



Youth Justice and Child Wellbeing Reform Across Australia

June 2023



Introduction

The Salvation Army thanks the Australian Human Rights Commission for the opportunity to provide a submission to *Youth Justice and Child Wellbeing Reform Across Australia*.

The Salvation Army offers youth services engaging children and young people across Australia. Our services include housing and homelessness, education, employment and training, social and community activities, youth drug and alcohol services, and youth justice programs. It is with the experiences of the clients who access our services, as well as our frontline staff that we approach this submission.

Many of our recommendations come down to the need for youth justice and child protective systems to be child-centered, trauma-informed, and through a reform agenda focused on prevention and early intervention. Our submission has been structured according to the consultation questions provided on the Commissions website.



1 Involvement in the Youth Justice System

1.1 The Salvation Army works alongside some of Australia's most disadvantaged and marginalised children, young people, and their families. According to this experience, we have identified the following factors as contributors to children and young people's involvement in the youth justice system. In our experience, these factors do not occur in isolation from one another, but are intersectional.

Adverse Childhood Experiences

1.2 Adverse Childhood Experiences (ACEs) describe the cumulative effects of maltreatment and household disfunction, and can include abuse, neglect, parental separation, mental illness, substance use, family and domestic violence, and parental incarceration.¹ Research conducted across 13 countries, including Australia, evidenced that young people involved with the justice system are more than 12 times more likely to have experienced ACEs across their childhood.²

1.3 The Salvation Army draws particular attention to the following ACEs and their links to engagement with the youth justice system.

- **Poverty and socioeconomic disadvantage.** Socioeconomic disadvantage is strongly linked with youth offending and involvement with the justice system. According to the Australian Institute of Health and Welfare (AIHW), children from areas of greatest socioeconomic disadvantage, were 10 times more likely to be subject to youth justice supervision when compared to those from the least disadvantaged areas.³
- **Childhood trauma and engagement with child protective services.** Exposure to trauma including family and domestic violence, abuse and neglect has been identified as common factors related to youth offending across The Salvation Army's services. The Australian Institute of Criminology has evidenced that a history of child abuse and neglect are strong predictors of youth offending.⁴ According to AIHW, children with a history of abuse and neglect are overrepresented in the youth justice system, with 54 per cent of all children in the study having received a child protection service intervention.⁵ In 2018-19,

¹ Malvaso, C., Day, A., Cale, J., Hackett, L., Delfabbro, P., & Ross, S. (2022). Adverse childhood experiences and trauma among young people in the youth justice system. *Trends & issues in crime and criminal justice*. No. 651. Canberra: Australian Institute of Criminology. https://www.aic.gov.au/sites/default/files/2022-06/ti651_adverse_childhood_experiences_and_trauma_among_young-people.pdf#:~:text=In%20fact%2C%20a%20recent%20systematic%20review%20by%20Malvaso,short%20of%20the%20diagnostic%20cut%E2%80%91off%20for%20mild%20PTSD.

² Malvaso, C. G., Cale, J., Whitten, T., Day A., Singh, S., Hackett, L., Delfabbro, P. H., & Ross, S. (2021). Associations between adverse childhood experiences and trauma among young people who offend: a systematic literature review. *Trauma, Violence, and Abuse*. Advance online publication. <https://doi.org/10.1177/15248380211013132>.

³ Australian Institute of Health and Welfare. (2022). *Children Under Youth Justice Supervision*. <https://www.aihw.gov.au/reports/children-youth/australias-children/contents/justice-and-safety/children-under-youth-justice-supervision>.

⁴ Stewart A, Dennison S & Waterson E. (2002). Pathways from child maltreatment to juvenile offending. *Trends & issues in crime and criminal justice* no. 241. Canberra: Australian Institute of Criminology. <https://www.aic.gov.au/publications/tandi/tandi241>.

⁵ Australian Institute of Health and Welfare. (2020). *Young people under youth justice supervision and in child protection 2018-19*. Data linkage series no. 26. CSI 28. Canberra: AIHW. <https://www.aihw.gov.au/getmedia/8442b61a-f3b9-4741-a5d7-75023cb0cd19/aihw-csi-28.pdf.aspx?inline=true#:~:text=In%202018%E2%80%9319%2C%20around%2010%2C800%20young%20people%20in%20Australia,a%20department%20responsible%20for%20child%20protection%20%28AIHW%202020a%29>.



71 per cent of children aged 10 to 13 at their first contact with youth justice supervision had received child protection services.⁶

- **Mental ill-health and living with a cognitive disability.** Mental ill-health including depression and substance use have been linked with increased risk of engagement with the youth justice system.⁷ According to research by the NSW Bureau of Crime Statistics and Research, young people living with a disability are more likely to encounter the youth justice system than those without and are significantly overrepresented in youth detention.⁸
- **School disengagement.** Disengagement from school, characterised by low academic achievement, truancy and exclusion are risk factors for involvement in the youth justice system, and are predictive of youth re-offending.⁹

Intergenerational Trauma and Systemic Discrimination

- 1.4 The Salvation Army's services observe the impacts of intergenerational trauma and systemic discrimination on rates of Aboriginal and Torres Strait Islander children and young people's engagement with the youth justice and child protection systems.
- 1.5 Aboriginal and Torres Strait Islander children and young people are overrepresented in youth detention. In 2022, Aboriginal and Torres Strait Islander young people made up 56 per cent of those in youth detention,¹⁰ and in 2021 made up 42.2 per cent of children aged 0-17 in out-of-home care.¹¹
- 1.6 For Aboriginal and Torres Strait Islander people, colonisation resulted in displacement, removal of children, loss of culture and kinship, institutionalisation, and entrenched poverty.¹² The Royal Commission into Aboriginal Deaths in Custody found a direct correlation between high rates of death and poorer socioeconomic outcomes.¹³
- 1.7 Aboriginal and Torres Strait Islander children in custody are more likely to have experienced significant risk factors of engagement with youth justice services, including disengagement from school and education, disability, mental ill-health, substance misuse, racism, engagement with child protection systems, family violence and abuse, and housing concerns.¹⁴

⁶ Ibid.

⁷ Dean, K., Whitten, T., & Tzoumakis, S. (2021). Incidence of Early Police Contact Among Children With Emerging Mental Health Problems in Australia. *JAMA Netw Open*. 2021;4(6). <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2781218>

⁸ Boiteux, S. & Poynton, S. (2023). Offending by young people with disability: A NSW linkage study. *Crime and Justice Bulletin*. No. 254. Sydney: NSW Bureau of Crime Statistics and Research. Full report available at www.bocsar.nsw.gov.au.

⁹ Victoria State Government Sentencing Advisory Council. (2016). *Reoffending by Children and Young People in Victoria*. https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Reoffending_by_Children_and_Young_People_in_Victoria.pdf.

¹⁰ Australian Institute of Health and Welfare. (2022). *Youth Detention Population in Australia 2022*. <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2022/contents/aboriginal-and-torres-strait-islander-young-people/numbers>.

¹¹ Australian Government Productivity Commission. (Undated). *Closing the Gap Information Repository*. [https://www.pc.gov.au/closing-the-gap-data/dashboard/socioeconomic/outcome-area12/out-of-home-care#:~:text=Nationally%20in%202021%2C%2042.2%20per,1\)](https://www.pc.gov.au/closing-the-gap-data/dashboard/socioeconomic/outcome-area12/out-of-home-care#:~:text=Nationally%20in%202021%2C%2042.2%20per,1)).

¹² Victoria State Government. (2022). *Underlying causes of Aboriginal over-representation*. <https://www.aboriginaljustice.vic.gov.au/the-agreement/aboriginal-over-representation-in-the-justice-system/underlying-causes-of-aboriginal>.

¹³ Ibid.

¹⁴ Ibid.





2 Protecting the Rights and Wellbeing of Children and Young People

- 2.1 The Salvation Army believes significant reform is required to ensure youth justice and child protection systems uphold the rights and wellbeing of children and young people. We draw attention to the following areas as key to overcoming barriers to change.

Focusing on Early Intervention and Prevention

- 2.2 The Salvation Army identifies the critical need for increased funding and investment, redirected towards early intervention and prevention, to reduce the number of children and young people engaging with the youth justice and child protection systems.
- 2.3 Timely access to quality early intervention services and community supports that meet a child or young person's physical, mental, and emotional health needs are critical to ensure the best possible life outcomes.¹⁵ Early intervention services assist to identify any emerging issues and prevent them from developing further.¹⁶ Enhanced early intervention efforts and resources are vital in preventing and interrupting young people's engagement in youth justice systems.¹⁷ Early intervention could include initiatives such as increasing access to affordable mental health, and alcohol and other drug support for young people under the age of 18, and increased availability of education welfare officers and mental health professionals in schools.
- 2.4 The need to support parents, caregivers, and families is also critical.¹⁸ The Salvation Army's services have identified that once a child or young person is in custody, there is a gap in services available which work with both the young person and their family. Our services report that family intervention is underfunded with a lack of non-statutory support.

¹⁵ Fox, S., Southwell, A., Stafford, N., Goodhue, R., Jackson, D. and Smith, C. (2015). Better Systems, Better Chances: A Review of Research and Practice for Prevention and Early Intervention. Canberra: Australian Research Alliance for Children and Youth (ARACY). https://www.aracy.org.au/publications-resources/command/download_file/id/274/filename/Better-systems-better-chances.pdf.

¹⁶ Children's Commissioner. (2020). *Calling for radical 'Scandinavian-style' reforms to youth justice system*. <https://www.childrenscommissioner.gov.uk/blog/news/calling-for-radical-scandinavian-style-reforms-to-youth-justice-system/>.

¹⁷ Victoria State Government Sentencing Advisory Council. (2016). *Reoffending by Children and Young People in Victoria*. https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Reoffending_by_Children_and_Young_People_in_Victoria.pdf.

¹⁸ Australian Research Alliance for Children and Youth (ARACY). (2014). *The Nest action agenda: Improving the wellbeing of Australia's children and youth while growing our GDP by over 7%*. Canberra: ARACY. <https://www.aracy.org.au/documents/item/182>.



“

“If we can address those family factors early on, keep kids in school, help teenagers engage with alternative education providers or with training and employment, that will help a lot of people avoid getting into trouble in the first place.”

”

- A Salvation Army Youth Justice Case Manager

Recommendation 1

- 2.5 **The Commissioner consider the benefits of increased and refocussed investment in early intervention and prevention supports for both young people and their families prior to engagement in the youth justice system.**

Justice Reinvestment

- 2.6 The Salvation Army suggests a justice reinvestment approach as a method of early intervention. Justice reinvestment adopts a place-based, data-driven, and community development approach in reducing incarceration.¹⁹ Justice reinvestment aims to decrease incarceration by redirecting funds from prisons and detention facilities, to rebuilding community resources to address the drivers of offending.²⁰
- 2.7 Aboriginal and Torres Strait Islander communities in Bourke, Moree and Mount Druitt have adopted this approach as a community-led initiative to address drivers of Aboriginal and Torres Strait Islander incarceration and engagement with justice systems.²¹ The approach recognises Aboriginal and Torres Strait Islander self-determination and culture as essential in achieving improved justice outcomes.²²

Recommendation 2

- 2.8 **The Commissioner consider the benefits of justice reinvestment as an approach to early intervention and prevention in youth justice.**

¹⁹ Allison, F (2022), *Redefining Reinvestment. An opportunity for Aboriginal communities and government to co-design justice reinvestment in NSW*. Final Report. Just Reinvest NSW.

²⁰ Australian Government Australian Law Reform Commission. (2018). *What is justice reinvestment?* <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/4-justice-reinvestment/what-is-justice-reinvestment/>.

²¹ Just Reinvest NSW. (2022). *Redefining Reinvestment*. <https://www.justreinvest.org.au/>.

²² Allison, F (2022), *Redefining Reinvestment. An opportunity for Aboriginal communities and government to co-design justice reinvestment in NSW*. Final Report. Just Reinvest NSW.



Sector Training and Education

- 2.9 The Salvation Army urges that central to upholding the rights and wellbeing of young people, is the need for greater levels of professional development across the youth justice system and workforce, with an emphasis on trauma-informed practice, and child-centred care. Our services identify that staff in the police force and custodial setting approach youth justice from a law and enforcement perspective, with limited knowledge of trauma and brain development.
- 2.10 Many young people engaged in the youth justice system have experienced trauma and other serious adversities.²³ The Salvation Army urges the need for a common understanding of the impact of trauma and ability to contextualise and recognise reactions to young people's behaviours.²⁴ Our services particularly identify concerns related to the police forces lack of understanding of trauma and causes of repeat reoffending, and incidences of inappropriate use of physical force.
- 2.11 A child-centred youth justice system would acknowledge children and young people as individuals with unique needs, and ensure they are given the opportunity to participate in decisions which impact their lives. To be child-centred also acknowledges that children and young people need to be provided with age-appropriate opportunities to learn and develop.²⁵ The Salvation Army's youth services have identified that the current youth justice system is generally not child-centred.

“

“I often see young people I work with go into court and come out hours later having no understanding of what has happened. It is rare to see children offered the opportunity to speak in the courtroom, and when they do, it is to answer questions from the magistrate (usually very paternal or punitive questions, or statements the young person is expected to simply agree with). When orders are made, they are written in legal terms which young people have a hard time understanding. Court clerks are required to serve or read the orders as they are written, and usually don't have time to answer questions. [Court] is a very unfriendly place for a child.”

”

- A Salvation Army Youth Justice Case Manager

²³ Harris, A. (Undated). *Trauma, young people and Juvenile Justice*. <http://earlytraumagrief.anu.edu.au/files/Trauma%20and%20juvenile%20justice%20in%20Australia.pdf>.

²⁴ Youth Justice Board. (2017). *In-brief: Trauma-Informed Youth Justice*. <https://yjresourcehub.uk/>.

²⁵ Children and Family Intensive Support. (2017). *Child-Centred, Family-Focused Support*. https://www.dss.gov.au/sites/default/files/documents/04_2022/cafis_1b_-_child_centred_family_focused_support.pdf.

Recommendation 3

2.12 **The Commissioner consider the benefits of increased mandated training across the youth justice sector, particularly related to the impacts of trauma and child-centred practice.**

Enhancing Cultural Awareness Across the Whole System

- 2.13 The Salvation Army's services highlight that the child protection and youth justice systems adopt punitive approaches, resulting in the further punishment of Aboriginal and Torres Strait Islander families and their experiences of disadvantage, vulnerability and trauma.²⁶ These systems are in conflict with the strengths of Aboriginal and Torres Strait Islander culture which are rarely utilised – including kinship systems, cultural values and cultural law which have been broken down through intergenerational cultural genocide.
- 2.14 We urge the need for a whole-of-system approach to amplify the safety and wellbeing of Aboriginal and Torres Strait Islander children and young people. It must also support their families and communities, reduce overrepresentation in the youth justice and child protection systems and improve lifelong health and wellbeing outcomes.
- 2.15 Emphasis should be placed on programs and initiatives that are developed and facilitated by Aboriginal and Torres Strait Islander people for Aboriginal and Torres Strait Islander children. We draw attention to the On Country programs run across Queensland, which aim to reduce rates of recidivism by strengthening cultural and family connection and re-engaging young people.²⁷ There is a need for enhanced funding and resources to secure Aboriginal and Torres Strait Islander specific services. We maintain concern that federally funded Aboriginal Legal Services in New South Wales and Queensland are being withdrawn in 2023,²⁸ and for the impact this will have on children and young people and their engagement with the youth justice system.
- 2.16 The Salvation Army identifies the need to mandate cultural awareness training across all systems, including police, youth justice, child protection, housing, and health settings.

²⁶ SNAICC. (2021). *National Framework for Protecting Australia's Children 2021-2031: Successor Plan Consultation Report*. <https://www.snaicc.org.au/wp-content/uploads/2021/11/SNAICC-ConsultationReport-successor-plan-Nov2021.pdf>

²⁷ Queensland Government Department of Children, Youth Justice and Multicultural Affairs. *On Country Program*. <https://www.cyjma.qld.gov.au/youth-justice/aboriginal-torres-strait-islander-young-people/country-program>.

²⁸ Dansie, M., & Mounter, B. (2023, May 16). Fears for increased First Nations incarceration grow as Indigenous legal services cut. *ABC News*. <https://www.abc.net.au/news/2023-05-16/aboriginal-torres-strait-islander-legal-service-cuts-impact/102351422>.



Recommendation 4

2.17 The Commissioner consider the benefits of government empowering Aboriginal and Torres Strait Islander initiatives in addressing child and youth wellbeing and increasing funding to these services across the nation. This includes the Aboriginal Legal Services.

Recommendation 5

2.18 The Commissioner consider the benefits of mandated cultural awareness and competency training across all levels of government service systems.

Recommendation 6

2.19 The Commissioner consider the benefits of increased funding support to Closing the Gap to increase support to Aboriginal and Torres Strait Islander communities.



3 Reforms Achieving Positive Outcomes

3.1 The Salvation Army has identified the following initiatives which are achieving positive outcomes.

- **Group conferencing.** The Salvation Army draws attention to the success of the Youth Justice Group Conferencing program in Victoria. A study conducted on the program showed a 41 per cent reduction in recidivism attributed to group conferencing.²⁹ See further information on the program here: <https://www.aarj.org.au/wp-content/uploads/2022/05/Brief-Report-Group-Conferencing-and-Recidivism-May-2022.pdf>.
- **Red Dust.** Red Dust is a service in the Northern Territory which partners with communities to facilitate place-based initiatives to meet local needs. The program works to improve health and wellbeing outcomes for Aboriginal and Torres Strait Islander young people and their families through programs and mentoring.³⁰ Further information can be found here: https://uploads-ssl.webflow.com/60b42f427db78003e35b21eb/645c70744224ff78c79eb53b_Red%20Dust%20Annual%20Review%202022%20WEB.pdf.
- **Youth detention approach in Hawaii:** In 2014, Hawaii's legislature enacted a Bill which invested into mental health and substance use treatments, with the intention to reduce the population of the Hawaii Youth Correctional Facility (HYCF) by 60 per cent by 2019.³¹ The model saw a 75 per cent decrease in youth detained at HYCF in a period of a few years, which allowed the facility to be repurposed in 2018 into a youth and family centre. Further information can be found here: <https://www.cbpp.org/blog/hawaii-is-leading-the-way-for-girls-youth-justice>, and <https://www.pewtrusts.org/-/media/assets/2014/07/pspphijuvenilejusticereformbrief.pdf>.

Recommendation 7

3.2 The Commissioner consider the benefit of expanding programs achieving positive outcomes.

²⁹ Bonett, R.J.W., Lloyd, C.D., & Ogloff, J.R.P. (2022). *Group Conferencing Effects on Youth Recidivism and Elements of Effective Conferences*. Centre for Forensic Behavioural Science, Swinburne University of Technology, Melbourne Australia.

³⁰ Red Dust. (2022). *2022 Annual Review*. https://uploads-ssl.webflow.com/60b42f427db78003e35b21eb/645c70744224ff78c79eb53b_Red%20Dust%20Annual%20Review%202022%20WEB.pdf.

³¹ The Pew Charitable Trusts. (2014). *Hawaii's 2014 Juvenile Justice Reform New Law Will Strengthen Community Supervision and Reduce Secure Confinement*. <https://www.pewtrusts.org/-/media/assets/2014/07/pspphijuvenilejusticereformbrief.pdf>.





4 A National Approach & Next Steps

- 4.1 As an organisation that operates nation-wide youth services, The Salvation Army welcomes a national approach to youth justice and child wellbeing reform in Australia. A national approach will lay the foundations for:
- **Consistency.** Policies, frameworks and standards will be developed at the national level, supporting a reduction in disparities in service delivery, quality, outcome measurements, and reporting for children, young people, their families, and service providers across the nation.
 - **Efficiency.** A national approach could lead to more efficient use of resources, avoiding duplication and promoting collaboration between stakeholders.
 - **Expertise.** A national approach would allow for the pooling of resources and expertise from different states and territories, contributing to more effective policies and programs.
 - **Accountability.** A national approach would promote greater accountability and transparency in the delivery of youth justice and wellbeing services and initiatives.

Recommendation 8

- 4.2 **The Commissioner consider the benefit of adopting a national approach to youth justice and child wellbeing reform across Australia.**

- 4.3 The Salvation Army urges the following to be considered as 'next steps' in child wellbeing reform.

Raising the Age of Criminal Responsibility

- 4.4 The Salvation Army supports the Raise the Age campaign, advocating that the age of criminal responsibility should be increased to at least 14 years of age across the nation.³² The campaign acknowledges that incarcerating children and removing young people from their families and communities is detrimental to their development, and long-term health and wellbeing outcomes.³³
- 4.5 Raising the age of criminal responsibility would reduce the criminalisation of children and young people by preventing early contact with the justice system. The Salvation Army believes that this would need to go hand-in-hand with primary prevention and early intervention.

³² Raise the Age. (Undated). *About the Campaign*. <https://raisetheage.org.au/campaign>.

³³ Ibid.



Recommendation 9

- 4.6 The Commissioner consider the benefit of raising the criminal age of responsibility to 14 years old in all jurisdictions.**

A National Statutory Child Protection System

- 4.7 The Salvation Army identifies the need for a federal child protection database and national child-safe principles to improve communication, streamline risk and safety services across the nation, and to ensure all Australian children have access to the same level of support. Our services report significant room for improvement in the current communication between states regarding child safety.
- 4.8 We draw attention to the United Kingdom's Common Assessment Framework (CAF) as an example of an integrated assessment framework. The CAF standardises the approach of assessing risks for children and families and is designed for use by professionals across all service systems. The CAF focusses on children and families with additional needs who do not meet the threshold of requiring statutory service intervention or intensive safeguarding.³⁴

Recommendation 10

- 4.9 The Commissioner consider the benefit of supporting a national statutory child protection system with national child safe principles.**

³⁴ Holmes, L., McDermid, S., Padley, M., & Soper, J. (2012). *Exploration of the costs and impact of the Common Assessment Framework*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/193126/DFE-RB210.pdf.

5 Conclusion

- 5.1 The Salvation Army thanks the Human Rights Commission for the opportunity to provide a written submission.
- 5.2 The Salvation Army would welcome the opportunity to discuss the content of this submission should any further information be of assistance. Further information can be sought from government.relations@salvationarmy.org.au.

The Salvation Army Australia Territory

15th June 2023