

Submission to the Parliamentary Inquiry into Youth Justice Centres in Victoria

Introduction

The Centre of Excellence in Child and Family Welfare (the Centre) welcomes the opportunity to provide a submission to the Victorian Legislative Council's Legal and Social Issues Committee Inquiry into issues at Parkville and Malmsbury Youth Justice Centres.

The Centre is the peak body representing more than 100 community service organisations across Victoria. Member organisations include children and family services, local government and other sector organisations in health and education. Our members work closely with vulnerable children and young people, including children and young people in out-of-home care (OOHC) and/or child protection and who are at risk of entering, or have entered, the youth justice system.

The inquiry into Victoria's Youth Justice Centres provides an important opportunity to ensure that vulnerable children and young people are being protected and treated in accordance with their rights in Victoria's youth justice system.

The Centre's submission highlights the correlation between involvement in child protection and entry into the youth justice system, and provides evidence-informed recommendations for how this trajectory might be changed and prevented.

In summary, the Centre recommends that the government:

Recommendation 1: Invest in a Justice Reinvestment program which targets those communities with the highest rates of youth offending.

Recommendation 2: Ensure that all staff working in youth detention centres are trained in trauma-informed practice, including managing challenging behaviours.

Recommendation 3: Ensure children and young people in youth detention facilities can access ongoing rehabilitation and therapeutic services, including:

- Education, training and employment opportunities
- Drug and alcohol services
- Mental health services
- Family support programs.

Recommendation 4: Ensure the treatment provided to children and young people in Youth Justice Centres is age- and developmentally- appropriate and that staff are trained accordingly.

Recommendation 5: Dedicate resources to support collaboration between the youth justice and child protection systems to efficiently target services and improve outcomes for dual clients.

Recommendation 6: Investigate Scotland's WSA model to determine the feasibility of implementing a similar model in Victoria.

Recommendation 7: Extend the entitlement of state care services and support until at least 21 years.

Recommendation 8: Ensure children and young people dually involved with the care and youth justice systems remain connected to their community and can access education, training and employment opportunities.

Young people offending in Victoria

Contrary to the impression conveyed in some recent media reports, only a small proportion of children in Victoria come into contact with police or the criminal justice system as offenders.¹ Victoria has the lowest rate of children under justice supervision in Australia.² In its July 2016 data update, the Sentencing Advisory Council reported that from 2010 to 2015, there was a 43 per cent reduction in the number of cases sentenced in the Children's Court from 2010 to 2015. However, the number of children and young people on remand in Victoria has almost doubled in five years, with about 80 per cent of children and young people currently in the Youth Justice Centres on remand.³ The uncertainties associated with this situation have contributed to the increased volatility of the young people in detention centres.⁴ Only about 20 per cent of those in remand are given a custodial sentence.⁵

Under Victoria's 'dual track system' offenders aged 18-20 years can be sentenced to a youth justice centre instead of an adult prison if there are particular vulnerabilities or reasonable prospects of rehabilitation. Around half of the 18-20 year olds in the dual track system are in the youth justice system.⁶

Based on its 2016 analysis of youth justice trend data, the Sentencing Advisory Council concluded that:

Both youth offending and the number of children being sentenced in the Children's Court have declined substantially over the reference period. Further, there is no evidence that sentenced youth offending is becoming more serious overall. While any localised increases in crime by children are of concern to the community, the current evidence suggests a need to implement targeted crime reduction strategies, rather than widespread or systemic reforms.⁷

In 2013, the Victorian Ombudsman reported that 'the youth justice system is limited in its capacity to deal with a small, but increasing, cohort of young people exhibiting violent behaviours'.⁸ It is this small cohort of young people who are most in need of targeted support to help break the cycle of offending behavior and to rehabilitate and educate them to have productive and meaningful futures. However, the broader group of vulnerable children and young people also need targeted prevention and early intervention strategies to divert them from contact with the youth justice system.

Child protection and youth offending

There is a clear correlation between immersion in the child protection system and youth offending. A 2016 report of the Australian Institute of Health and Welfare (AIHW) shows that in 2014-15, young people in the

¹ Sentencing Advisory Council 2016, Sentencing children in Victoria: Data update report.

² Sentencing Advisory Council 2016.

³ Victorian Ombudsman 2017, p8.

⁴ Ibid.

⁵ Ibid.

⁶ Ericson, M. & Vinson, T. 2010, *Young people on remand in Victoria: Balancing individual and community interests*. Richmond, Jesuit Social Services.

⁷ Sentencing Advisory Council 2016, p51.

⁸ Victorian Ombudsman 2013, [An Investigation into Children Transferred From the Youth Justice System to the Adult Prison System](#).

child protection system were 14 times more likely than the broader youth population to be under youth justice supervision in that year.⁹ Almost half (45 per cent) the young people in detention in 2014-15 were also in the child protection system in the same year and, of those young people in community-based supervision in 2013-14, more than one-third (34 per cent) were also in the child protection system.¹⁰

A succession of reports shows that, of those in the youth justice system in Victoria, many have complex needs and/or come from backgrounds of significant disadvantage.¹¹ A Department of Health and Human Services (DHHS) survey of 167 males and nine females on sentence or remand in Victoria in October 2015 showed that:

- 45 per cent had been subject to a previous child protection order
- 19 per cent were subject to a current child protection order; and
- 63 per cent were victims of abuse, trauma or neglect.¹²

Risk factors

Risk factors for young people who enter youth justice include family breakdown, alcohol and drug misuse, family violence, disadvantage and poverty, exclusion from education, and social isolation.¹³

The DHHS survey referred to above highlights the complexity and inter-relatedness of the issues facing these young people. Of 176 young people on sentence or remand in October 2015:

- 62 per cent had previously been suspended or expelled from school
- 30 per cent presented with mental health issues
- 18 per cent had a history of self-harm or suicidal ideation
- 24 per cent presented with issues concerning their intellectual functioning
- 11 per cent were registered with Disability Services
- 66 per cent had a history of both alcohol and drug misuse
- 12 per cent were parents
- 38 per cent had a family history of parental or sibling imprisonment
- 12 per cent spoke English as a second language
- 10 per cent were homeless with no fixed address or residing in insecure housing prior to custody.¹⁴

These are significant challenges faced by a highly vulnerable cohort of young people. Similarly, Jesuit Social Services have found that young people in detention are often 'victims of abuse, trauma and neglect, with

⁹ Australian Institute of Health and Welfare (AIHW) 2016, '[Young people in child protection and under youth justice supervision 2014–15](#)', Data linkage series no. 22. Cat. no. CSI 24. Canberra: AIHW.

¹⁰ AIHW 2016.

¹¹ See: Victorian Ombudsman 2017, Report on youth justice facilities at the Grevillea unit of Barwon Prison, Malmsbury and Parkville; Victorian Ombudsman 2013; AIHW 2016; Australian Institute of Health and Welfare 2016. [Youth justice in Australia 2014–15](#). Bulletin 133. Cat. no. AUS 198. Canberra; and DHHS, 2016, [Youth Parole Board Annual Report 2015-16](#), p14.

¹² DHHS 2016, p14.

¹³ Schofield, G., Ward, E., Biggart, L., Scaife, V., Dodsworth, J., Larsson, B. & Stone, N. 2012, *Looked After Children and Offending: Reducing Risk and Promoting Resilience*. Norwich, UK: University of East Anglia.

¹⁴ DHHS 2016, p14.

high rates of drug and alcohol abuse, child protection involvement and school exclusion'.¹⁵ Their pre-care experiences, including abuse, neglect, and poor in-care experiences, as well as a lack of support upon leaving care, contribute to their over-representation in youth justice.

A recent report of the WA Children's Commissioner highlights five key themes emerging from consultations with 92 young people under the supervision of the youth justice system.¹⁶ In order of frequency, the most commonly cited reasons given by these young people for ending up in youth justice were:

- problems with family (including families engaged in criminal activity, alcohol, drug and mental health issues, and violence in the home)
- friends who were involved in criminal behavior
- disengagement from school
- disconnection from the broader community
- personal issues including crime as a normal habit, drug and alcohol use, cognitive disorders and mental health issues.

Other studies have shown how child neglect and abuse can lead to delayed development of language and have long term impacts on health and social outcomes.¹⁷ They undermine a child's ability to develop important socio-emotional and cognitive skills, including those skills necessary for criminal responsibility.

Addressing the issues contributing to the vulnerability of young people

Prevention and Early Intervention

Children who come into contact with the criminal justice system at a younger age are likely to offend more often and over more extended periods of time than children who come into the system when they are older and outcomes are likely to be poorer.¹⁸ Jesuit Social Services has found that the most vulnerable children come to the attention of the justice system at the youngest ages and that the response of the youth justice system then compounds the vulnerabilities, which helps explain 'the poor experiences and outcomes for the youngest children, those 14 or under, and 10 to 12 in particular, in the youth justice system'.¹⁹

There is international evidence showing early intervention models to be a more cost-effective approach for addressing criminal behaviour than seeking to address young offending at the tertiary end.²⁰ Justice Reinvestment is a preventative approach to crime reduction which reinvests the money that would otherwise have been put into prisons into communities with high concentrations of criminal behaviour. Recognising that disadvantage and poverty are key predictors of crime, the strategy seeks to reduce the chance of children offending later in life by addressing particular areas of need.

¹⁵ Jesuit Social Services, 2013, '[Thinking Outside: Alternatives to Remand for Children](#)', Richmond, pp. 4.

¹⁶ Commissioner for Children and Young People 2015, '[Youth Justice – Supporting Vulnerable Children and Young People in WA](#)', Policy Brief – March 2015, p7.

¹⁷ Perry, B. 2002, 'Childhood Experience and the Expression of Genetic Potential: What Childhood Neglect Tells US About Nature and Nurture', *Brain and Mind*, 3 (1), pp 79-100.

¹⁸ Jesuit Social Services 2013, p38, 40.

¹⁹ Ibid. p41.

²⁰ Australian Human Rights Commission 2009, '[Social Justice Report](#)'.

The Australian Human Rights Commission has identified Justice Reinvestment as a potential strategy to reduce the overrepresentation of Aboriginal young people incarcerated in Australia.²¹ In 2013, a justice reinvestment trial was launched in the New South Wales town of Bourke, where unemployment, school disengagement and imprisonment rates are high, particularly among young Aboriginal people. Since October 2012, Just Reinvest NSW has been working with Bourke Aboriginal Community Working Party (BAWP) towards a Justice Reinvestment framework. The aim of this model is to create local solutions to address problems around offending and create alternative pathways for young people at risk of offending.

The justice reinvestment approach in NSW is data driven; place-based; supported by a centralised steering committee; fiscally sound; and provides a targeted approach to increasing community safety and reducing offending and imprisonment.²²

While it is too early to see results from the Bourke initiative, overseas studies indicate its potential for preventing entry into youth justice. For example, five states in the USA have successfully implemented justice reinvestment programs, including in traditionally conservative states. Kansas has achieved a 7.5 per cent reduction in its prison population and has reduced reconviction rates by 35 per cent. Evidence from Justice Reinvestment schemes overseas suggests that the approach to addressing underlying localised causes of crime is more cost effective than placing more people in prison and building new facilities to house them. Kansas saved the state \$80.2 million over five years. Texas halted their growing prison population while saving \$210.5 million in 2008-2009.²³

In 2010, 25 per cent of young people on remand in Victoria came from just 16 of the state's postcodes demonstrating the concentration of crime in the state.²⁴ This provides a timely opportunity to implement a targeted investment intervention.

Recommendation 1: Invest in a Justice Reinvestment program which targets those communities with the highest rates of youth offending.

Trauma-informed and Therapeutic care

As discussed above, young people involved in the OOHC and youth justice systems are likely to have been exposed to a range of traumatic experiences in their family or community. Trauma can often manifest for young people in a range of disruptive and challenging behaviours that are harmful to themselves and/or others.²⁵ There is a strong body of research that supports the use of trauma informed practice in service provision to children and young people.²⁶ Trauma-informed services operate under core principles such as

²¹ Australian Human Rights Commission 2009.

²² Australian Human Rights Commission, Aboriginal Legal Service, and Just Reinvestment NSW 2013, [Justice Reinvestment in Bourke Briefing paper](#).

²³ Smart Justice 2012, [Justice Reinvestment: Investing in Communities Not Prisons](#), Fact Sheet.

²⁴ Ericson, M. & Vinson, T. 2010, [Young people on remand in Victoria. Balancing Individual and Community Interests](#). Richmond, Jesuit Social Services.

²⁵ Mendes et al. 2014, ['Good Practice in Reducing the Over-Representation of Care Leavers in the Youth Justice System. Leaving Care and Youth Justice'](#), Phase Three Report, Melbourne: Monash University.

²⁶ Dierkhising, C., Ko, S., & Goldman, J. 2013, ['Trauma-Informed Juvenile Justice Roundtable: Current Issues and Directions in Creating Trauma Informed Juvenile Justice Systems'](#). Los Angeles, CA & Durham, NC: National Center for Child Traumatic Stress.

safety, trustworthiness, choice and empowerment,²⁷ and recognise the potential vulnerabilities of those exposed to trauma.²⁸

One example of an effective therapeutic approach is Multidimensional Treatment Foster Care (MTFC). MTFC is based on close monitoring and supervision by trained foster parents so that the young person does not have contact with deviant peers. The intensive nature of the program is designed to support young people in care or involved with youth justice to be connected with community.²⁹

Studies have shown that although MTFC is more expensive than other types of group homes, it is also more effective in reducing criminal activity. In one study, Chamberlain et al randomly assigned a small sample of boys to either group care or MTFC, and found that after one year of treatment the number of MTFC participants who were arrested was less than half the number arrested in other types of group care.³⁰ Members of the MTFC group also spent fewer days incarcerated than those in the comparison group and had committed fewer violent offences.

In addition to programs and training that are trauma-informed, the Victorian Ombudsman has noted the importance of age-appropriate and developmentally appropriate responses, which align with Victorian law and recognise that children and young people have different needs from, and therefore require different approaches to, those of adult offenders.³¹

Recommendation 2: Ensure that all staff working in youth detention centres are trained in trauma-informed practice, including managing challenging behaviours.

Recommendation 3: Ensure children and young people in youth detention facilities can access ongoing rehabilitation and therapeutic services, including:

- Education, training and employment opportunities
- Drug and alcohol services
- Mental health services
- Family support programs.

Recommendation 4: Ensure the treatment provided to children and young people in Youth Justice Centres is age- and developmentally- appropriate and that staff are trained accordingly.

Collaborative strategies

²⁷ Harris, M. & Fallot, R.D. 2001, 'Using Trauma Theory to Design Service Systems, (eds). *New Directions for Mental Health Services*, Jossey-Bass.

²⁸ Jennings, A. 2008, '[Models for Developing Trauma-Informed Behavioural Health Systems and Trauma-Specific Services](#)', National Centre for Trauma Informed Care.

²⁹ Fisher, P. & Gilliam, K. 2012, '[Multidimensional Treatment Foster Care: An Alternative to Residential Treatment for High Risk Children and Adolescents](#)', *Psychosocial Intervention*, 21(2), pp. 195-203.

³⁰ Chamberlain, P., Fisher, P. A., & Moore, K. J. 2002, *Multidimensional Treatment Foster Care: Applications of the OSLC intervention model to high-risk youth and their families*.

³¹ Victorian Ombudsman 2013.

Effective programs to divert vulnerable children and young people from offending behavior are characterised by meaningful community engagement, local design, and strong leadership.³² A 2002 Australian Institute of Criminology's literature review for the ACT Government noted that:

- One size does not fit all. Programs need to be targeted towards individual needs and circumstances.
- The response needs to be comprehensive and use different interventions targeted at the risk factors facing young people.
- The response should work across a range of social settings including family, school and community.
- The response must be culturally appropriate.³³

These elements are applicable to young people dually involved with youth justice and child welfare services. However, this particular cohort is likely to be more vulnerable and have more complex needs than the broader youth justice population. Research in NSW, cited by Mendes et al showed that compared to the wider youth justice population, children who also had a background in OOHC were more likely to report having treatment for substance abuse, have relatives who had been in prison, and to have experienced unwanted sex.³⁴ An effective approach to youth justice must acknowledge the unique and complex needs of young people in contact with dually the care and youth justice systems.

More broadly, the benefits of interagency collaboration are well documented and include improved service delivery and cost-effectiveness.³⁵ Scotland has fostered collaboration in this area through its 'Whole System Approach' (WSA) to youth justice.³⁶ The WSA brings together Scotland's systems and agencies, enabling a holistic approach to youth justice. It involves consistent planning, assessment and decision-making processes for young people in contact with the youth justice system, to make sure that they receive the necessary supports in a timely manner. An evaluation of the approach in 2015 found improvements in partnership working and information-sharing and shared learning across agencies.³⁷ It also found that diversion increased overall, and the approach reduced the numbers of young people entering the youth justice system.³⁸

Recommendation 5: Dedicate resources to support collaboration between the youth justice and child protection systems to efficiently target services and improve outcomes for dual clients.

Recommendation 6: Investigate Scotland's WSA model to determine the feasibility of implementing a similar model in Victoria.

Young people leaving state care

³² Commissioner for Children and Young People 2015.

³³ Australian Institute of Criminology 2002, 'What works in reducing young people's involvement in crime?' Australian Capital Territory Government.

³⁴ Mendes et al. 2014.

³⁵ Mendes, P. Snow, P. & Baidawi, S. 2012, [Young People Transitioning from Out-Of-Home Care in Victoria: Strengthening Support Services for Dual Clients of Child Protection and Youth Justice](#), Melbourne: Monash University.

³⁶ Murray, K. McGuinness, P. Burman, M. & McVie, S. 2015, '[Evaluation of the Whole System Approach to Young People who Offend in Scotland](#)', [The Scottish Centre for Crime and Justice Research](#).

³⁷ Murray et al. 2015.

³⁸ Murray et al. 2015, p65.

Care leavers are a particularly vulnerable cohort in relation to youth justice involvement. One survey of 60 care leavers in Victoria found that nearly half the Victorian care leavers interviewed had had some type of involvement with the police or justice system, and 12 per cent had spent time in detention in the year after leaving care.³⁹

Under current policy, young people in care are expected to transition to independence when they turn 18 years of age. They lose much of the supports previously available to them at a time in their lives when the risk of offending is at its highest. Though some young people in care may be ready to transition into independent living by the age of 18, many are not developmentally ready to live independently with limited resources or supports.⁴⁰ A 2006 study estimated that 72 per cent of care leavers in Australia were involved in the youth or adult justice systems.⁴¹ Premature transition out of care without clear or adequate planning can lead to offending behaviour and involvement in youth justice.⁴²

The National Out-of-Home Care Standards introduced in December 2010 require that all young people have a transition from care plan commencing at 15 years of age. The plan is to outline proposed assistance with housing, health, education and training, employment and income support.⁴³ However, there is no specific reference to the availability of support in those cases where the young person is involved with youth justice during their transition from care.

Along with clear and comprehensive planning, linkages with community and support services are important to a successful transition.⁴⁴ Connection to community can be used as a tool for addressing trauma and for preventing or addressing offending behaviour.⁴⁵ Attachment and commitment to family, community or education can support the transition to adulthood and potentially discourage offending behaviour.⁴⁶

Recent research and international examples show that the poor educational, housing and health outcomes experienced by young people who have been in state care can be significantly reduced if the option is provided to remain in care until at least the age of 21 years.⁴⁷ A successful and sustained transition to independent living would have significant flow-on effects for the numbers of children leaving care who end up in the youth justice system.

Recommendation 7: Extend the entitlement of state care services and support until at least 21 years.

Recommendation 8: Ensure children and young people dually involved with the care and youth justice systems remain connected to their community and can access education, training and employment opportunities.

³⁹ Raman, S. Inder, B. & Forbes, C. 2005, '[Investing for Success: The Economics of Supporting Young People Leaving Care](#)', Monograph 5, Melbourne: Centre for Excellence in Child and Family Welfare.

⁴⁰ Cusick, G. et al. 2010, '[Crime during Transition to Adulthood: How youth fare as they leave out-of-home care](#)'. Washington DC: National Institute of Justice.

⁴¹ Morgan Disney & Associates, & Applied Economics 2006, '[Transition from Care: Avoidable Costs to Governments of Alternative Pathways of Young People Exiting the formal child protection Care System in Australia](#)'. Volume 1: Summary Report.

⁴² Mendes et al 2012.

⁴³ FaHCSIA, 2011, '[An Outline of National Standards for Out-of-Home Care](#)', Canberra: Commonwealth Government.

⁴⁴ CREATE Foundation 2010, '[What's the Answer?](#)'

⁴⁵ Mendes et al 2014, pp. 7.

⁴⁶ Cusick et al 2010.

⁴⁷ Anglicare Victoria, 2016. '[Raising Our Children: Guiding young Victorians in care into adulthood](#)'. Produced by Deloitte Access Economics for Anglicare Victoria.

Conclusion

In conclusion, the Centre endorses the recent comments of the Victorian Ombudsman, who stressed the importance of government commitment to long-term reform that addresses the causes of young offender behaviour.⁴⁸ We also endorse the findings of Jesuit Social Services that ‘treatment approaches focusing on behaviour change and personal development are more effective at reducing re-offending than those that focus on discipline, fear and surveillance. Interventions with the strongest evidence base for reducing recidivism are delivered in community settings and rely on a defined therapeutic approach and high levels of intensity across a number of layers – the child, the family, school, training and employment pathways, as well as specialist services’.⁴⁹

The small cohort of young people in youth justice who are the focus of this inquiry require continued access to trauma-informed education and health services. However, if we are to prevent and disrupt the trajectory of children and young people, particularly those in care, entering the youth justice system, then government needs to invest more in prevention and diversion strategies.

If you have any questions in relation to the above, please contact Dr Michele Lonsdale on (03) 9094 3521 or michele.lonsdale@cfecfw.asn.au.

Regards

Deb Tsorbaris
Chief Executive Officer

[Level 5, 50 Market Street Melbourne Victoria 3000 Australia](#)

T 03 9614 1577 **F** 03 9614 1774

⁴⁸ Victorian Ombudsman 2017, p3.

⁴⁹ Jesuit Social Services 2013, p9.