to build up networks to help identify scams that may be being used to target particular communities.

A CAV Multicultural Liaison Officer works from Springvale Community Aid Advice Bureau (SCAAB) every Tuesday and provides individual advice and assistance to consumers. About 30% of consumers who access this service are from Australian-African communities. Assistance has been sought for matters relating to tenancy and accommodation (54%), credit and finance (5%), phone (2%), motor cars (5%), utilities (9%), incorporated associations (2%), building and renovating (1%) and general issues (15%).⁹⁶

CAV is working with the SCAAB and Youth Links in Noble Park in the development and delivery of a credit education program called 'Smart Shopping and Money Matters', with funding from the Consumer Credit Fund. The education program will cover:

- understanding advertising traps, assessing quality versus cost when buying goods and services, and capacity to pay
- managing transactions effectively including sales techniques, up-selling and door-to-door sales people
- understanding loan options and interest payments – 'buy now, pay later' schemes, credit cards, store cards, fringe providers and predatory lending techniques
- understanding contracts and liability
- Managing repayments and the pitfalls or possible consequences of not managing repayments (debt collection, repossession, credit report, bankruptcy)
- Where to go for help and financial advice.

94 SMLS 2008, *Comparative Analysis of South Sudanese Customary Law and Victorian Law*, p 63

95 Ibid, p 63

96 Consumer Affairs Victoria, Response to Draft Report, August 2008

9.4 Complaints processes

Most of the young people involved in this research had not heard about the Commission. Some had heard of, and even made complaints to, the Office of Police Integrity (OPI). Of those who were aware of complaint processes, fear of making a formal complaint, and not wanting to make a fuss, were given as the key reasons for not making a complaint if they had experienced discrimination. Young people and community agencies also identified the long process and wait involved in making a complaint as being a deterrent to making further complaints.

- ***I made a complaint to OPI but have not heard back yet.***
Australian-Sudanese young male, 29/02/08
- ***(The) community (doesn't) trust (the) complaints process (and) believe nothing happens. Everyone's heard about Flemington and (there has been) no outcome yet, so (they are) reluctant to make complaints. I try to tell (the) community that things have changed in Flemington.***
Meeting with Springvale Monash Legal Service, 20/02/08
- ***Unaware of the Commission (and it) would be good to know about it.***
Meeting with Lost Boys Association, 28/02/08
- ***I didn't know it was against the law.***
Meeting with Lost Boys Association, 28/02/08
- ***As DHS workers, we advise young people of their rights but most do not want to complain. (It) may be easier (to make a complaint) if (the) service is local ... (There is a) need to better inform young people in schools about their rights.***
Meeting with DHS 14/03/08

The Commission acknowledges that individualised complaints systems alone are not a satisfactory response to discrimination because it places the onus on those who have experienced discrimination to 'fix the problem'. Nonetheless individual complaints do provide redress for many people who have experienced discrimination and equal access to the service is a fundamental entitlement.⁹⁷ The local presence of the CAV in Springvale seems well used and is a good community outreach model, based as it is with an already existing community service.

9.5 Recommendations

Equality before the law is enshrined in the Charter. True equality requires people to be aware of and able to access the legal system and participate meaningfully in legal processes that impact upon them. Culturally and linguistically diverse communities can face considerable barriers to the enjoyment of this right, not only because of issues related to language, but also due to a failure on the part of all involved to appreciate the impact of cultural differences. Clearly education and information is critical to overcoming this, not only for members of newly arrived communities but also those involved in the administration of justice.

The Commission recommends:

16. That the Department of Justice resource education to newly arrived refugees and migrants in the Southern Region to ensure young people are better aware of the legal system and their rights and responsibilities.
17. That to review its language services policy and ensure staff are trained to use interpreters and provide accessible information.
18. That the Commission prioritise the provision of community education and information about human rights and equal opportunity to the City of Greater Dandenong.

⁹⁷ The promotion of substantive equality and measures that promote equality rather than dealing with discrimination after the event is critical. Please refer to the Equal Opportunity Review Discussion Paper 2007.

10. Education

Education is fundamental to good settlement and positive long-term outcomes for refugee and migrant young people. Australian-Sudanese young people often face barriers to education due to their low English proficiency. In addition, many refugee young people have little or no formal schooling prior to their arrival. Even those who had been at school may have had their education heavily disrupted. Basic or no literacy means that these young people do not always fit easily into existing educational structures and may require support to adapt to school practices in Australia.

The challenge for education providers lies in equipping students from diverse backgrounds with an understanding of the education system and expectations regarding school behaviours, as well as English language skills. This particularly applies to students who arrive in Australia with little or no formal education. There is also a need to ensure that appropriate support is given to young people during their transition out of the English as a Second Language New Arrivals Program (ESL-NAP) and into different education and employment pathways. Support beyond secondary school to access further education and training is also critical.

The Commission notes that there are Australian-Sudanese young people who experience success in Victorian schools and who have gone on to further education and training.

10.1 Barriers to education

In the course of the research, service providers and young people highlighted a number of barriers to young people's ability to participate in the education system. A Centre for Multicultural Youth (CMY) report, *Pathways and Pitfalls: Refugee Young People in and around the Education System in Greater Dandenong*, reflects similar findings. In particular it found that many young people exiting ESL-NAP struggle to cope with mainstream education and 'drop out' or achieve low outcomes.⁹⁸ This is despite the fact that many newly arrived young people have extremely high expectations of educational outcomes and experience immense family pressure to succeed. A number of people attributed youth delinquency to the education system not meeting Australian-Sudanese young people's learning needs.⁹⁹

A recent report by the Refugee Education Partnership Project identified key gaps and barriers in the ESL-NAP including:¹⁰⁰

- gaps in the education system's capacity to cater for young people with disrupted schooling, including unrealistic expectations of the time it takes for a young person to learn English
- concerns regarding the type of education and training options available to, and used by, refugee young people of post-compulsory school age (particularly those with a history of disrupted schooling)
- a lack of understanding of the Australian education system on the part of young refugees and their families, including unrealistic expectations of outcomes
- a need for more attention and resources in the transition period when young people exit ESL-NAP and enter mainstream schools
- a need for more resources for literacy and numeracy prerequisites for young refugees entering mainstream schooling and alternative programs.

The researchers were told by youth community agencies and others that while ESL-NAP and the Adult Migrant English Program (AMEP) were highly valuable programs, they may not provide adequate support for young people with limited prior schooling to develop the necessary language skills to succeed in secondary school and beyond.

While homework programs may provide access to computers and quiet space, as well as other social support, youth workers pointed out that the main reason young people attend the programs is to get support with the school work they did not understand in class and because there are few alternative educational supports available for students with disrupted learning. Where programs such as after-school homework support existed, they are often ad hoc community-based programs without sustainable funding. They are unable to redress the underlying language and literacy needs of students with the limited resources available.

98 CMY-SELLEN, Olliff, L 2004, *Pathways and Pitfalls: Refugee Young People in and Around the Education System in Greater Dandenong*

99 SERMRC 2007, *Sudanese in South East Melbourne: Perspectives of a New and Emerging Community*, p 46

100 Refugee Education Partnership Project 2007, *The Education Needs of Young Refugees in Victoria*

Index funding is provided to individual schools for the ongoing provision of ESL programs to eligible students, including refugee young people who have transitioned out of the ESL-NAP. A number of community organisations pointed out that ESL resources are not always being used adequately on the ESL needs of refugee young people and that the targeted money goes into the schools global budget instead.

Community organisations expressed concern that some schools were under prepared to work with Australian-African young people.

- ***One youth worker who approached a school to accept a Australian-Sudanese client was asked by a teacher at the school: 'Is he going to be a lot of trouble like the other Sudanese young people? I don't think we are equipped to cater for that young person, why don't you try another school?'***

A youth worker from the Dandenong-based Centre for Multicultural Youth, meeting 19/02/08

A number of young people and their families expressed a lack of understanding of the education system and educational pathways such as Victorian Certificate of Applied Learning. This limited understanding also led to some members of the Australian-Sudanese community not viewing Victorian Certificate of Applied Learning positively or recognising its value and potential pathways. Confusion may also lead to particular interactions between teachers, students and families being interpreted negatively.

- ***The teacher picks on me. I get so much feedback and changes to my SACS's which potentially reflects a misunderstanding of teacher support.***

Meeting with South Sudan Equatorians Association in Victoria community, 16/03/08

Similarly, parents were often confused at being asked to come in to see school teachers about their child's behaviour and by the expectation that parents play a role in discipline related to their child's conduct at school.

Interpersonal discrimination

- ***A young Ethiopian woman became suicidal due to her experience of race-based bullying at a TAFE. She reported the bullying and TAFE took action to ensure that other students knew that racist behaviour was not acceptable.***

Meeting with youth workers from Dandenong-based Centre for Multicultural Youth, 19/02/08

A few young people said that they had experienced interpersonal discrimination in an educational setting such as verbal abuse and physical fights. There was an impression from young people and community workers that schools do not always manage racism at schools effectively.

- ***A boy called a Sudanese young person a nigger, so the Sudanese boy pushed the young boy. The principal then got involved. The principal did not take the nigger issue seriously but took it as a fight and told the Sudanese young person that his fighting explained and justified the racial abuse.***
Community worker, meeting 17/03/08
- ***I get called racist names by an Albanian girl at school.***
17-year-old woman, South Eastern Region Migrant Resource Centre Homework Program, 13/03/08
- ***Racism in schools exists. Other students sometimes do not mix with Sudanese and Pacific Islander young people.***
15-year-old Australian-Sudanese female, South Eastern Region Migrant Resource Centre Homework Program, 13/03/08
- ***Some of the Vietnamese families are not happy with Sudanese young people in the schools.***
Meeting with community worker, 29/03/08
- ***At school everyone in the class was asked to say where they are from. My daughter told her teacher she was Australian (and) the teacher said, 'No, you are Sudanese.' My daughter said, 'My parents are Sudanese but I was born here.' The teacher continued to say, 'No you are Sudanese.' My daughter came home and said, 'Mum, even though I was born here I will never be Australian.'***
Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08

- **At school (I was) called black, (I'm) not sure if (this was a) joke.**
17-year-old Australian-Sudanese woman, South Eastern Region Migrant Resource Centre Homework Program, 13/03/08
- **I get into fights at school as people are racist and teachers don't do anything.**
17-year-old Australian-Sudanese woman, South Eastern Region Migrant Resource Centre Homework Program, 13/3/08

10.2 Current strategies and gaps

Refugee young people's learning needs and response strategies have been outlined and are being addressed in the Department of Education and Early Childhood Development (DEECD) policy, *Strengthening Outcomes – Refugee Students in Government Schools (2008)*. Responses include the appointment of transition officers, and the resourcing of bridging programs in primary and secondary schools and the Victorian Certificate of Applied Learning (VCAL) programs, which provide pathways for older learners. The announcement in the 2008 State Budget of \$6.5 million over four years to schools and communities to meet refugee students' needs, with programs such as specialised support and an After-School Homework Program to help refugee students succeed at school, will also contribute significantly.

Since 2006, DEECD has allocated about \$3 million annually for transition programs to support refugee students with low literacy levels.

Extra transition officer positions to support refugee students exiting from New Arrivals Programs have been funded for several years. Their role is to support students in enrolling in a mainstream school after attending intensive English language classes. The transition officer works with the students, his/her family and local schools to make the best choice of school to meet the student's needs

In addition to overseeing the transition programs outlined above, School Development Officers work with individual schools to provide targeted assistance according to need. For example, they have worked closely with the three Dandenong Regeneration Schools to help ensure that targeted refugee programs in the middle and later years of schooling remain viable as the schools merge.¹⁰¹

Certain schools in the CGD offer alternative pathways, scholarships for students, bridging programs and social support. Cleland Secondary College (now part of Dandenong High School), Noble Park Secondary College and Springvale Secondary College. The Commission notes the impressive work undertaken by ESL and mainstream staff in secondary schools in the CGD.

A number of schools in the Dandenong area have run information programs for refugee parents on the education system – some with DEECD Southern Metropolitan Region support and some through their own arrangements. Improving effective communication with parents and communities is an important ongoing issue and is included in the School Development Unit's planning for 2009.

On Track is a State Government initiative that helps young people make the transition from school to further education, training and work. The project contacts young people who left school in Years 10–12 in the previous year to find out if they are studying or in full-time work. Those not studying or in full-time work are put in contact with local services to help them get their career plans back on track. Provision of information to *On Track* is voluntary and co-ordinators have reported that refugee students were reluctant to participate and did not want to identify themselves as refugees.

In identifying positive practices, ESL commanded a great deal of respect among service providers working with refugee young people and among young people themselves for the high quality of teachers. A Refugee Action Network is facilitated by Victorian Foundation for Survivors of Torture to support schools to work with refugee young people. Training on understanding the refugee experience is provided to 20 schools every 18 months. The training covers the 'refugee experience' and how this may impact on classroom learning. The training also encourages a whole-of-school response to preventing discrimination and racism.

In 2008 DEECD introduced flexibility into the Youth Transition Support Initiative program guidelines to enable older refugee young people to access the program. Two additional transition support workers will provide disengaged young people with tailored assistance to access support services and to re-engage in sustainable education, training or employment options.

¹⁰¹ DEECD's Response to Draft Report, October 2008

The DEECD (Southern Metropolitan Region), in partnership with the Local Learning and Employment Networks, is establishing a Youth Commitment. This is a state-wide strategy to ensure all young people aged 15–19 years are engaged in education or training pathways to the attainment of Year 12 or equivalent qualifications. Commitments clarify local career and transition support arrangements and who is responsible for young people until the next stage of transition is in place.

The Multicultural Education Unit provides advice and support to schools in the implementation of inclusive practice. This includes advice on the implementation of the *Multicultural Victoria Act 2004* (Vic), the *Racial and Religious Tolerance Act 2001* (Vic) and the Human Rights Charter in schools.

The Multicultural Education page on the DEECD website has recently been updated and contains information on legislation and implications for schools, Human Rights Education learning and teaching resources, professional learning and information about events and programs.¹⁰²

The Department's Cultural Diversity Plan 2008–2010 includes strategies to enhance the cultural competency of the DEECD workforce. The Student Wellbeing Unit in the Southern Metropolitan region ran a series of workshops for schools on refugee issues through Foundation House in 2007.¹⁰³

Victorian schools are self-governing and have responsibility for determining how the funds received are utilised to meet the needs of their students. Guidelines are provided to schools in receipt of ESL Index funding on the use of these funds for the employment of suitable teachers and Multicultural Education Aides to support ESL programs in the school.

Schools, in receipt of ESL Index funding, are required to complete an ESL Survey as part of the August Census. Information is collected on how the ESL Index funding has been used, the types of programs and the school's ESL student profile.

Schools receiving additional funding for transition programs are required to complete an end-of-year report on their program. Monash University has been contracted to complete an evaluation of transition initiative programs and their report is due in January, 2009.

10.3 Recommendations

The Department of Education and Early Childhood Development (DEECD) is currently developing a new Multicultural Policy that will highlight and respond to discrimination. The policy is influenced by the Charter and other government social inclusion policies. The new policy will align with current DEECD frameworks, including the Blueprint for Education and Early Childhood Development, *The Effective Schools Model* and *The Developmental Learning Framework for School Leaders*. It is unknown at this stage whether the policy will articulate key principles and strategies. It is not the intention of the Department to trial the policy at this stage.¹⁰⁴

The research found that, in some, cases Australian-Sudanese young people are not participating in and are even disengaging from education due to structural and interpersonal discrimination. Education support does not always adequately address Australian-Sudanese young people's learning needs. Combined with their experiences of interpersonal discrimination, this impacts on a young person's self-esteem, sense of belonging and participation in school. Young people's disengagement from schools results in long-term disadvantage.

The DEECD plays a pivotal role in promoting and realising the human rights of children and young people. This has been the case long before the Charter was enacted. However the Charter does serve to re-emphasise the obligation to consider and respond to the specific needs of children, and in particular those who are especially vulnerable because of their race as well as their age (ss 8 and 17). The basic right to be free from discrimination in the course of education is also enforced through the protections contained in the *Equal Opportunity Act 1995* (Vic).

102 DEECD's Response to Draft Report, October 2008

103 Ibid, 2008

104 Ibid, 2008

The Commission recommends:

19. That the Department of Education and Early Childhood Development (DEECD) promotes the principles and strategies articulated in its new multicultural policy currently being finalised in City of Greater Dandenong schools.
20. That Southern Region Department of Education and Early Childhood Development provide professional development and training for all schools in the City of Greater Dandenong on how to identify and deal with racism and discrimination, based on a whole-of-school approach that includes curriculum. Training is to be reported to the Commission through annual reporting on the operation of the *Charter of Human Rights and Responsibilities Act 2006* (Vic).
21. That Department of Education and Early Childhood Development continue to promote guidelines to ensure English as a Second Language (ESL) Index funding is only used to address the needs of ESL students.
22. That Department of Education and Early Childhood Development continue to prioritise and resource a comprehensive transition program for young people exiting the ESL New Arrivals Program and moving into mainstream schools.
23. That Department of Education and Early Childhood Development develop comprehensive data and analysis on the outcomes of the ESL New Arrivals Program to ensure that On Track initiative targets include refugee young people and to better inform policy.
24. That City of Greater Dandenong schools deliver information sessions to engage and inform parents about the education system and culture in Australia beyond translated materials.

11. Health

The Springvale site of the Greater Dandenong Community Health Service has a range of services supporting newly arrived migrants. The Department of Human Services (DHS) funded refugee health nurse was identified by the community as being of great assistance to young people, although there are concerns about the nurse's capacity to meet demand. Additional resources in the 2008–09 State Budget for the expansion of Refugee Health Nurse resources will see an increase in 1.0 EFT nurse in Dandenong. Dandenong Refugee Health Service has also recently started an infectious disease unit, which is accessed by the Australian-Sudanese community.

The researchers found that Australian-Sudanese young people experience a range of barriers to accessing health services, including a lack of awareness of services provided, poor understanding of the system, communication difficulties and a lack of culturally appropriate services.

Difficulties communicating with doctors because of inadequate or inappropriate use of interpreters, and a mistrust of confidentiality were raised. There was a sense that some doctors did not fully appreciate or understand the unique needs of refugee and migrant young people. The need for training and support to general practitioners was identified.

The Victorian Multicultural Commission has funded the Centre for Ethnicity and Health (CEH) to promote good practice in using interpreter services in general practices, leading to improvements in the quality of health care to patients who have low English proficiency and the development and delivery of accredited training modules for Divisions of General Practice.

Youth workers and health services identified an increase in youth pregnancy. Workers attributed this to limited education about family planning, while some workers also identified boredom as a reason for a high level of teenage pregnancy. The pregnancy increase is confirmed by City of Greater Dandenong (CGD) statistics: in 2006, 72 births were recorded among women aged 15–19 years. This is the third highest rate in Melbourne and twice the metropolitan level. Birth rates among 20–24 year old women are also among the highest in the CGD.¹⁰⁵

In response to these increases, the Springvale site of the Greater Dandenong Community Health Service and the Central African Community Association of Victoria (African Holistic Settlement Services) have conducted parenting and sexual education classes.

Research by VicHealth has indicated that people experiencing discrimination face a higher risk of developing a range of mental health problems. Discrimination was identified as having a particular impact on young people, as it has the potential to negatively affect their psychological adjustment and thereby their wellbeing into adulthood.¹⁰⁶

11.1 Recommendations

VicHealth's report, *More than Tolerance*, shows the cost of discrimination and that it is a significant public health concern. It found that racial discrimination affects a large proportion of the population; that there is a strong relationship between exposure to discrimination and poor mental health, especially depression; and that depression-associated disability costs \$14.9 billion annually and results in more than six million working days lost each year.

The VicHealth research indicates the economic imperative for adopting a human rights framework. All public authorities, including Department of Human Services, must act in a way that is compatible with the human rights contained in the Charter. The issues raised may engage the right to life, the right to freedom of expression and the protection of an individual's right to provision of information in accessible formats (including the use of interpreters). They can also be framed under freedom of expression, which includes the right to impart and receive information of all kinds.

The Commission recommends:

25. That the Department of Human Services and Southern Health deliver systematic and on going training and education for nurses and doctors in hospitals on culturally appropriate service provision and language services policies to ensure effective use of interpreters. Training is to be reported to the Commission through annual reporting on the operation of the *Charter of Human Rights and Responsibilities Act 2006* (Vic).
26. That the Centre for Ethnicity and Health work with the Dandenong District Division of General Practice to deliver training on the use of interpreters and working with culturally and linguistically diverse communities.

¹⁰⁵ CGD Council 2007, Fact Sheet, Social Profile – Young People

¹⁰⁶ VicHealth 2007, *More than Tolerance: Embracing Diversity for Health – Discrimination affecting migrant and refugee communities in Victoria, its health consequences, community attitudes and solutions*, p 10

12. Sport and recreation

The importance of sport and recreation programs as a tool for engaging young people – in addition to the benefits accruing from friendships and social connections, self-esteem and self-confidence – have been well documented.¹⁰⁷

For newly arrived migrants there are additional benefits such as developing language skills and enhancing social inclusion. The Centre for Multicultural Youth (CMY) advocates that targeted sport and recreation programs can help build trust, facilitate settlement and transitional support, act as a diversionary strategy, and provide an opportunity for young people to develop transferable skills.

For young people recovering from the trauma of the refugee experience, sport and recreation can have therapeutic benefits. It can promote health and wellbeing and may be an entry point to broader participation.

Finally, sport and recreation can provide an opportunity to build understanding between and within communities, and facilitate inclusion for newly arrived young people who are socially isolated and coping with the difficulties and dislocation of the settlement experience itself.¹⁰⁸

In the course of our consultations, young people and service providers described a number of barriers to participation in mainstream sports and recreation programs including:

- racism/interpersonal discrimination
- lack of knowledge about what is required to participate in sports
- language
- financial burden
- lack of transport
- reliance on and expectations of family support.

Incidents of reported racism included the following:

- ***(A) young person reported racism by another player in a basketball game to her coach. (The) coach told her not to worry, she will get used to it.***
Meeting with youth workers from Dandenong-based Centre for Multicultural Youth, 19/02/08
- ***(A) young woman went to a basketball sporting cub outside of the CGD and was asked if she wanted to join a black or white team?***
Meeting with youth workers from Dandenong-based Centre for Multicultural Youth, 19/02/08
- ***A friend was playing basketball (and) he got into a fight with another player who called him a 'black bastard'. (The) friend got suspended for two months and the person who called him black bastard was not punished.***
Australian-Sudanese male youth, 29/02/08

However, there were also examples of positive initiatives. Many of the young people spoken to participated regularly in informal recreation programs organised by the Southern Ethnic Advisory and Advocacy Council (SEAAC), Centre for Multicultural Youth (CMY) and the City of Greater Dandenong (CGD) Council. The programs offered transport to and from the venue or were close to public transport and were low cost.

A number of Australian-Sudanese community organisations were also organising informal sports for their community members with no financial support. To develop such initiatives, the possibility of converting the currently vacant Springvale court buildings to a youth recreation facility was advocated for by the local community.

¹⁰⁷ Francis, S & Cornfoot, S 2007, *Multicultural Youth in Australia: Settlement and Transition*

¹⁰⁸ Olliff, L 2007, *Playing for the Future: The Role of Sport and Recreation in Supporting Refugee Young People to 'Settle Well' in Australia*

CMY is funded by the Victorian Government (through VicHealth and the Department of Planning and Community Development) to provide sport sector development and capacity building through:

- a website with resources and information
- the multicultural Sports Network
- an e-newsletter
- cultural awareness training.

CMY also conducts projects, which include a social participation project, and promotes a model of casual training and friendly games. In addition, the CMY Spring Link Project has a worker based at a leisure centre. Their role is to encourage and bring culturally and linguistically diverse (CALD) young people into existing programs and support mainstream organisations to provide inclusive and appropriate services in the long term.

The popularity of a soccer program in Keysborough organised by CMY at the Springers Leisure Centre is reflected by large numbers of young people who travel long distances to access this and other programs.

12.1 Recommendations

A fairer society that is inclusive, embraces diversity and promotes civic and economic participation recognises that tackling discrimination is an essential pre-cursor to community cohesion and social participation.

The research found that institutional and interpersonal discrimination places significant barriers to Australian-Sudanese young people's participation in and access to sports and recreation opportunities. Given the importance of sport in promoting positive interactions between diverse groups and building bridging capital, it needs to be further supported at a state and local level.

The Commission recommends:

27. That Sport and Recreation Victoria promotes *Play by the Rules* – an interactive web-based resource designed to help schools, sporting associations and clubs ensure that sport is safe and free from discrimination and harassment¹⁰⁹ – and makes training available for local sporting organisations in the City of Greater Dandenong.
28. That the City of Greater Dandenong Council and the Victorian State Government prioritise and plan for low-cost youth recreation space to be located close to public transport.
29. That Sport and Recreation Victoria support an inclusive sports sector through embedding inclusive practices in State Sporting Associations funding agreements.
30. That Sport and Recreation Victoria, with the Centre for Multicultural Youth, pilot a mentoring initiative at local club level in the City of Greater Dandenong as a possible VicHealth Building Bridges Project to encourage Australian-Sudanese youth engagement in local sporting clubs.

¹⁰⁹ Play by the Rules is an interactive web-based resource designed to help schools, sporting associations and clubs ensure that sport is safe and free from discrimination and harassment. The online training courses are specifically designed for athletes, administrators, coaches and umpires. These courses are free and can be completed in your own time. Play by the Rules is a joint initiative between the Victorian Equal Opportunity and Human Rights Commission and Sport and Recreation Victoria.

13. Services

The City of Greater Dandenong (CGD) has a dynamic range of youth services. The importance of young people being connected to youth services and informed about their rights was raised by a number of people through the research consultations.

For Australian-African young people, key barriers to access include language, availability of public transport, understanding of systems and processes, financial barriers and trust in the confidentiality and respectfulness of services. The Centre for Multicultural Youth (CMY) has documented that many generalist services do not have sufficient knowledge and experience to address the diversity of needs of marginalised groups.¹¹⁰

Migrant and refugee young people often require specialist services that can deliver support in more intensive, holistic and flexible ways. The needs of multicultural young people are often not well served by mainstream youth work models, which are based around Anglo-Australian assumptions that focus on the individual and see adolescence as a period of transition to independence. Many of these services may not be culturally appropriate in relation to language, dress codes, dietary needs, family wishes and mixing of genders.

For generalist services to be effective in addressing the needs of all young people, there is a need for a consistent, organisation-wide commitment to serving the needs of multicultural young people. Services need to commit to access and equity in principle and in action through strategies and evaluation processes.¹¹¹

It has been observed that after the initial period of settlement, many refugees do not access the services that they require. When considering access to services, planning needs to address six components of accessibility:

- visible accessibility (awareness of service)
- physical accessibility (transport, location)
- procedural accessibility (referral and registration processes)
- economic accessibility (affordability)
- psychological accessibility (beliefs and expectations of service users), and
- cultural accessibility (language, values and behavioural norms).¹¹²

For example, the researchers were advised by community organisations that often large volumes of information are provided to young people when they first arrive in Australia, which may not be retained and requires reinforcing. A number of the organisations consulted suggested that service providers need to provide information in an accessible way and that this is not only about language but also about delivering information in manageable quantities and sometimes more than once.

A Minister from the Knox Presbyterian Church, which provides support and meeting space for the Australian-Sudanese community in Springvale, identified inadequate support for the Australian-Sudanese community by the Commonwealth Department of Immigration and Citizenship (DIAC) as a major issue that impacted on young people's successful settlement: 'They need a hand up, not a handout.'

Young people expressed a concern that they had limited opportunities for consultation about and participation in decisions made about them. A preference to speak only to community elders about youth issues was a concern raised by some Australian-Sudanese young people interviewed. One Australian-Sudanese youth organisation said that service providers did not consult or speak with young people before applying for funding.

- ***There was a case where a service provider received \$12,000 that they had not used after six months so they gave us \$3000, they then did not use the rest so gave it back to funding body.***
Australian-Sudanese youth organisation

The complex needs of newly arrived Australian-Sudanese young people underlines the importance of appropriate support services. The Department of Human Services (DHS) Refugee Minor Program was mentioned as a supportive model. This program provides support to children and young people who are refugees in Victoria, without their parents. The South Eastern Region Migrant Resource Centre (SERMRC) and Springvale Community Aid and Advice Bureau (SCAAB) workers were also highly regarded for general support and referral, indicating the value of refugee youth support workers based at organisations such as these. Some young people expressed confidentiality concerns with services run by their own community.

110 Australian Research Alliance for Children and Youth 2007, *Working with Multicultural Youth: Programs, Strategies and Future Directions*

111 Bashir, M 2000, Immigrant and Refugee Young People: Challenges in Mental Health, in Bennett DLB, *Deeper Dimensions: Culture, Youth and Mental Health*, NSW Transcultural Mental Health Centre, Sydney, pp 64-74

112 Research Alliance for Children and Youth 2007, *Working with Multicultural Youth: Programs, Strategies and Future Directions*, p 8

The Cities of Casey and Cardinia are increasingly recognising the rising numbers of Australian-Sudanese families living in their area and a number of Dandenong service providers are offering services to these areas. But people from Casey and Cardinia continue to travel to CGD because it offers more services and has more experience working with refugee communities.

A few workers suggested the use of mobile phone SMS that had key phone numbers for assistance. The need for after-hours and weekend services was a key request from young people

The Commission notes recent significant funding and program commitments by the CGD and the State Government. A new State Government grant of \$1.2 million in the CGD will help young people access vital support services.

The Minister Assisting the Premier on Multicultural Affairs, the Hon James Merlino and the CGD Mayor, Mr John Kelly announced the Connecting At Risk Young People Initiative – a program that will provide a range of responses to better connect vulnerable young refugee people to services in times of crisis.

13.1 Recommendations

The Commission strongly supports the Victorian Government, the City of Greater Dandenong and community organisations to continue to recognise the specific needs of refugee young people and to provide culturally accessible and appropriate services in keeping with the aims of the Victoria's anti-discrimination and human rights legislation.

The Commission recommends:

31. That the City of Greater Dandenong be resourced to work with the Commission to train community and government organisations on the integration of human rights into their organisational practice and policies.
32. That the Settlement Committees in the Cities of Greater Dandenong, Casey and Cardinia to review youth issues, based on this report, and make recommendations to the Commonwealth Department of Immigration and Citizenship for resettlement support and services for Australian-Sudanese young people.

14. Employment

Employment provides important social and economic participation in the Victorian community. Unemployment and underemployment as a result of discrimination can compromise a person's social integration into Australian society.

A number of people indicated during the research that young people want to work, but cannot find jobs. Young people and community workers reported many experiences of discrimination in the area of employment.

- ***I went for a job and was told, '(I'm) wary of employing Sudanese as they are always late.'***
Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08
- ***'Oh we already have 10 Sudanese people working here,' was another reason given for not giving the young person employment.***
Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08
- ***Lack of local experience (is) used as an excuse not to get the job.***
Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08

A youth worker from Centre for Multicultural Youth (CMY) told researchers that a young woman did work experience at a large retailer in Dandenong. Usually most young people get on-going work after work experience. In this case, the retailer told her to 'go and try to get a job at the African hairdresser.'¹¹³

Most Australian-Sudanese young people who were consulted for this research worked in small factories and workplaces and spoke about their experiences of feeling exploited and over-scrutinised.

- ***In a factory job I had the employer automatically assume I could not speak English.***
Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08

Young people raised concerns about a lack of occupational health and safety (OHS) training in workplaces. They also reported being yelled at when they made a mistake.

- ***They would not yell at other employees, but because of my race I am abused.***
Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08
- ***A friend cut and injured himself at work. His workplace did not tell him to go to the hospital and he was too scared to complain as he feared he would lose his job. The employer did not pay for time off work when injured at work.***
Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08

The Springvale Monash Legal Service (SMLS) indicated that they received a number of complaints from Australian-African young people who have been denied employment benefits and believe it is because of their race. Their low skills and recent arrival makes them particularly susceptible to discrimination and reluctant to make a complaint as they are scared of losing their job.

- ***I am a builder (and) one day I was working at a site when another builder turned up and said to my co-worker, 'What is this guy doing? I didn't expect him to be here as his cousins are making trouble in Doveton.'***
Another time a co-worker said upon seeing a Sudanese in the workplace, 'Oh are Sudanese people doing this job now?'
Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08
- ***I was working at a girls' school when a male school employer said to my co-worker, 'I am having trouble with what his cousins are doing; I am worried about him working here.'***
Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08

¹¹³ Meeting with Dandenong-based CMY youth workers, 19/2/08

Young people also raised difficulties they experienced in applying for and gaining work.

- **... (you) never hear back from employers that you are unsuccessful in getting a job.**
Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08
- **(The) online applications for some large retailer (was) long and difficult to fill in.**
Community meeting with South Sudan Equatorians Association in Victoria, 16/03/08

The researchers heard that Job Networks were reluctant to take Australian-African young people on as they are regarded as not 'job ready' and more difficult to place:

- **Job Networks and employment agencies want people to be 'job ready' ... don't want young people generally.**
Meeting with SERMRC and SCAAB youth workers at SELLEN South East Local Learning and Employment Network, 12/2/08

Conversely, Job Network providers discussed difficulties in getting jobs for young people with accents:

- **If I ring up, there is a job. If a client rings, there is no job because of their accent.**
Meeting with SERMRC and SCAAB youth workers at SELLEN South East Local Learning and Employment Network, 12/2/08

There was some concern that low literacy skills prevented Australian-African young people from being accepted into apprenticeships and there was a need for more pre-apprenticeships with an ESL focus.

The South East Local Learning and Employment Network (SELLEN) indicated that, in many cases, young Australian-African people had low education skills which prevented them from gaining employment.

An example of a positive response to this is the South East Melbourne Manufacturers Alliance (SEMMA). SEMMA represents 140 members from the manufacturing industry in the South Eastern area. This alliance indicated that it is very supportive of employing refugees and migrants due to acute skill shortages in the area. Industry would rather train local community members, as their experience with 457 visas has been that they are costly and short term. SEMMA's experience with the Australian-Sudanese community has been that they really want to work. It is currently developing an 18-month to two year program co-ordinating English language, occupational health and safety (OHS) and workplace training that targets the Australian-Sudanese community to help them work in the manufacturing sector.

Other positive responses include:

- There has been increase in funds for apprenticeships at Chisholm Institute of TAFE.
- The Department of Justice (DOJ) has for the last two years provided scholarships for Horn of Africa (HoA) community members to study at Victoria University in the area of justice – these scholarships aim to support HoA community members financially and encourage them to take up employment in the justice-related fields.
- The fast food chain Hungry Jack's in Dandenong was identified as providing young people with experience and employment opportunities.

The Commission recently investigated and reported in detail discrimination faced by culturally and linguistically diverse communities in employment.¹¹⁴ A recent survey by Dunn and Forrest reported one in six Victorians have occasionally felt discriminated against in the workplace, while close to one in 50 have experienced it often.¹¹⁵

The experiences communicated to the researchers indicate the need to address dehumanising interpersonal discrimination in the workplace as well as alleged structural discrimination by Job Networks and employers.

Despite race discrimination being against the law, fear of losing a job and other barriers make young people reluctant to complain against their employer when they believe discrimination has occurred. As noted by Allbrook¹¹⁶ and McKenzie¹¹⁷ racism impacts on social cohesion, economic productivity, public perceptions of safety, and the broader psychological and

¹¹⁴ VEOHRC 2008, *Harnessing Diversity: Addressing Racial and Religious Discrimination in Employment*

¹¹⁵ VicHealth 2007, *More than Tolerance: Embracing Diversity for Health – Discrimination affecting migrant and refugee communities in Victoria, its health consequences, community attitudes and solutions*, p 11

¹¹⁶ Allbrook, M 2001, *Strategies for Change: Anti-Racism Initiatives from Australia, Canada, The United States of America, and the United Kingdom*, The Office of Citizenship and Multicultural Interests, Perth

¹¹⁷ MacKenzie, K 2003, Racism and health, *British Medical Journal*, Vol. 329, pp 55-56

physical health burden of the community.¹¹⁸ The Commission's recently released report, *Harnessing Diversity: Addressing Racial and Religious Discrimination in Employment*, explores this issue in more detail and makes recommendations to address discrimination in employment.¹¹⁹

The Commission commends the Department of Innovation, Industry and Regional Development (DIIRD) on its recent Youth Employment Scheme allocation in the CGD, which targets Australian-African refugee young people. DIIRD is also working with registered training organisations in the CGD on a number of initiatives to assist people from culturally and linguistically diverse (CALD) backgrounds to develop the necessary skills to undertake vocational education and training to develop the skills necessary to get jobs.

Chisholm Institute of TAFE has specific initiatives to support refugee retention in the training system. These initiatives include:

- Fee relief
- waiver of materials costs
- provision of role models and mentors
- assistance with childcare.

Chisholm Institute of TAFE also employs a Sudanese Liaison Officer, located at the Dandenong campus to co-ordinate and support strategies to facilitate refugee participation.

A case study is provided as an example of what is being achieved.

Chisholm Institute's Language and Cultural Studies department is currently involved in a community project in collaboration with the CGD and William Angliss TAFE. The project is aimed at Dandenong's disadvantaged youth, particularly young Australian-African people, between the ages of 15 and 19 years. Potential participants have been disconnected from mainstream education and need support with education and training. The students have the opportunity to undertake the Certificate II in Hospitality Operations and modules of the Certificate II in English as a Second Language. Local businesses have provided work experience for the students and have been supportive of the project.

The Department of Industry, Innovation and Regional Development (DIIRD) has commissioned a major research project to identify barriers to access, participation and transition from training into the workforce for people from culturally and linguistically diverse (CALD) backgrounds, in particular, Horn of Africa, Middle East, Asia and Slavic states. The research will inform the TAFE (CALD) Communication Strategy to:

- increase TAFE staff awareness of CALD issues
- foster the understanding of the needs of people from CALD backgrounds
- expand on CALD networks and other local service networks and agencies, such as community organisations, employment organisations and other bodies.

The Department of Industry, Innovation and Regional Development has representatives on the Federal and State Government Joint Steering Committees and Working Groups for Post-compulsory Education and Refugee Youth in Transition. The aims of the Steering Committees and Working Groups are to:

- identify education, training and employment pathways for effectively meeting the needs of refugee youth in the post-compulsory education age group'
- develop strategies to disseminate good practices and overcome barriers to meeting these needs.

To date the outcomes of the Working Group have included (i) mapping post-compulsory education and training pathways to employment for migrants and humanitarian entrants in Victoria and (ii) developing good practice case studies highlighting local solutions in response to post-compulsory education pathway barriers and issues.

¹¹⁸ Allbrook, M 2001, *Strategies for Change: Anti-Racism Initiatives from Australia, Canada, The United States of America, and the United Kingdom*, The Office of Citizenship and Multicultural Interests, Perth.

¹¹⁹ VEOHRC 2008, *Harnessing Diversity: Addressing Racial and Religious Discrimination in Employment*

14.1 Recommendations

There are clear benefits to reducing discrimination in employment and considerable costs if this is not achieved. One of the greatest costs is the loss of productivity, skills and innovation due to the under-utilisation of talents and skills that migrants bring to the country. Discrimination in employment and in other areas of public life limits people's human rights, works against social and economic participation contributes to disadvantage and runs contrary to community values of fairness and opportunity.

Despite Victoria's many successes in addressing inequality, discrimination remains. To meet this challenge and to deliver on the core aims of the Charter and other Government policies, such as A Fairer Victoria, further concerted effort is required.

The Commission recommends:

33. That the Commission pursues localised implementation of the recommendations included in its employment discrimination report *Harnessing Diversity*¹²⁰ and specifically:

- That the Commission and the Victorian Multicultural Commission work with employer groups to run social marketing campaigns in conjunction with the Skilled and Business Migration Unit. These campaigns will highlight the value and importance of migrants to our economic growth and the zero tolerance approach that exists in Victoria towards racism and discrimination in the workplace.
- That the Commission works with small and medium enterprises in the City of Greater Dandenong to promote the importance of equal opportunity workplace policies and training and education about the diversity of Australian-Sudanese employees experience.
- That the Commission provides equal opportunity training to Job Networks in the City of Greater Dandenong and promotes the Commission's guidelines, *A Fair Go for Jobseekers: Best Practice Guidelines for the Recruitment Industry and Employers*,¹²¹ to Job Network providers and the recruitment sector.

¹²⁰ VEOHRC 2008, *Harnessing Diversity: Addressing Racial and Religious Discrimination in Employment*

¹²¹ Recruitment Industry Best Practice Guidelines <<http://www.humanrightscommission.vic.gov.au/information%20for%20employers/recruiting%20for%20a%20fair%20go/best%20practice%20guidelines.asp>> at 22 October 2008.

15. Accommodation

Access to housing is fundamental to young people's settlement and their ability to participate in education and employment. Challenges to accessing accommodation and discrimination in the rental market were consistently raised with the researchers.

One worker told of the experience of an Australian-African young person who was told that a house was not available. When she rang the real estate agent, the house was actually still available. Similarly:

- ***I applied for a house with my family but was told the house was rented, but I saw it was still on market the next week.***

David, 20-year-old Australian-Sudanese male, 12/03/08

The community are concerned about perceptions that Australian-Sudanese people do not look after houses and how this impacts on their ability to find housing.

- ***I applied for 30 houses before getting a house. Finally when I did get a house the landlord complained about rubbish on the lawn for hard rubbish day.***

Australian-Sudanese male, 27/02/08

The vulnerability and potential for newly arrived young people to be exploited in the area of accommodation was raised. A young person reported that he had not had his bond returned, as the landlord claimed he had broken a rod in the bathroom and the flyscreen on a window. The real estate agent had not returned bond of more than \$1000 a month later despite the young person offering to pay for the damage.

Another young person returned a rental property key that he had inspected five minutes late and was refused the return of his \$50 key deposit. A worker had to go in and demand the \$50 back.

Consumer Affairs Victoria (CAV) and Springvale Community Aid and Advice Bureau (SCAAB) entered into a project partnership in August 2006, to address tenancy and consumer issues experienced by the Australian-African community in the CGD.

CAV's Multicultural Consumers Unit (MCU) has worked with SCAAB to provide education on tenant rights and responsibilities to the Australian-Sudanese community.

The unit provides a mobile outreach consumer assistance service from the SCAAB offices one day a week. About 55% of Australian-African clients present with tenancy and accommodation issues.

The Adult Multicultural Education Services (AMES) was identified as managing good relations with real estate agents, which assisted their clients to access housing.

Peninsula Legal Service, with funding from CAV has developed a young renters program, in conjunction with local real estate agents. At the end of the program young people receive a certificate to show real estate agents and to support them to access rental accommodation. CAV's multicultural programs are now working jointly with Peninsula Legal Service to deliver the young renters program to Australian-African youth in the CGD with funding from the Residential Tenancy Fund.

The need for housing and homelessness services to be better trained to work with newly arrived young people was raised by a number of workers. It was reported that a youth housing service did not allocate funds for interpreters, which made it difficult for Australian-Sudanese young people to access the service. This service gives newly arrived young people a phone a list of possible housing options. They are expected to phone the numbers like other young people fluent in English in order to be able to locate temporary housing.

WAYS, housing service was, however, cited as an example of an accommodation service that works well with Australian-African young people. In particular their use of interpreters and extra time spent supporting clients to search for housing were commended. Input from WAYS to the research identified the extra time and resources it takes to work effectively with and respond to the needs of clients from a non-English-speaking background.

The Commission notes that the Language Services policy of the Department of Human Services' supports a range of measures including: funding language services for tenants and applicants seeking assistance from community service organisations that deliver support services for housing clients; providing homelessness agencies with access to a telephone interpreting service; distribution of a guide and CD called *Making the Connection: Language Services in the Human Services Sector* to all funded community service organisations; providing DHS funded agencies with access to the Department's training calendar, which includes cultural respect training.

15.1 Recommendations

Discrimination in housing and accommodation and, more broadly, in service provision can contribute to youth homelessness and severe disadvantage. Reluctance to use interpreters and cater for young people's language needs may potentially amount to less favourable treatment in receiving service based on an individual's language. This is against the law under the *Equal Opportunity Act 1995* (Vic). A number of these reported incidents could form the basis of a discrimination complaint against real estate agents.

The Commission recommends:

34. That the Department of Human Services, through funding service agreements with housing service providers, monitor and provide training on culturally appropriate service provision and development of language services policies to ensure effective use of interpreters.
35. That the Department of Human Services to be resourced to work with the Commission to train community organisations in the City of Greater Dandenong on the integration of human rights into their organisational practice and policies.
36. That the Commission continue to work with and educate property managers/ real estate agents/landlords about the *Equal Opportunity Act 1995* (Vic) by organising information sessions in collaboration with the Real Estate Institute of Victoria and the redistribution of the *New Country, New Home* publication.¹²²
37. That Springvale Community Aid Advice Bureau (SCAAB) and Springvale Monash Legal Service (SMLS) explore the development of a young renters program for the City of Greater Dandenong, based on the Peninsula Legal Service model.

¹²² *New Country, New Home* <<http://www.humanrightscommission.vic.gov.au/publications/new%20country%20new%20home>> at 29 October 2008

Bibliography

- Allbrook, M 2001, *Strategies for Change: Anti-Racism Initiatives from Australia, Canada, The United States of America, and the United Kingdom*, The Office of Citizenship and Multicultural Interests, Perth
- Australian Bureau of Statistics 2007, *Recorded Crime – Victims, Australia*; Cat no.4510.0
- Bashir, M 2000, Immigrant and Refugee Young People: Challenges in Mental Health, *Deeper Dimensions: Culture, Youth and Mental Health*, NSW Transcultural Mental Health Centre, Sydney, pp 64-74
- Berman, G 2007, *Institutional Racism in Victoria: Always and Everywhere a Different Phenomena Policing: A Case Study*
- Cantle, T 2004, *The End of Parallel Lives? The Report of the Community Cohesion Panel, The Home Office, London as used by Mapping Social Cohesion: The Scanlon Foundation Surveys Summary*
- Centre for Multicultural Youth – South East Local Learning and Employment Network, Olliff, L 2004, *Pathways and Pitfalls: Refugee Young People in and Around the Education System in Greater Dandenong*
- Centre for Multicultural Youth, Olliff, L 2007, *Playing for the future: The role of sport and recreation in supporting refugee young people to ‘settle well’ in Australia*
- Centre for Multicultural Youth 2006, Information Sheet – Refugee Young People and Resettlement
- Chan, J 1997, *Changing Police Culture: Policing in a Multicultural Society*, Cambridge University Press, Melbourne
- City of Greater Dandenong Council 2007, *Social Conditions in Greater Dandenong*, City of Greater Dandenong
- City of Greater Dandenong Council 2007, Fact Sheet, Social Profile – Young People
- Crane, P 2005, *Space Invaders? Young People and Public Space Forum Report*, YACVIC, p 16
- Department of Premier and Cabinet 2005, *Growing Victoria Together: A Vision for 2010 and Beyond*, State of Victoria
- Department of Justice 2008, *Equal Opportunity Review Options Paper*, State of Victoria
- Engel, R, Calnon, J, and B Thomas 2002, Theory and Racial Profiling: Shortcomings and Future Directions in Research, *Justice Quarterly*, Vol. 19, No. 2, pp 249–273
- Forrest, et al 2007, Experience of discrimination among refugee youth in Melbourne, *Good Starts for Refugee Youth*, Refugee Health Research Centre
- Francis, S & Cornfoot, S 2007, *Multicultural Youth in Australia: Settlement and Transition*
- Gopalkrishnan, N 2004, *Cultural Diversity and Civic Participation in Queensland*, Centre for Multicultural and Community Development, University of the Sunshine Coast
- Human Rights and Equal Opportunity Commission 2007, *Report to the Department of Immigration and Citizenship on the Unlocking the Doors Project*
- Human Rights and Equal Opportunity Commission 2003, *Isms: Listen: National Consultations on Eliminating Prejudice Against Arab and Muslim Australians*
- Krieger, M 1999, Embodying inequality: a review of concepts, measures and methods for study, *International Journal of Health Services*, Vol. 29, No. 2, pp 295–352
- Link, B & Phelan, J 2001, Conceptualising Stigma 2001 *27 Annual Review of Sociology*, pp 363–385
- MacKenzie, K 2003, Racism and Health, *British Medical Journal*, Vol. 329, pp 55-56
- Markus, A & Dharmalingam, A 2008, *Mapping Social Cohesion: The Scanlon Foundation Surveys Summary*, p 5
- Neville-Wright, D et al 2007, *Counter-Terrorism Policing and Culturally Diverse Communities Final Report*, p 19
- Olliff, L 2007, *Playing for the Future: The Role of Sport and Recreation in Supporting Refugee Young People to ‘Settle Well’ in Australia*
- Pickering S, Wright-Neville D, McCulloch J & Lentini P 2007, *Counter-terrorism policing and culturally diverse communities – Final report*, Monash University
- Refugee Resettlement Advisory Council 2002, Strategy for Refugee Young People, Commonwealth Department of Immigration, Multicultural and Indigenous Affairs, Canberra
- Research Alliance for Children and Youth 2007, *Working with Multicultural Youth: Programs, Strategies and Future Directions*, p 8
- South Eastern Region Migrant Resource Centre 2007, *Sudanese in South East Melbourne: Perspectives of a new and emerging community*
- Springvale Monash Legal Service 2008, *Comparative Analysis of South Sudanese Customary Law and Victorian Law*
- University of Melbourne 2007, Community Indicators Victoria
- VicHealth 2007, *More than Tolerance: Embracing diversity for health – Discrimination affecting migrant and refugee communities in Victoria, its health consequences, community attitudes and solutions*
- Victorian Equal Opportunity & Human Rights Commission 2008, *Submission to EOA Review Discussion Paper 2007*
- Victorian Equal Opportunity & Human Rights Commission 2008, *Harnessing Diversity – Addressing Racial and Religious Discrimination in Employment*
- Williams DR & Williams-Morris R 2000, Racism and Mental Health: the African American experience, *Ethnicity & Health*, Vol. 5 No. 3/4, pp 243–268
- Wortley, S 2003, Hidden Intersections: Research on Race, Crime, and Criminal Justice in Canada, *Canadian Ethnic Studies*, Vol. 35 No. 3, pp 99–117
- Youth Affairs Council of Victoria 2003, *In the Spotlight: Young People and the Media*

Appendix 1 – Organisations consulted

- African Think Tank
- Adult Multicultural Education Services
- Casey City Council
- Centre for Multicultural Youth
- City of Greater Dandenong Youth Services Council
- Consumer Affairs Victoria
- Victorian Government Department of Education and Early Childhood Development
- Victorian Government Department of Transport
- Victorian Government Department of Human Services
- Victorian Government Department of Innovation, Industry and Regional Development
- Victorian Government Department of Justice
- Victorian Government Department of Planning and Community Development
- Dandenong Casey District General Practice Association
- Sudanese Lost Boys Association of Australia
- Multicultural Sudanese Centre Inc
- Multicultural Youth Action Group
- Mission Australia
- Network Ten
- Office for Police Integrity
- Office for Youth
- School Focused Youth Services – Greater Dandenong
- Sudanese Disability Action Group in Victoria Inc
- South East Local Learning and Employment Network
- South East Melbourne Manufacturer Alliance
- South Eastern Region Migrant Resource Centre
- Southern Ethnic Advisory and Advocacy Council
- Southern Health
- South Sudanese Community Association of Australia Inc
- South Sudan Equatorians Association Inc
- Springvale Community Aid and Advice Bureau
- Springvale Learning and Activities Centre Inc.
- Springvale Monash Legal Service
- Victorian Foundation for Survivors of Torture
- Victorian Multicultural Commission
- Victoria Police
- Youthlinks





**Victorian Equal Opportunity
& Human Rights Commission**

Level 3, 380 Lonsdale Street Melbourne Victoria 3000

Telephone: **(03) 92817111** • Advice Line: **(03) 9281 7100** • Fax: **(03) 9281 7171** • TTY: **(03) 9281 7110**
Interpreters: **(03) 9280 1995** • Toll Free: **1800 134 142** (country callers) • Email: **information@veohrc.vic.gov.au**
www.humanrightscommission.vic.gov.au