



Submission to the *Inquiry into Youth Justice Centres  
in Victoria*

March 2017



**Jesuit**  
**Social Services**  
Building a Just Society

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## Jesuit Social Services: Who we are

Jesuit Social Services works to build a just society by advocating for social change and promoting the health and wellbeing of disadvantaged people, families, and communities. We value all persons and seek to engage with them in a respectful way that acknowledges their experiences and skills and gives them the opportunity to harness their full potential.

We strengthen and build respectful, constructive relationships with a focus on:

- **Effective services** – by partnering with people most in need and those who support them to address disadvantage
- **Education** – by providing access to life-long learning and development
- **Capacity building** – by refining and evaluating our practice and sharing and partnering for greater impact
- **Advocacy** – by building awareness of injustice and advocating for social change based on grounded experience and research
- **Leadership development** – by partnering across sectors to build expertise and commitment for justice.

The promotion of **education, lifelong learning and capacity building** is fundamental to all our activity. We believe this is the most effective means of helping people to reach their potential and exercise their full citizenship. This, in turn, strengthens the broader community. Our service delivery and advocacy focuses on the following areas:

- **Justice and crime prevention** – people involved with the justice system
- **Mental health and wellbeing** – people with multiple and complex needs and those affected by suicide, trauma and complex bereavement
- **Settlement and community building** – recently arrived immigrants and refugees and disadvantaged communities
- **Education, training and employment** – people with barriers to sustainable employment.

For nearly 40 years, we have accompanied people involved, or at risk of becoming involved, in the criminal justice system. In Victoria we work with people to prevent and divert involvement in the justice system and support people exiting prison and youth justice facilities. This includes the Corrections Victoria Reintegration Program in North and West Metropolitan Melbourne (Reconnect), the African Visitation and Mentoring Program (AVAMP), Next Steps and Perry House residential programs, the Youth Justice Community Support Service, Group Conferencing and Barreng Moorop (delivered in partnership with the Victorian Aboriginal Childcare Agency and the Victorian Aboriginal Legal Service).

Our programs also include:

- **Jesuit Community College:** increasing opportunities for people constrained by social and economic disadvantage to participate in education, work and community life and reach their full potential.
- **Community and Settlement Programs:** capacity building with Aboriginal communities in Northern Territory and NSW; and working with newly arrived migrants across metropolitan Melbourne and in NSW, including the African and Vietnamese communities.
- **Connexions:** delivering intensive support and counselling for young people with co-occurring mental health, substance and alcohol misuse problems.

- **Artful Dodgers Studios:** providing pathways to education, training and employment for young people with multiple and complex needs associated with mental health, substance abuse and homelessness.
- **The Outdoor Experience:** offering an alternative treatment service through a range of outdoor intervention programs for young people aged 15 – 25 years, who have or have had issues with alcohol and/or other drugs.

Research, advocacy and policy are coordinated across all program and major interest areas of Jesuit Social Services. Our advocacy is grounded in the knowledge, expertise and experiences of program staff and participants, as well as academic research and evidence. We seek to influence policies, practices, legislation and budget investment to positively influence participants' lives and improve approaches to address long term social challenges. We do this by working collaboratively with the community sector to build coalitions and alliances around key issues, and building strong relationships with key decision-makers and the community.

Our Learning and Practice Development Unit builds the capacity of our services through staff development, training and evaluation, as well as articulating and disseminating information on best practice approaches to intervening with participants across our programs.

*We acknowledge the Traditional Custodians of all the lands on which Jesuit Social Services operates and pay respect to their Elders past and present. We express our gratitude for their love and care of the land and all life.*

## Our recommendations

- We call on the Victorian Government, in partnership with the community, to put in place appropriate structures, plans and resources targeted to the State's most vulnerable communities to effectively break the complex web of disadvantage.
- We support the Victorian Council of Social Service's call for the Victorian Government to give children the best start in life by extending the availability of high quality early learning services.
- We call on the Victorian Government to bolster systems and support for young people reintegrating into school and training pathways.
- We call on the Victorian Government to expand proven diversion and restorative justice programs.
- We recommend that the Victorian Government legislate to raise the age of criminal responsibility to 12 years old.
- We recommend that the Victorian Government implement a targeted approach using restorative justice to address the needs of 10 and 11 year olds who come to the attention of the justice system.
- We renew our call for bail supervision and intensive support services to have:
  - Increased hours to include 3am to 9am (Monday to Friday) and from 3am to 10am (Saturday, Sunday and Public Holidays)
  - Extended coverage to provide outreach services and face to face assessments in major regional centres during peak periods where there are high volumes of youth justice involvement
  - Brokerage funding for CAHABPS to purchase emergency short term accommodation placements and support from a register of providers on a needs basis.
- We call on the Victorian Government to expand bail support programs across the state, with a particular emphasis on integrated and after-hours services for children and young people.
- We call on the Victorian Government to ensure that the Bail Act continues to operate in line with the ethos of the *Children, Youth and Families Act*, by retaining provisions so that children will not be charged with the offence of breaching bail conditions.
- We call on the Victorian Government to redesign the youth justice system in Victoria to ensure it is delivered according to a clear model, underpinned by a philosophy aligned with our shared goals of meeting the needs of children and young people, and creating safer communities.
- We call on the Victorian Government to support vulnerable children and young people with trauma-informed, therapeutic practices. These must be evidence-based, culturally safe and inclusive, and incorporate a strengths-based framework and specialist care.
- We call on the Victorian Government to expand and fully resource through-care models for young people exiting the justice system.

- We call on the Victorian Government to ensure that youth detention officers and other staff in youth detention centres are trained in a trauma-informed youth specific therapeutic practice framework by experienced and qualified instructors. We believe this should be delivered by an accredited provider, be part of a program of ongoing professional development, complemented by Senior Practitioners and supported by regular reflective practice.
- We call on the Victorian Government to require that youth detention officers and other staff in youth detention centres possess a relevant professional qualification.
- We call on the Victorian Government to ensure that all therapeutic de-escalation methods are exhausted, prior to using isolation as a last resort for children and young people in youth detention.
- We call on the Victorian Government to ensure that children and young people are able to voice their concerns, and that their concerns are used by staff as an opportunity for improvement and pre-emptive de-escalation.
- We call on the Victoria Government to adopt a therapeutic approach for the design of youth justice detention facilities to ensure they are appropriate for managing children and young people's behaviour and treatment.
- We call on the Victorian Government to undertake a consultation process for the design of the proposed high security youth justice centre.
- We call on the Victorian Government to ensure that the youth justice system in Victoria operates in line with the *Children, Youth and Families Act*, and is based on a culture and ethos that places the interests, developmental needs and rehabilitation of children and young people at the forefront.
- We recommend the Victorian Government increase resources to the Independent Visitor Program to strengthen capacity to effectively capture the voice and views of children and young people and their experience of custody.
- We call on the Victorian Government to support ongoing, meaningful engagement with young children and young people once they have been released from detention, to harness their voices and inform the improvement of our youth justice system.
- We call on the Victorian Government to support implementation of the Optional Protocol to the Convention against Torture, including – as a matter of priority – establishment of an independent inspecting body as part of the National Preventative Mechanism.

## Introduction

Jesuit Social Services welcomes the opportunity to respond to the *Inquiry into Youth Justice Centres in Victoria*.

Every child and young person should have access to the opportunities in life that will enable them to flourish – to complete their education, to get a job, to access safe and affordable housing, to raise their children in safe communities and to see the next generation thrive.

Current approaches to children who display challenging behaviour frequently fail to engage with them in ways that are developmentally appropriate. Effective youth justice responses recognise the underlying factors that contribute to offending, and see to address them and prevent entrenchment in the justice system.

The youth justice system has deteriorated to the point that children and young people are not safe nor are they receiving the opportunities or support they need to get their lives back on track. Many of these failings are related directly to custodial settings – including crumbling facilities, a lack of a clear, coherent model of intervention, an under-skilled, under-resourced and casualised workforce, and over-crowding due to high numbers of young people on remand.

A renewed approach to meeting the needs of these children and young people and the most effective way to manage their behaviour is now needed. This approach must recognise that:

- children and young people involved in the child protection and criminal justice systems often come from disadvantaged backgrounds and have complex needs
- children and young people lack developmental maturity in the skills and capacities necessary for criminal responsibility, and this developmental immaturity is often exacerbated for those who have experienced abuse or neglect
- involvement in the criminal justice system at a young age often causes further harm and further involvement in the criminal justice system<sup>1</sup>
- engaging in developmentally appropriate restorative justice processes can help children and young people to understand the effects of their behaviour on others, reduce recidivism, increase victim empathy and ultimately create safe communities.

In this context, we believe there is a need in Victoria to more effectively contribute to the positive development of young people. Key principles must emphasise:

- the use of detention as a last resort
- the developmental and welfare needs of children and young people
- the need to engage children and young people in a way that prevents further harm and that enables them to understand the consequences of their offending behaviour
- the importance of restorative justice principles, processes and practice
- a therapeutic approach that responds to the development needs of children and young people, particularly vulnerable children
- an understanding of the particular needs of Aboriginal children and young people who are overrepresented in the youth justice system, a fact that is linked to extreme disadvantage experienced in the critical areas of health, education, employment and housing
- the need for culturally safe, responsive and respectful services for children and young people from Culturally and Linguistically Diverse backgrounds or Aboriginal and Torres Strait Islander backgrounds

- the need for specific responses designed to meet the needs of young women and girls who come into contact with the youth justice system
- the critical role of education as a protective factor, and the need to ensure vulnerable children's continued engagement in early years services and school.

Realising these principles requires changes to legislation, programs, and processes. Moreover, it requires a focus on the values of the system and how they are realised in day-to-day practice, and a deeply collaborative approach that engages with the expertise and experience of the community sector. These themes are explored throughout our submission.

We believe there are a range of initiatives that should be adopted in Victoria to prevent vulnerable children and young people from being detained in the first place, and to safeguard against inappropriate treatment in detention facilities. We consider that adopting such measures would help to ensure that harm to children and young people is minimised, their rights are protected in youth justice centres, and we use incarceration as an opportunity to deliver a whole-of-person, individually tailored response designed to support them to make a successful transition back into community. Ultimately, by adopting these measures, we will create safer communities.

## Setting the scene: The background of children in contact with the justice system

### Characteristics of young people who offend

*"...the corollaries between child poverty, social and economic inequality, youth crime and processes of criminalisation are undeniable"<sup>2</sup>*

Research shows that the causes of offending in younger children are strongly connected to their environment and its impact on their development.

Jesuit Social Services' research has identified a strong correlation between child and youth offending and entrenched disadvantage. For example, in Victoria we found that:

- 78 per cent of children aged 10 to 12 years with youth justice orders in 2010, or those who had experienced remand at this age, were known to child protection. Of these, 60 per cent were known before their seventh birthday.<sup>3</sup>
- 25 per cent of children on youth justice orders in 2010 came from 2.6 per cent of Victorian postcodes.<sup>4</sup>
- Children 14 years and under at their first encounter with the justice system are more likely to come from areas with higher rates of developmentally vulnerable children on the Australian Early Development Index.<sup>5</sup>

Many children and young people who display challenging behaviour have histories of trauma, neglect and contact with child protection. Statistics show that nationally, in 2014/2015, young people in the child protection system were 14 times as likely as the general population to be under youth justice supervision and 41 per cent of young people in youth detention were also involved in child protection. The younger a person was at the time of their first youth justice supervision, the more likely they are to be in child protection.<sup>6</sup> Statistics from the Victorian Youth Parole Board indicate that involvement in child protection and prior experience of trauma, abuse or neglect is extensive<sup>7</sup>:

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

It is well recognised that early experiences of child abuse and neglect have a detrimental impact on a child's brain development. Research undertaken by a number of academics has identified how hardship early in life can inhibit the development of oral language,<sup>8</sup> result in intense and cumulative harm,<sup>9</sup> and have long term impacts on health and social outcomes.<sup>10</sup> In these settings, a child's ability to develop important emotional, social and cognitive skills is diminished, leading the child to be behind his or her peers in a broad range of competencies.

These risk factors have a further effect on the health and well-being of children and young people. A NSW study looking into the health of young people in custody identified that 87 per cent of young people were found to have at least one psychological disorder, and nearly three-quarters had two or more psychological disorders.<sup>11</sup> Victorian Youth Parole Board data also highlights the prevalence of mental health and disability amongst those in youth detention: 30 per cent presented with mental health issues, 18 per cent had a history of self-harm or suicidal ideation and 24 per cent presented with issues concerning their intellectual functioning.<sup>12</sup> These are telling when compared with young people across Australia, a 2015 study indicating: 14 per cent of children and young people have mental disorders, around 11 per cent have ever self-harmed, and around 3 per cent have ever attempted suicide.<sup>13</sup>

There is also a strong connection between school performance, truancy and criminal involvement. A number of studies, including Jesuit Social Services' research, have found that between 60-70 per cent of students skipping school were involved in criminal activity.<sup>14</sup>

It is also worth noting that Aboriginal Australians are significantly over-represented in the justice system. In the year 2014/2015, compared to the non-Indigenous population Aboriginal children were 6-10 times more likely to be proceeded against by police, 14 times more likely to be under community-based supervision and 24 times more likely to be in detention.<sup>15</sup>

## Addressing entrenched disadvantage

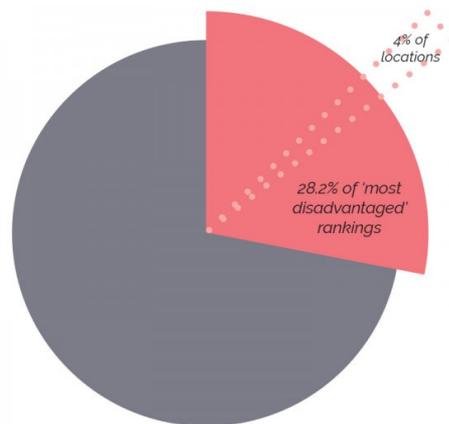
Prevention of crime by addressing entrenched disadvantage is the best way to avoid having young people coming into contact with the justice system.

In 2015, Jesuit Social Services – along with Catholic Social Services Australia – released the findings of its fourth *Dropping off the Edge 2015 Report (DOTE 2015)*<sup>16</sup>, which found that complex and entrenched disadvantage continues to be experienced by a small but persistent number of locations in each state and territory across Australia, including in Victoria. Just 27 postcodes (4 per cent of total) account for 28.2 per cent of the highest rank positions across 22 indicators of disadvantage (see diagram below).

Of particular concern for Jesuit Social Services is the concentration and web-like structure of disadvantage within a small number of communities across the state. Our research found that those living in the 3 per cent most disadvantaged postcodes in Victoria are:

- twice as likely to have criminal convictions
- 3 times more likely to be experiencing long term unemployment
- 2.6 times more likely to have experienced domestic violence
- 2.4 times more likely to be on disability support.

The persistent nature of locational disadvantage becomes obvious when we compare the findings of our 2015 study with previous studies undertaken in 2007, 2004 and 1999. For example, 25 of the state's 40 most disadvantaged postcodes in DOTE 2015 were also found to be 'most disadvantaged' in the 2007 study<sup>17</sup> (the other 15 postcodes did not show significant increases or decreases) and the postcodes in the most extreme categories have been quite consistent over the past 15 years (in 1999, 8 of the 12 names in the top two bands were the same for 2015).



Jesuit Social Services has consistently argued that public policy must pay greater attention to structural factors and social inequality as key determinants of health and wellbeing, and called for ongoing funding commitments to address these issues.

In addition to addressing structural determinants, governments must also tackle disadvantage through the provision of services. Here, investment must be forward-looking and preventative. From our experience, we know the best way to reduce crime and the burden on our criminal justice system is to tackle its root causes. In order to do this, we need effective universal services targeting education, health and family services, as well as access to safe and affordable housing. We need to respond to people in our community who fall through the cracks, and provide holistic interventions during times of crisis. And, fundamentally, we need to commit to long-term, local, community-led solutions in areas of deepest disadvantage.

#### **A sustained, whole of community approach**

A sustained long-term commitment across the Government, community and business sectors is urgently required to resolve this complex problem.

Jesuit Social Services has called on the Victorian Government, in partnership with the community, to act immediately to put in place appropriate structures, plans and resources targeted to our most vulnerable communities to effectively break the web of disadvantage.

We need a multi-layered, cooperative and coordinated strategy that is owned and driven by the community. It must involve all layers of government and the business and community sectors, reflecting shared responsibility and joint commitment to resolve this entrenched problem. This strategy must take account of the unique characteristics and circumstances of local communities and be sustained over the long term. It must be:

- **Targeted** – The response must be targeted or concentrated to specific areas that meet the most severe criteria for disadvantage.
- **Tailored** – The policies, programs and approach to dealing with disadvantage in a community must be unique to that community's needs, tailored to their particular circumstances, based on the unique linkages between indicators in that area and supplemented by informed audits of existing programs in that locality.
- **Integrated and cooperative** – The response needs to acknowledge that disadvantage in one dimension of life (e.g. unemployment) reinforces disadvantage in other areas (e.g. household income). Effective responses to reducing disadvantage must address the multiple and interrelated causes and exacerbating factors that underpin the entrenched nature of disadvantage experienced by communities. Effective responses therefore involve cooperation between government and departmental portfolios, integrated community initiatives and coordination between different levels of government.

- **A long term horizon** – *DOTE 2015* demonstrates that not only is entrenched disadvantage persistent across time but that short-term policies do not work in addressing the experience of disadvantage among communities. A long-term, bipartisan commitment is vital to prevent communities from dropping off the edge.
- **Community owned and driven** – Community leaders must be engaged to drive sustained change. A new approach must recognise the strength within communities and work with them to build capacity, generate action, attract external resources and maintain direction and energy. There is a well-documented history of the benefit of ‘aid’, disconnected from the strengthening of specific community capacities, tapering off and disappearing once external inputs cease.
- **Engaged at the individual, community and national levels** – Research into the outcomes people experience in life demonstrates that individuals are affected by their own capabilities and opportunities, their family circumstances, their community, and the broader social and economic environment. Any effective change in the outcomes for individuals must therefore include action across these three domains of life: individual, community and macro environment.

**We call on the Victorian Government, in partnership with the community, to put in place appropriate structures, plans and resources targeted to the State’s most vulnerable communities to effectively break the complex web of disadvantage.**

## Early childhood, health and education

Access to early childhood services is crucial in giving young Victorians the best start possible in life. Unfortunately, many young children are missing out on early childhood education and health services.

Investment in high quality services for children and parents during the early years can have positive impacts not only on health and wellbeing but also in reducing the likelihood of contact with the criminal justice system.<sup>18</sup>

In Victoria, 62 per cent of young people in youth detention had been previously suspended or expelled from school.<sup>19</sup> Attendance and engagement at school is important for children’s development as well as for value transmission and social awareness. Not only are most children and young people who have contact with the justice system developmentally, socially and economically vulnerable, but they also tend to be disengaged from the support and education that can support positive development.

In 2015, children living in the most socioeconomically disadvantaged locations in Australia were twice as likely as those from the least disadvantaged areas to be developmentally vulnerable on one or more domains, and three times more likely to be developmentally vulnerable on two or more domains.<sup>20</sup> Investment in early childhood development and health is the most cost effective strategy for the government to tackle disadvantage. Cost-benefit analysis of early childhood education and care programs shows that they generate more than \$7 in benefits for every dollar that is invested.<sup>21</sup>

Investment should take place through enhancing maternal and child health services, developing support programs for parents, ensuring that all children attend high quality early learning programs delivered by qualified teachers and placing trauma-informed therapeutic approaches at the centre of any response.

Jesuit Social Services supports the Victorian Council of Social Service’s (VCOSS) call for the Victorian government to give children the best start in life by extending the availability of high quality early learning services, from birth to when they start school. This includes securing funding for 15 hours per week of four-year-old kindergarten, providing universal access to at least five hours of three-year-old kindergarten, and more early learning hours and stronger participation strategies for children facing

disadvantage.<sup>22</sup> Further information can be found in the VCOSS 2017/18 state budget submission at: [http://vcoss.org.au/documents/2016/12/VCOSS-SBS-2017-18\\_WEB.pdf](http://vcoss.org.au/documents/2016/12/VCOSS-SBS-2017-18_WEB.pdf)

**We support the Victorian Council of Social Service's call for the Victorian Government to give children the best start in life by extending the availability of high quality early learning services.**

### Engagement in education

There must be a focus on reintegrating young people into the education system, with particular attention paid to children and young people leaving detention. This involves not only addressing the systems which are in place for reintegration into education, but also providing support. Enrolment in education and training is only the first step, and for vulnerable young people intensive support is often required to ensure ongoing engagement and success. Too often we see youth justice involvement coincide with severance of relationship with school.

#### Navigator

Recognising the importance of school engagement as a protective factor against involvement in the criminal justice system, Jesuit Social Services is delivering casework and support to disadvantaged young learners in Hume/Moreland as part of the Victorian Government's Navigator initiative. Navigator works with disengaged learners aged between 12 and 17 to engage with them and their support networks to return them to education or training.

Re-engaging vulnerable young people in educational, learning and employment pathways gives them the foundational skills and opportunities they need to flourish. The Navigator pilot program will operate in eight pilot areas in Victoria that experience significant disadvantage including higher rates of long-term unemployment and family violence. The program's work will include the development of individualised learning and cultural plans, and restorative practice including therapeutic and practical support.

To address these issues, young people must be given the opportunity to continue their relationship with their school community while in detention, and on return to the community.

**We call on the Victorian Government to bolster systems and support for young people reintegrating into school and training pathways.**

### Restorative justice

Undue reliance on detention in criminal justice policy is both ineffective and costly. There is little evidence that tougher sentencing policy improves community safety through deterrence or incapacitation.<sup>23</sup> In fact, several studies have found that imprisonment increases the likelihood of offending behaviour and has the potential to negatively affect prisoners, particularly younger, lower-risk offenders.<sup>24 25</sup>

We acknowledge there is some serious and violent offending taking place in Victoria, however, most young offending is episodic, transitory and unlikely to constitute a risk to the safety and welfare of the community. Children and young people need the opportunity to learn from their mistakes and, where appropriate, to make amends for behaviour that has harmed others.

Restorative practices are more effective in reducing re-offending and making our communities safer. Jesuit Social Services' work with young people in the justice system in Victoria and the Northern Territory

uses a problem-solving approach to offending that is based on principles of restorative justice, which balances the needs of offenders, victims and the community and aims to help the young person make amends for the harm done. This approach is effective: 80 per cent of restorative justice program participants had not reoffended after two years<sup>26</sup> (compared with over half of the young people who had been in youth detention going on to reoffend).<sup>27</sup>

Restorative justice is more cost-effective than keeping a young person in detention. For every \$1 invested on Youth Justice Group Conferencing, for example, the Victorian Government saves at least \$1.21 in the short term, and this saving is likely to increase in the long term.<sup>28</sup> On every level, it makes more sense to divert young people away from the justice system.

A well-implemented system of restorative justice responses is critical to ensuring that young people do not become entrenched in the criminal justice system.

**We call on the Victorian Government to expand proven diversion and restorative justice programs.**

## Strengthening diversion and support in the community

Through Jesuit Social Services' experience and research, particularly *Thinking Outside: Alternatives to Remand for Children*<sup>29</sup>, we know that opportunities are still being missed to intervene and divert vulnerable children and young people from the criminal justice system.

Diversion is not widely or consistently offered and does not necessarily meet young people's unique needs. For example, in 2015/16, Aboriginal young people were about a third as likely to receive only a caution or warning as non-Aboriginal youth offenders.<sup>30</sup>

All too often vulnerable children and young people end up having ongoing involvement in the criminal justice system.

We have called on the Victorian Government to take steps to further invest in and strengthen the system and ensure that current gaps are addressed, in particular:

- additional support for young people sentenced to youth justice orders (and their families)
- targeted intensive case management support for young people following participation in a youth justice group conference
- intensive case management with the small group of young people committing a high number of offences, including family work and supporting education, training and employment pathways, offered after hours and on weekends.
- a renewed commitment to strengthening the response to Aboriginal children and their families who intersect the criminal justice system (based on the Barreng Moorop model)
- raising the age of criminal responsibility to 12 years and adopting a restorative and welfare approach to anti-social behaviour in children under the age of 12 years
- expanding restorative justice conferencing to out-of-home care placement.

Further information about these proposals is available in our 2017/18 Budget submission, which can be accessed at <http://jss.org.au/submission-to-the-201718-victorian-state-budget/>.

## Positive examples of diversion and restorative justice approaches

The following programs offer examples of responses that effectively contribute to the positive development of young people. Each emphasises:

- the importance of restorative justice principles, processes and practice
- a therapeutic approach that responds to the needs of vulnerable children and young people, particularly those in the child protection system who come into contact with the justice system
- an understanding of the particular needs of Aboriginal children and young people who are overrepresented in the youth justice system
- the critical role of education as a protective factor, and the need to ensure vulnerable children's continued engagement in school.

### **Barreng Moorop**

Recognising the need to divert vulnerable children away from the youth justice system, Jesuit Social Services delivers the Barreng Moorop program in partnership with the Victorian Aboriginal Legal Service (VALS) and the Victorian Aboriginal Child Care Agency (VACCA). The program is funded by the Federal Government.

Barreng Moorop works with 10-14 year old children, their siblings and their families residing in the North and West metropolitan regions of Melbourne who intersect the criminal justice system. The program provides culturally responsive trauma-informed services to divert young Aboriginal people away from the criminal justice system. Since its inception in 2015, Barreng Moorop has assisted 35 Aboriginal children and their families.

Barreng Moorop works with the whole family and community (where appropriate) to provide a wrap-around response, understanding the composition of Aboriginal families, in which the extended family plays an active role. The responsibility of child care and rearing is shared amongst a range of family members with, in many cases, a multi-generational core of kin providing primary care.

In response, Barreng Moorop works with, and provides support to, family members with the focus of using family, community and culture as a protective factor to divert young people away from the criminal justice system in a manner which is sustainable and genuine.

Barreng Moorop uses trauma-informed practices which acknowledge the trauma Aboriginal people have experienced throughout history due to colonisation, loss of culture and connection to land, and the removal of children from their families. We note that these factors and the impact of transgenerational trauma plays out in the daily life of many of the Aboriginal children and families we work with.

### Case study: Barreng Moorop

Rachel\* is 13 years old and is on a Permanent Care Order in the care of her extended family member. The family have been involved with Barreng Moorop since September 2015.

Barreng Moorop's work with the family has included:

- Supporting Rachel's extended family member to access and move into a transitional housing property and relocating Rachel to live with her extended family member
- Completing and submitting a public housing application
- Linking Rachel's extended family member in with a doctor to address his health needs
- Working in collaboration with Rachel's school to improve her self-esteem and sense of self
- Providing support to transition Rachel from primary to secondary school and assisting with accessing financial aid to purchase school supplies
- Providing transport so that Rachel can continue to access counselling
- Working with the school, counsellor and Rachel's extended family member, to develop behaviour management strategies to support Rachel to manage her behaviour and interaction with others.
- Providing education about bullying and cyber safety
- Organising care team meetings with all services involved with the family

As a result of Barreng Moorop's work with the family, key outcomes include:

- Rachel and her extended family member are currently residing together in transitional housing together and her extended family member has been offered a public housing property
- Rachel's extended family member is receiving Centrelink benefits and Family payments, and has improved health management
- The school noted that Rachel's involvement in incidents at school decreased from a couple a day to a couple a week when she moved in with her extended family member
- Rachel has smoothly transitioned to secondary school and is engaged in schooling
- Rachel is engaged in pro-social activities which has improved her physical health as well as her self esteem
- Rachel has attended holiday camps and met other children her age outside of school
- Contact with extended family is improving
- Rachel's health management has improved, including sexual health awareness, and has continued engagement with counselling
- Rachel has not had further involvement with the police

\*Not his/her real name

### Youth Diversion Pilot Program

Between June 2015 and December 2016, Jesuit Social Services delivered services to young people participating in the Youth Diversion Pilot Program operating out of the Children's Court of Victoria. A young person appearing in the Children's Court for the first or second time for a low level offence can be referred to the diversion program by the Magistrate. If the young person successfully meets the requirements of the Diversion Plan then a criminal conviction will not be recorded. This has many positive benefits, including enhanced prospects for engaging in future employment.

## Selected case studies: Youth Diversion Pilot Program

### Male aged 17 (Theft, Trespass and Obtain Property by Deception charges)

The young man has an intellectual disability and severe language delay. His plan was to work more on reading and writing, and have further restorative justice discussions around the offences. He participated well in everything and was assisted in writing a letter of apology. The young man is also now receiving one-on-one support two days a week with his education and the school is researching and trying different programs with him to improve his literacy. He reported that things have been 'heaps better' with his school.

### Female aged 16 (Possess Cannabis, Graffiti Implement, Possess Liquor under Age 18 charges)

This young woman had been disengaged from school for several years and experienced daily cannabis use and anxiety/depression due to grief and loss issues. She was supported to re-engage with education, and linked with drug and alcohol support and ongoing support through the Youth Support Service.

### **Responses to the question "What has been the most significant change for you since coming to the Youth Diversion Pilot Program"? (taken from exit interviews conducted with participants)**

- I have more motivation to do things, get a job and go to the gym. I have goals now.
- Not getting in trouble, keeping clean.
- Getting back into school.
- Studying more, don't have to go to court.
- More positive outlook on life.
- Able to talk about future and mum trusts me.
- Staying off the streets and keeping out of trouble.
- I stopped doing drugs.
- I haven't been in trouble since and have changed who I hang around. I now just do the right thing.

## Key outcomes

Over 90 per cent of participants successfully completed the diversion program and had their matter dismissed. Common positive outcomes include:

- young people demonstrating a better understanding of the impact of their offending
- improved family and community relationships
- re-engagement with education
- improved mental health.

The program received consistently positive feedback from Victoria Legal Aid, police prosecutors and the broader court network.

## Youth Justice Group Conferencing

The Jesuit Social Services Youth Justice Group Conferencing program enables dialogue between young people who have offended, their victims and the wider community. The program is grounded in principles of restorative justice, which emphasise reparation and restoration,<sup>31</sup> and aims to:

- raise the young person's understanding of the impact of their offending on the victim, their family and/or significant others and the community

- reduce the frequency and seriousness of re-offending by the young person completing the program
- improve the young person’s connection to family/significant others and their integration into the community
- negotiate an outcome plan that sets out what the young person will do to make amends for their offending
- increase victim satisfaction with the criminal justice process
- divert the young person from a more intensive sentence.<sup>32</sup>

Youth Justice Group Conferencing is a problem-solving approach to offending that emphasises the offender’s personal accountability, encourages an inclusive decision-making process that encourages participation, and aims to right the harm caused by an offence.<sup>33</sup>

Jesuit Social Services delivers Youth Justice Group Conferencing throughout metropolitan Melbourne and in the Northern Territory.

Key outcomes

A 2010 KPMG independent evaluation of young people who completed a Youth Justice Group Conference between 2007 and 2009 found that more than 80 per cent of participants had not reoffended two years later – this compared to 57 per cent for the comparison group (i.e. young people who had been placed on Probation or on a Youth Supervision Order)<sup>34</sup>.

## The age of criminal responsibility

A small number of vulnerable children enter the criminal justice system at a very young age. According to the Australian Institute of Health and Welfare, 100 children under 15 years of age were held in youth detention in Victoria in 2014-15<sup>35</sup>. We know this group is among the most vulnerable in our community and that children first detained between the ages of 10 and 14 are more likely, compared to those first supervised at older ages, to have sustained and frequent contact with the criminal justice system throughout their life<sup>36</sup>.

Child offending experts, psychologists and criminologists agree that younger children have rarely developed the social, emotional and intellectual maturity necessary for criminal responsibility before the age of 14 years and also lack the capacity to properly engage in the justice system. Consequently, procedural fairness cannot be assured and criminal justice proceedings fail to guarantee a just response to children’s behaviour. The most effective approach to prevent these children’s trajectories into the justice system is to address the issues driving their vulnerability such as family dysfunction, trauma, abuse and neglect.

In line with international standards embodied in the United Nations Convention on the Rights of the Child and enacted in many overseas jurisdictions<sup>37</sup>, we recommend raising the age of criminal responsibility to the age of 12 (as a minimum). According to an international study of 90 countries, 68 per cent had a minimum criminal age of 12 or higher, with the most common age being 14 years.<sup>38</sup>

### Age of criminal responsibility: international comparison

AUS	NZ	CAN	ENG	USA**	FRA	GER	SWE	NED	CHN	JPN
10	10-14*	12	10	6-12	13	14	15	12	14	14

Source: Hazel 2008, *Cross-national comparison of youth justice*, Youth Justice Board for England and Wales

We recommend that the Victorian Government legislate to raise the age of criminal responsibility to 12 years old.

We recommend putting in place evidence-based approaches to supporting vulnerable children who are below this age. This should include less formal methods of holding them to account, such as restorative justice and family centred approaches, as well as preventative measures which target the social and economic factors which lead to anti-social behaviour.

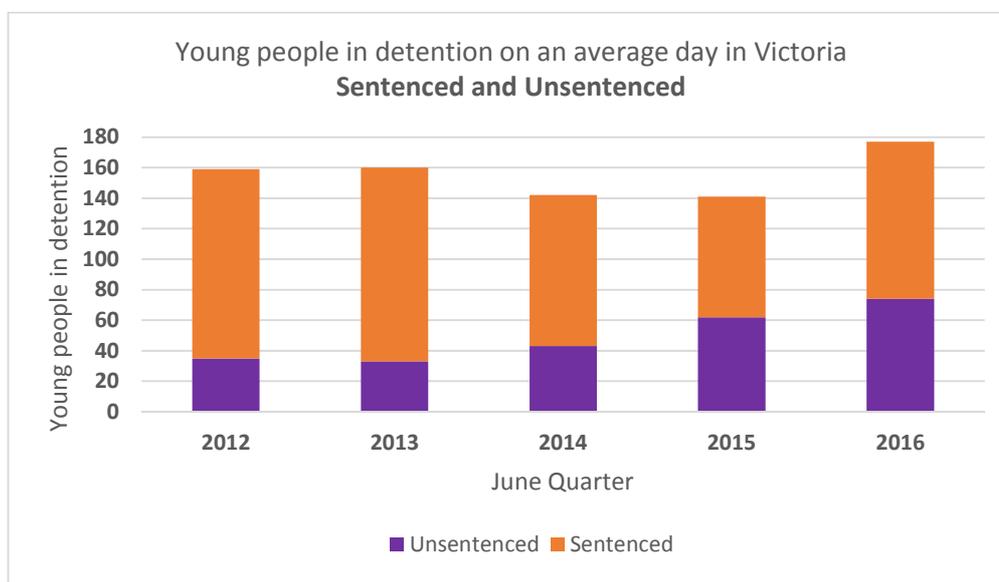
We recommend that the Victorian Government implement a targeted approach using restorative justice to address the needs of 10 and 11 year olds who come to the attention of the justice system.

## Bail and remand

The use of remand in Victoria is often unnecessary and far too common to be considered a last resort. Data from the Department of Health and Human Services<sup>39</sup> concerning remand numbers since the introduction of the amendments to the Bail Act in December 2013 show that:

- The number of individual young people admitted to remand by quarter increased from 112 in the second quarter of 2013-14 to 200 young people in the third quarter of 2015-16, an increase of 79 per cent.
- Most children and young people who are remanded do not go on to receive a custodial sentence. On average, since 2012-13, approximately only 20 per cent of those remanded were sentenced to a custodial order.<sup>40</sup>

While these amendments have been reversed, the proportion of young people on remand remains high, and the growing number of people in our prisons and youth detention centres who have not been sentenced places undue stress on our prison system. As shown in the following table, the number of children and young people on remand has more than doubled over the past five years.



Not reflected in the above table is the recently reported (unreleased) figure that 80 per cent of young detained in Victorian youth justice centres are on remand.<sup>41</sup> The stress this creates is outlined by Judge Michael Bourke in the Youth Parole Board's Annual Report:

*Programs for young people on remand exist but they are necessarily limited. Court delays mean that we have a tight timeline to plan for and consider parole... Consistent with this, custodial*

*progress reports to the Board show a pattern of unsettled behaviour on remand but improved, more compliant behaviour after and on sentence.*<sup>42</sup>

In some cases remand is justified, however we must remember that it involves the imprisoning of people who have not been convicted of a crime. It should therefore be the option of last resort. While some people present a real risk to the community and a period of incarceration (including remand) is an appropriate response to the crimes they have committed, we believe the pendulum has swung too far.

We must continue to ensure that children and young people are not unnecessarily detained while unsentenced. This requires a culture of practice and support among decision makers, as well adequately resourced services, so that children and young people can be diverted from custody into the community.

Data from the Honorary Justice Office<sup>43</sup> indicates a high number of bail hearings occurring after hours. Between May 2015 and May 2016:

- there were 12,044 requests for Bail Justices from Victoria Police and the Department of Health and Human Services
- 11,159 matters were allocated to Bail Justices.

75 per cent (8,418) of bail justice outcomes were remanded to the next court sitting, 13 per cent (1,396) bailed with conditions and 1 per cent (133) bailed without conditions.

Support services necessary to bolster the cases of bail applicants tend to operate during ordinary business hours, meaning there is a distinct lack of after-hours support for people on bail. For example, almost all services for young people are only open between 9am and 5pm on weekdays. A key component of after-hours support is the Central After Hours Assessment and Bail Placement Service (CAHABPS) which assesses children, provides necessary supports, and advocates in favour of bail to police and bail justices.

Analysis of Crime Statistics Agency data shows that eleven per cent of arrests occur outside of the CAHABPS hours of operation. There is a clear need to extend the opening hours of the service between 3.00 am and 10.00am to ensure equal and consistent access to the program after hours and provide in-person assessments in regional areas during peak periods (i.e. where there are high levels of arrests of young people out of hours). Placement options are often limited and there are no resources to purchase accommodation for children and young people. CAHABPS can also only provide outreach services and assessments in metropolitan areas.

We welcome the Victorian Government's recent announcement of additional funding to extend the existing Youth Justice Bail Supervision scheme across the entire state, and expand the CAHABPS ensuring that staff are on hand around the clock. To ensure that children and young people can be diverted from custody into the community, we renew our call for these services to have:

- Operation from 3am to 9am (Monday to Friday) and from 3am to 10am (Saturday, Sunday and Public Holidays)
- Extended coverage to provide outreach services and face to face assessments in major regional centres during peak periods where there are high volumes of youth justice involvement
- Brokerage funding for CAHABPS to purchase emergency short term accommodation placements and support from a register of providers on a needs basis

**We renew our call for bail supervision and intensive support services to have:**

- Increased hours to include from 3am to 9am (Monday to Friday) and from 3am to 10am (Saturday, Sunday and Public Holidays)
- Extended coverage to provide outreach services and face to face assessments in major regional centres during peak periods where there are high volumes of youth justice involvement
- Brokerage funding for CAHABPS to purchase emergency short term accommodation placements and support from a register of providers on a needs basis.

Jesuit Social Services strongly believes a range of evidence-based alternatives to youth custodial remand must be introduced or expanded, particularly covering out-of-hours support. Research and evaluations have identified the following key features linked to successful outcomes for bail support services<sup>44</sup>:

- cross-agency collaboration in providing a holistic response to client needs
- detailed assessment for program suitability
- good working relationships with (and confidence of) court officers and effective liaison arrangements with other service providers
- specialist staff/program coordinators located at court
- program flexibility and individually tailored approach to support and referral
- consistency of philosophy and practice
- immediacy of intervention and ongoing support.

These features should form the basis of a holistic, integrated network of bail support services for children and young people across Victoria. The design of this network of services could be modelled on Jesuit Social Services' Individual Support Package (ISP) program.

#### **Individual Support Package (ISP) program**

The ISP program is a recent initiative of Jesuit Social Services to respond to the increasing demand for individualised support to participants, primarily young people, with high support needs. The program has five different funding streams:

1. Individual Support Packages - individually designed packages to provide support to young people (16-25) with an intellectual disability.
2. Targeted Care Packages – individually designed packages providing support to young people exiting residential care, specifically targeting those that have or at risk of involvement with Youth Justice.
3. Specific referrals from Youth Justice for intensive individualised support for young people exiting Youth Corrections that require after hours support in a Transitional Housing Management property.
4. Multiple and Complex Needs Initiative - referrals for people who have been identified as having complex needs that often pose a risk to themselves or the community.
5. NDIS – targeting young people with a disability that intersect across the homelessness and corrections service systems.

Our service delivery model focusses on intensive, flexible, multi-disciplinary and individual support, during normal business hours, extended week day and weekend coverage, to meet the needs of vulnerable and disadvantaged young people. We utilise highly experienced and qualified staff from different disciplines to meet the specific needs of young people.

**We call on the Victorian Government to expand bail support programs across the state, with a particular emphasis on integrated and after-hours services for children and young people.**

## Legislation

We stress the importance of maintaining child specific factors/provisions introduced into the *Bail Act 1977* in May 2016. These provisions reflect the sentencing provisions of the *Children Youth and Families Act* and ensure child specific factors are considered in bail decisions, bail is granted appropriately to children in the first instance, and bail conditions are not unduly onerous and are hopefully less likely to be contravened.

The Bail Act must continue to operate in line with the *Children, Youth and Families Act* and be based on a culture, ethos and legislative framework that places the interests, developmental needs and rehabilitation of children and young people at the forefront of bail considerations.

**We call on the Victorian Government to ensure that the *Bail Act* continues to operate in line with the ethos of the *Children, Youth and Families Act*, by retaining provisions so that children will not be charged with the offence of breaching bail conditions.**

## A model for Youth Justice in Victoria

Jesuit Social Services believes that youth justice in Victoria must be delivered according to a clear model, underpinned by a philosophy aligned with what we are trying to achieve – meeting the needs of children and young people, and creating a safer community for all.

In meeting the needs of children and young people involved in the youth justice system, our approach must first recognise that they often come from disadvantaged backgrounds, have complex needs and lack developmental maturity.

In this context, to ensure the Victorian youth justice system is underpinned by a philosophy aligned with our goals, our framework of delivery must include:

- a therapeutic approach that responds to the development needs of children and young people, particularly vulnerable children
- engaging children and young people in a way that prevents further harm and enables them to understand the consequences of their offending behaviour
- developmentally appropriate restorative justice principles and practices that can help children and young people to understand the effects of their behaviour on others and increase victim empathy
- wide and consistent use of interventions to divert vulnerable children and young people from the criminal justice system
- the use of detention as a last resort
- a therapeutic approach for the design of youth justice detention facilities to ensure they are appropriate for managing children and young people's behaviour and treatment
- the use of solitary confinement and isolation as an option of absolute last resort (and preferably not at all)
- education as a protective factor, and the need to ensure vulnerable children's continued engagement in early years services and school
- targeted, intensive interventions for the relatively small number of young people engaging in serious offending – often violent, repeat offending – to address their rates of re-offending
- culturally safe, responsive and respectful services for children and young people from Culturally and Linguistically Diverse backgrounds and Aboriginal and Torres Strait Islander backgrounds

- specific responses designed to meet the needs of young women and girls
- a highly qualified, well-resourced workforce trained in trauma-informed youth specific therapeutic practice
- mechanisms that harness the voices of children and young people to improve our youth justice system.

To ensure youth justice in Victoria is delivered in line with this framework, the Victorian Government must act now to make changes to legislation, programs and policies, and fundamentally redesign our youth justice system. A focus on the values of the system and how they are realised in day-to-day practice is needed, along with a deeply collaborative approach that engages with the expertise and experience of the community sector.

**We call on the Victorian Government to redesign the youth justice system to ensure it is delivered according to a clear model, underpinned by a philosophy aligned with our shared goals of meeting the needs of children and young people, and creating safer communities.**

## Trauma informed care

Children and young people in contact with the justice system are among the most vulnerable and disadvantaged in the community and generally go on to have higher rates of offending throughout their lives. The causes of offending in younger children are strongly connected to their environment and its impact on their development.

Young ATSI people in youth detention have the added complexity of the impact of intergenerational trauma, grief, loss and locational disadvantage. Colonisation and discriminatory government policies has seen generations of Aboriginal people experience racism, dispossession, early deaths of family and community members, and the forced removal of children.

Recognising the unique but highly complex vulnerability of young people in youth detention, and the impact that trauma has played in their offending behaviour, it is critical that custodial settings adopt a trauma-informed approach, where possible, to prevent them re-entering the justice system.

There is a strong need for youth justice custodial environments to provide cultural safety, health and mental health services, alcohol and drug services, disability support, and responses to young people's experience of trauma. What is needed is a holistic and therapeutic approach that is integrated into a wider through-care model.

Through a commitment to embracing trauma-informed care and practice, the Victorian Government will not only create opportunities for survivors of trauma to heal, but will also work towards breaking the cycle of disadvantage and intergenerational trauma, and reduce crime and recidivism.

A commitment to staff development and training must incorporate a focus on trauma: its impacts, prevalence and potential for re-traumatisation across multiple services and agencies including health care, education, criminal justice, child welfare and other social service systems.<sup>45</sup>

**We call on the Victorian Government to support vulnerable children and young people with trauma-informed, therapeutic practices. These must be evidence-based, culturally safe and inclusive, and incorporate a strengths-based framework and specialist care.**

## Through-care model

There is a need for greater resourcing of a through-care model. We believe that ongoing, coordinated and youth-focused practice can produce better outcomes.

The Victorian Youth Justice Community Support Service (YJCSS), delivered by Jesuit Social Services, provides a positive example of this approach. YJCSS provides intensive support for young people aged 10-21 engaged with the youth justice system in Victoria. Through intensive support, YJCSS aims to:

- reduce the rate, severity and frequency of re-offending
- enable young people to make an effective transition to adulthood
- develop young people's capacity to participate fully in society.

In this model, government Youth Justice Workers are responsible for supervising young people on community-based orders, while community organisations provide case management support with housing, education, mental health, and alcohol and drug needs. The community consortia are funded by the Government to deliver services under formal partnership arrangements.

YJCSS helps prevent re-offending by focusing on a young person's development, preparing them for adulthood and re-connecting them with community.

Our case work focuses on broad aspects of a young person's life, such as social connection, economic participation, wellbeing and resilience, gender and identity, health, and self-determination. Through our case work, young people in the justice system develop:

- independence, resilience and pro-social connection to family and community
- skills and knowledge to make informed choices about their future
- the means to participate more fully in their community
- connections to family, education, training, employment and community

### Key outcomes

A 2013 evaluation of the program found that it delivered an effective form of support and had improved outcomes for young people in the system<sup>46</sup>, and a recent internal analysis of relevant cases\* in Jesuit Social Services YJCSS Closure Reports has shown the following:

- 70 per cent involved the young person completing statutory orders
- 97 per cent resulted in improved engagement with family
- 93 per cent resulted in improved mental health
- 80 per cent resulted in improved participation in education
- 76 per cent resulted in improved engagement with employment
- 66 per cent resulted in improved engagement in training
- 96 per cent resulted in improved stable accommodation
- 88 per cent resulted in reduction in substance use.

*\*(Figures for 133 closed files for the period 1/7/2013- 30/6/2016 for North West and East and 2014 and 2015 for the South); based on worker report at exit ('not known' and 'not applicable' excluded)*

### **Case study: Youth Justice Community Support Service**

*Background:* Referred to YJCSS when he was 17 and had been in Parkville Youth Justice Centre for several years for serious offences. This young person had no prior history with Youth Justice and was extremely anxious leading up to release. He had engaged with a psychologist throughout sentence and continued this post release. He had a history of trauma prior to his offending and had previous involvement with child protection.

Upon his release on parole he was placed in a transitional housing property through the YJ Transitional Housing Manager (THM) program (part of YJCSS).

Young person already had some independent living skills and was passionate about music. He was quite closed and superficial in his engagement with YJCSS worker initially.

#### Support provided by YJCSS

- financial budgeting/independent living skills
- recreational activities
- counselling
- assistance to get Learners permit and licence
- resume preparation and job seeking
- engagement in education
- family work around relationship with parents

Outcomes: Stable case management and housing was integral to this young person's progress. He:

- completed a lengthy parole successfully completed– no further offending
- successfully completed a THM tenancy, transferred into a Youth Foyer and is going very well there
- completed one course at TAFE and currently enrolled in a second course
- connected with new peers through TAFE and has girlfriend he met at TAFE
- gained employment at a juice bar
- passed his driver's licence test and bought himself a car
- has plans to drive around Australia when his course is finished
- is managing relationships with parents more easily
- is managing his anxiety

In our experience, only around a third of young people exiting custody receive access to a program like YJCSS. Ideally, every young person involved in the youth justice system would have access to this level of support.

**We call on the Victorian Government to expand and fully resource through-care models for young people exiting the justice system.**

## **Staff capacity and training**

Legislative and regulatory frameworks must be underpinned and complemented by an ongoing and enhanced focus on strengthening a culture that supports a therapeutic approach. In this regard, it is critical that Youth Justice custodial centres are sufficiently resourced to deal with the level of complexity/low-level cognitive functioning of young people.

Part of the challenge is that staff are often low-paid and operating in a culture of monitoring and compliance. Youth detention officers and staff within youth detention centres set the tone for young people’s experience of detention. The influence that these officers’ behaviour has on the young people in their care is significant.

The needs of young people in detention vary greatly from those of adults. Consequently, the practice framework in youth detention centres should reflect this, and it is critical that staff in youth detention centres are trained in youth specific practice frameworks and frequently update their skills. This training must be comprehensive and delivered by instructors who have adequate experience and qualifications in therapeutic approaches to youth justice. Principles of a youth specific framework must include training around understanding trauma, child brain development, impulsive adolescent behaviours, alcohol and other drug issues, and the impact of family violence on young people. Training in cultural competency will further assist staff in engaging with young people from Aboriginal and Torres Strait Islander (ATSI) or Culturally and Linguistically Diverse backgrounds. Additionally, the Victorian Government should also look to recruit more staff from CALD and ATSI backgrounds

A therapeutic and trauma-informed approach to youth detention is the beginning of an approach which –when delivered together with purposeful day-based activities, day leaves, access to therapy, restorative practice, and offender specific programs –has the potential to greatly improve outcomes for young people leaving detention.

**We call on the Victorian Government to ensure that youth detention officers and other staff in youth detention centres are trained in a trauma-informed youth specific therapeutic practice framework by experienced and qualified instructors.**  
**We believe this should be delivered by an accredited provider, be part of a program of ongoing professional development, complemented by Senior Practitioners and supported by regular reflective practice.**

Jesuit Social Services believes that recent events in Victoria have highlighted the risk of using an under-skilled, under-resourced and casualised workforce to address the needs of a vulnerable and complex group of young people.

We can turn to international jurisdictions to see examples of best-practice in youth justice workforce capability (see table below). In the United States, industry hiring process have tightened over time largely due to staff misconduct. Juvenile corrections officers working in federal youth detention centres are required to possess a university level degree and the selection process involves a thorough background investigation that includes inquiries with family members and friends.<sup>47</sup> In the Netherlands, staff require a minimum three-year bachelor degree to work in youth prisons,<sup>48</sup> and in Spain’s youth detention ‘Re-education Centres’ run by non-profit organisation Diagrama, front-line staff (named ‘educators’) are expected to have a professional qualification.<sup>49</sup>

Jurisdiction	Facility	Minimum qualification
<b>Victoria</b>	Youth justice centre	None
<b>United States</b>	Federal youth detention centre	Undergraduate university degree
<b>The Netherlands</b>	Youth detention centre	Undergraduate university degree
<b>Spain</b>	Re-education Centre	Professional qualification

We envision a Victorian youth justice workforce that is highly qualified and grounded in principles that place the interests, developmental needs and rehabilitation of children and young people at the forefront.

**We call on the Victorian Government to require that youth detention officers and other staff in youth detention centres possess a relevant professional qualification.**

## Impacts of solitary confinement: International research and our experience

In light of the health and community safety risks associated with solitary confinement as confirmed by both international research and local experience, Jesuit Social Services considers that the use of isolation, separation and lockdowns in youth justice centres, and for young people in adult prisons, should be kept to an absolute minimum. Practices must ensure that harm to children and young people is minimised and that their rights are protected.

We recognise and support the findings of the World Health Organisation,<sup>50</sup> which show that:

- The detrimental effects of solitary confinement on health include anxiety, depression, anger, cognitive disturbances, perceptual distortions, paranoia and psychosis.
- Levels of self-harm and suicide, which are already much higher among prisoners than in the general population, rise even further in segregation units.
- Prisoners with pre-existing mental illness are particularly vulnerable to the effects of solitary confinement.
- Children and young adults are still developing physically, mentally and socially, which makes them particularly vulnerable to the negative effects of solitary confinement.
- Solitary confinement can affect rehabilitation efforts and former prisoners' chances of successful reintegration into society following their release.
- International human rights law requires that the use of solitary confinement be kept to a minimum and reserved for the few cases where it is absolutely necessary, and that it be used for as short a time as possible.

Solitary confinement negatively affects an individual's overall level of physical and mental health in custody. Many people describe experiencing physical health impacts such as deterioration in eyesight (e.g. seeing black dots), poor appetite and joint pain. Mental health impacts are more profound and include increased difficulty in regulating emotions (e.g. anger/rage), constant hypervigilance and paranoia, distortions in time, increased suicide/self-harm risk, increased symptoms of anxiety/depression, and describe feeling that they are going 'crazy'.

Solitary confinement also creates significant barriers to achieving successful rehabilitation and reintegration. People are often released straight back into the community from these regimes after spending up to 23 hours in their cell a day. This significantly compromises community safety and puts the individual leaving this regime at significant risk in the community.

Jesuit Social Services considers that isolation under the definition contained in section 488(1) of the *Children, Youth and Families Act 2005* (Vic) – being 'the placing of the person in a locked room separate from others and from the normal routine of the centre' – would share the same negative consequences as solitary confinement for children and young people at youth justice centres.

Young people in the adult criminal justice system (aged 18-25) are also identified as being particularly vulnerable to the ill effects of isolation due to their developmental age. Isolation not only risks exacerbating or bringing on short and long term mental health issues, but can also prove physically harmful to the health and well-being of adolescents by restricting their ability to engage in physical exercise.<sup>51</sup> Isolation also increases the risk that those detained will self-harm, for example by banging their heads against walls.<sup>52</sup>

In Victoria, we have worked with young men aged under 23 who have experienced long term management placements (isolation) in adult prisons, sometimes for long periods of time (e.g. two years). Some of these young men identify as Aboriginal and have had limited culturally appropriate supports whilst under this regime. Many young men are placed within these regimes following their involvement in incidents in the prison. What we know is that young men who have experienced significant trauma experience impacted brain development and as a result are more likely to react with a fight/flight response when feeling under threat.

Given this, young men will generally react in a way that they know keeps them alive when they feel under threat from prison staff or other prisoners – namely, with violence. We are concerned that long term isolation has become the Victorian prison system’s default response to ‘managing’ young men who have experienced trauma.

Jesuit Social Services has worked to support some of these young men to transition into the community, which has been a challenging journey for them. Many report feeling ‘institutionalised’ at a young age upon release, struggle to manage day-to-day living tasks such as being out in public, experience constant feelings of hypervigilance and, at times, have created spaces to sleep in that are the same size as a prison cell.

Some of these young people would describe feeling as though they have ‘lost’ themselves under this regime and have limited hope for their future in the community. Many are traumatised from what they have experienced in custody during prison incidents and from spending such prolonged periods of time in isolation.

Many of these young people do not remain in the community for long periods of time, often returning to prison. This is particularly concerning not only for the wellbeing of these young people and for economic reasons, but also as it risks undermining the safety of the community. Importantly, their offending tends to significantly increase in severity from their previous offences.

Keeping young people under 25 in isolation is particularly concerning as we know the adult brain does not fully develop until the age of 25 or beyond. For a 20 year old who has experienced significant trauma and is put in isolation for an extended period, the lasting impacts on his/her brain development can be significant.

Solitary confinement and isolation are not conducive to rehabilitation, reintegration or community safety, and increase risk to the community. We should heed the lessons concerning the impact on young people experiencing these conditions in adult prisons and ensure that these practices are used as an option of absolute last resort (and preferably not at all) for children and young people in youth justice facilities.

### **Jesuit Social Services’ experience**

Jesuit Social Services has experience working with numerous young men who have been difficult for Youth Justice to manage in custody and have, as a result of their behaviour, been transferred to adult

prisons from Malmsbury Youth Justice Centre. Many are then vulnerable in the adult system and are put in isolation after they are involved in incidents, including being exploited by more experienced prisoners to become 'lackeys' so that the more experienced prisoner does not get caught.

The transfer of these young men to adult prisons could have been avoided if the youth custodial environment had the capacity to respond to their behaviour in an appropriate manner. These young men then find themselves at risk, given they are exposed to more experienced/older prisoners who are at times gang-affiliated or who engage in a higher risk behaviours.

Rather than transferring children and young people displaying challenging behaviours to adult prisons, youth justice staff should be adequately trained and resourced so they can manage these vulnerable young people within the youth justice system. We are particularly concerned about recent reports of the increasing use of isolation in youth justice centres, and most recently in Barwon prison.

Although Jesuit Social Services has a number of case examples of the effects of isolation on young people, we are unable to include them in this submission due to the risk of identifying the young men. However, common experiences we are aware of include:

- extended periods of long term isolation
- use of handcuffs, shackles, restraints, tear gas and observation cells
- significant mental health issues following release from isolation including suicide attempts
- difficulty interacting socially with other people following release from isolation
- upon release from custody, replicating isolation conditions in private accommodation e.g. transforming a bathroom to resemble a prison cell, sleeping in the bath, preparing food in the bathroom.

Despite our best efforts to ensure anonymity in case studies, the risk of identifying the young men is simply too great, given the potential consequences including the risk of harm to these young men if identified. As these case studies are such potent examples of the troubling effects of isolation, we would welcome the opportunity to present them to the Legal and Social Issues Committee if the anonymity of the young men could be assured.

## Mitigating the need for isolation as a response

Several factors contribute to escalating situations in youth detention centres. The particular needs of children and young people, staff management practices and the physical environment of youth detention centres all contribute to creating situations where young people become violent and threaten the safety of others, themselves or property. By addressing these factors pre-emptively, escalating situations can be diverted.

### Meeting young people's needs

Young people in detention require a very different approach to adults in the justice system due to their developmental vulnerability. Additionally, they may experience behavioural issues and present with multiple and complex needs. Meeting the needs of young people must be a priority within youth detention. This approach requires:

- staff who receive thorough ongoing training to support the unique needs of young people, and at minimum are required to possess a relevant professional qualification
- improved case management and access to mental health services while in detention
- improving specialist training so that staff adopt a restorative approach to young people rather than a punitive approach
- ensuring consistency in managing adolescents with trauma and mental health issues.

Escalating situations can be pre-emptively diverted by adopting a therapeutic approach to the needs of young people in youth detention. Jesuit Social Services' experience providing support to young people in the Parkville and Malmsbury Youth Justice Centres has re-enforced our position that the above approach is required. Our support workers have reported:

- The use of physical barriers by custodial staff to separate themselves from young people
- Inexperienced custodial staff responding to escalating situations for example by using lockdowns and restraint
- Difficulty in them being able to visit young people, a simple but crucial component of supporting a young person to transition back into the community.

These issues actively work against providing a therapeutic and effective response, and feed into an 'us-against-them' mentality that erodes the beneficial relationships between custodial staff and young people.

**We call on the Victorian Government to ensure that all therapeutic de-escalation methods are exhausted, prior to using isolation as a last resort for children and young people in youth detention.**

### **Listening to the voices of children and young people**

Management practices in youth detention also present opportunities for improvement and pre-emptive de-escalation. Young people must be treated with respect and dignity by staff in order to develop trusting relationships with young people. Article 12 of the *United Nations Convention on the Rights of the Child* states that children's views must be considered and taken into account in all matters concerning them and should be accorded weight dependent on the age and maturity of the individual child.

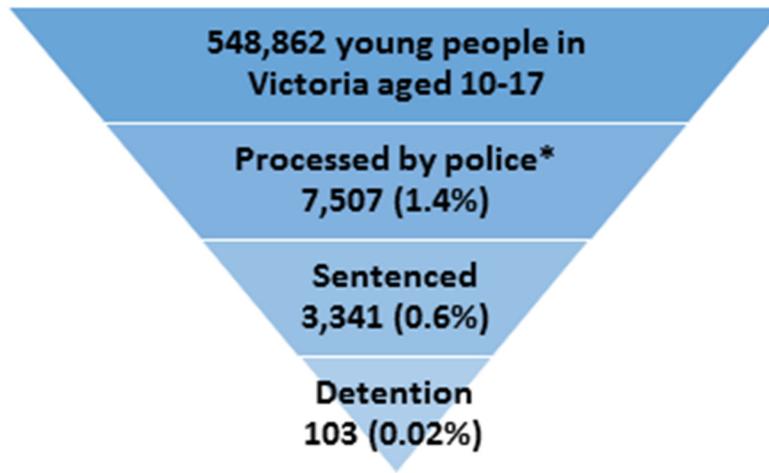
Accordingly, it is important that staff acknowledge children and young people's voices and discuss and address their concerns and frustrations. Where young people are not able to express their concerns about matters which affect them while in youth detention, the situation can escalate and result in unconstructive expressions of frustration on the part of the young person. Management practices must ensure that staff provide a safe and constructive environment where young people can express their concerns and where these concerns are then respectfully addressed.

**We call on the Victorian Government to ensure that children and young people are able to voice their concerns, and that their concerns are used by staff as an opportunity for improvement and pre-emptive de-escalation.**

### **Youth detention – principles and design**

In the context of recent events at the Parkville and Malmsbury facilities, and announcement of plans to build a \$288 million high security youth justice centre, we call on the Government to carefully consider the impact of design on children and young people's behaviour and treatment.

We recognise that detention is a critical component of the youth justice system, however it should be always be used as a last resort. According to the most recent data<sup>53</sup>, in 2015 there were more than half a million young people aged 10-17 years in Victoria. Out of this population only 1.4 per cent (7,507) were processed by police and only 0.02 per cent (103) committed crimes serious enough to be sentenced to youth detention (see below table). It is with this small number of young people that we must focus our efforts to ensure that they are redirected from a lifetime of cycling in and out of the courts and prison.



The loss of freedom and experience of isolation in detention can directly contribute to manifestations of violence, aggression, anxiety, distress and suicide. In other social care settings, such as hospitals, a therapeutic approach to design is widely accepted and aims to increase people’s sense of freedom and community. This therapeutic approach is becoming more widely accepted in a corrections context, and these principles are all the more important for young people as their ability to cope with intense deprivation is far lower than adults.

The following are design features which have been identified as contributing to a more therapeutic environment for young people in social care settings.<sup>54</sup>

- Facilities should be secure and comfortable, with maintenance of an ambient temperature and access to daylight and fresh air.
- Privacy should be available wherever possible, and young people’s dignity should be preserved.
- Activities should be made available wherever possible to constructively engage young people.
- Noise and overcrowding should be minimised.

Research<sup>55</sup> and international standards<sup>56</sup> highlight a number of key principles that should underpin youth justice facilities including:

- Reintegration into the community must be a focus from the outset of a custodial sentence
- Education is placed at the heart of an institution’s focus
- Interventions are personalized and targeted; the provision of a range of facilities must meet the individual needs of children and the specific purpose of their committal
- Staff are given multidisciplinary training and custodial staff are involved in the education of offenders
- There is a high ratio of staff to children and young people
- Institutions are small and split into units which are even smaller; the number of children should be small enough to ensure individual care
- Post-release mentoring for up to 12 months
- The provision of less restrictive security conditions and control arrangements (only what is necessary to protect children from harming themselves or others)
- Life in the facility should approximate as closely as possible real life in the community
- Location should be in places close to family to enable family connection and residential facilities are locally distributed
- Facilities are integrated into the social, economic and cultural environment of the community; activities in the community are a key aspect of provision

Examples of best-practice in youth detention can be seen by examining proven international models for custodial environments.

### **USA (Missouri): Division of Youth Services**

“Since converting from a system of residential training schools in the early 1980s, Missouri has consistently been highlighted as an effective alternative to many other US states’ more punitive regimes.

The Missouri Division of Youth Services (DYS) provides a broad range of non-residential programmes (e.g. day treatment programmes) and a continuum of residential facilities with varying levels of security. Residential facilities are small (housing a maximum of 50 young people) and locally distributed, ensuring young people are able to maintain regular contact with their family. These varying levels of security comprise:

- **Secure Care:** In accommodation housing about 30, young people who have committed the most serious offences receive education, vocational guidance and counselling in treatment groups of 10–12. Accommodation is generally open-dorm, and the facilities are locked within a perimeter fence.
- **Moderate Care:** For young people who have committed less serious crimes and do not pose a threat to the community, facilities are staffed by full-time teachers and operate with no perimeter fence. Some moderate care facilities are located within state parks.
- **Group Homes:** These 10–12 bed facilities are staffed around the clock, but young people access a programme of treatment, education and community interaction within and outside the facility. Situated in residential neighbourhoods, integration into society is supported through jobs and community projects.

For all young people, the programme emphasises the importance of meeting individuals’ educational, psychosocial and medical needs within a structured programme of therapy. Communication and social skills development, conflict resolution, empathy and self-esteem improvement are all common areas of focus.

Each young person is assigned a case manager (typically with a caseload of 15–20), supported to carry out intensive case supervision in the community by Social Service Aides (Trackers). The case manager completes an Individual Treatment Plan, which defines the particular treatment for each young person. It is a comprehensive account of their treatment within their contract with the DHS, aimed at laying out solutions to the delinquent behaviour, education, family relationships, addiction and health-related issues, life skills etc.

Performance is excellent: the DHS has been described as a ‘model for the nation in juvenile corrections’ (Missouri Juvenile Justice Association, 2003). Compared with other states, costs are relatively low for such a resource-heavy programme – California spends almost double the amount per capita. This is partially driven by the relatively low cost of living in Missouri State, which in turn reduces staff costs.

While recidivism rates are notoriously difficult to standardise, the rates of reoffending in Missouri are clearly very low. After one year, reoffending (any contact with the justice system) is 16.4%. Even after three years, this has only risen to 32.9% (Missouri Department of Social Services 2012).”

*Entire excerpt from: Elwick A., Davis M., Crehan L., Clay B., 2013. Improving outcomes for young offenders: an international perspective. United Kingdom, CfBT Education Trust.*

### Spain: Re-education centres

The not-for-profit Diagrama Foundation runs 38 youth detention facilities in Spain called Re-education Centres. Centres range in size from ~40 to 110, each centre serving a radius of ~45km with children being detained as close to their family as possible.

Front line staff are called 'educators'. Their role is to be with their assigned children during their whole shift: eating with them, joining in their classroom activities, playing football with them, maintaining the building and grounds together, watching TV together. The children live in groups of about 12 within the larger establishment, and have a full programme of activities every day, usually in smaller groups of six or seven with one or two 'educators'.

An example of a Re-education Centre is the La Zarza Centre, which has 61 beds for children. The centre employs 80 'educators', along with 20 'semi-educators' who can be called upon to use force if necessary, and seven security guards who play no part in the children's everyday lives.

There is a strict methodology that is applied across all Diagrama centres:

- a theory of change based on establishing affection and trust as the basis for re-educating and re-socialising young people
- every interaction with a young person is seen as therapeutic
- each centre has psychologists, social workers and a lawyer on site, with a general practitioner visiting a couple of times per week
- all staff are trained in de-escalating approaches
- there are no segregation rooms
- the centres are calm and safe environments

Spain's Re-education Centres have proven to be successful models of youth detention. Indicators of success include:

- low levels of violent behaviour and rare use of restraint
- no incidences of suicide
- 70 per cent reintegration rate for children
- in the Murcia region, only 28.2 per cent of children receive subsequent conviction

Source: Hart, D. 2015. Correction or care? the use of custody for children in trouble. Prisoners' Education Trust, UK.

<http://www.prisonerseducation.org.uk/data/Hart%20Diane%20Report%202015%20Final.pdf>

Allison, E. & Hattenstone, S. 2014. Tough love: is this a model prison for children? The Guardian. <https://www.theguardian.com/society/2014/nov/07/tough-love-young-prisoners-spain-model-prison>

**We call on the Victoria Government to adopt a therapeutic approach for the design of youth justice detention facilities to ensure they are appropriate for managing children and young people's behaviour and treatment.**

**We call on the Victorian Government to undergo a consultation process for the design of the proposed high security youth justice centre.**

### De-escalating

Isolation represents a major cause of distress for children and young people. Accordingly, situations where a young person may cause serious physical harm to themselves or others, and therefore require isolation, must be avoided wherever possible.

Early identification of an escalating situation and immediate intervention is key to reducing the need for isolation. Staff must be trained in a restorative approach, handling escalating situations as well as identifying indicators of distress and frustration which may build up into a violent outbreak.

Isolation should only be used in a situation where a young person can be reasonably expected to cause serious physical harm to themselves or others or to property, and where other de-escalation interventions have not been effective. In de-escalating situations where physical harm to self or others is not a concern, staff should not rely on isolation as a solution and instead employ restorative interventions.

## Oversight and accountability

### Oversight

Jesuit Social Services is concerned by the Victorian Government's recent decision that will see responsibility for the youth justice system transfer from the Department of Health and Human Services to the Department of Justice and Regulation.

We believe that this decision is contrary to the best interests of children and young people, including promoting their positive development. The Victorian Government's decision to detain young people at the maximum security Barwon Prison is equally concerning. Reports from lawyers at the Human Rights Law Centre suggest a deliberate and systematic use of violence and threats against the young people detained at Barwon Prison, including:

- Indiscriminate use of capsicum spray
- Use of the Security and Emergency Response Group to handcuff, incapacitate and assault the young people
- Visible injuries to the young people including bruising
- Hospitalisation of young people including for a self-harm incident
- Lockdown in cells for 23 to 23.5 hours per day
- Threats made from staff, for example "Next time I'll break you" and "We run this joint".<sup>57</sup>

We all want safer communities and detention is a critical component of the youth justice system. However, any use of detention must be humane and sustainable, and the Victorian Government's use of the adult prison system has been far from that. The experience of Barwon Prison has shown that managing young people under a regime designed for adults, using staff recruited and trained to work with adults, is unfit to address the developmental and rehabilitative needs of children and young people.

Given youth justice will now sit in the Department of Justice and Regulation, it is of utmost importance that it continues to operate in line with the *Children, Youth and Families Act* and be based on a culture, ethos and legislative framework that places the interests, developmental needs and rehabilitation of children and young people at the forefront.

**We call on the Victorian Government to ensure that the youth justice system in Victoria operates in line with the *Children, Youth and Families Act*, and is based on a culture and ethos that places the interests, developmental needs and rehabilitation of children and young people at the forefront.**

### Accountability

It is critical that Victoria has a diversity of mechanisms and responses to ensure that the rights of children and young people are upheld in custodial settings.

There is a clear opportunity to better monitor quality and complaints and to explore other avenues to support young people to raise and articulate their concerns. Jesuit Social Services' experience working with young people who intersect the criminal justice system – including custodial settings – would indicate that establishing a relationship of trust with a young person is critical to understanding their experience of custody.

The experience of Jesuit Social Services at Perry House, a four-bedroom residential service for young people with an intellectual disability who intersect the criminal justice system, indicates that oversight by Community Visitors delivered by the Office of the Public Advocate helps to ensure accountability for good practice and drive holistic, person-centred practice. Community Visitors arrive unannounced and observe, ask questions, talk to residents and review documents, resulting in a report for DHHS. Given the significant numbers of children and young people who have lower level cognitive functioning or a diagnosed intellectual disability and are incarcerated, we would support a greater alignment between Youth Justice and Disability complaint mechanisms.

The current Independent Visitor Program (Commissioner for Children and Young People) performs this role to an extent but their presence at the Centres is known in advance which may at times place limitations on its effectiveness. This could be offset by a number of unannounced visits as is the case with Community Visitors. As a further example, Victoria could align complaint mechanisms with what happens in the disability sector, where sign off is required from an independent third party (e.g. Office of the Principal Practitioner) when looking at regimes to manage restrictive interventions and compulsory treatment by service providers. This could include any significant modification of behaviour support plans such as changes to medication regimes or the use of restraints and isolation/solitary confinement.

We would support an increase in resources to the Independent Visitor Program (Commissioner for Children and Young People) to strengthen their capacity to effectively capture the voice and views of children and young people and their experience of custody.

In addition to using volunteers, we could also strengthen processes by using third parties (such as community service organisations) to give young people a voice once they have been released from detention. Currently the last opportunity to offer feedback is at exit; however, providing additional formal channels to feed into existing mechanisms (e.g. Commissioner for Children and Young People) once young people are in the community would enhance accountability. This could include the development of web-based applications where young people can provide feedback.

**We recommend the Victorian Government increase resources to the Independent Visitor Program to strengthen capacity to effectively capture the voice and views of children and young people and their experience of custody.**

**We call on the Victorian Government to support ongoing, meaningful engagement with young children and young people once they have been released from detention, to harness their voices and inform the improvement of our youth justice system.**

### **Establishing an independent National Preventative Mechanism under the Optional Protocol to the Convention against Torture**

It is crucial to ensure that using isolation, separation and lockdowns to manage children and young people in youth justice centres does not undermine their rights, particularly their right to freedom from cruel, inhuman and degrading treatment. Jesuit Social Services considers it necessary for the Victorian Government to install an independent oversight mechanism to ensure that these rights are preserved.

Australia has now agreed to ratify the *Optional Protocol to the Convention against Torture (OPCAT)*. Ratification of *OPCAT* presents a valuable opportunity to strengthen the oversight measures already in place, and recognise Australia's commitment to these protections.

In order to provide accountability and effective protection in all Australian states and territories, an independent National Preventative Mechanism (NPM) should be established under Part IV of *OPCAT*. Article 19 of *OPCAT* specifies that at minimum NPMs must be empowered to:

- regularly examine the treatment of those detained
- make recommendations to authorities with the aim of improving the treatment and conditions of those detained and to prevent torture and other cruel, inhuman or degrading treatment
- submit proposals and observations concerning existing or draft legislation.

The ratification of *OPCAT* will improve oversight mechanisms and ensure that practices in youth detention facilities meet UN standards of treatment and are thoroughly investigated. This includes assessing the use of isolation and solitary confinement, and subjecting these types of practices to investigation by an independent monitoring body, strengthening accountability and improving outcomes for detainees.

Jesuit Social Services supports the ratification of this agreement, as it presents a clear opportunity to drive more holistic and therapeutic practices within youth justice. It also provides young people within these environments – many who are often disadvantaged in multiple and complex ways – with a voice.

**We call on the Victorian Government to support implementation of the Optional Protocol to the Convention against Torture, including – as a matter of priority – establishment of an independent inspecting body as part of the National Preventative Mechanism.**

<sup>1</sup> National Institute for Early Education Research (2013), Fast Facts Summary: Getting the facts Rights on Pre-K and the President's Pre-K Proposal, New Brunswick, USA

<sup>2</sup> Goldson, B. & Muncie, J. (2006). Youth Crime and Justice. London, SAGE Publications.

<sup>3</sup> Jesuit Social Services, (2013). Thinking Outside: Alternatives to remand for children (Research Report). Richmond, Jesuit Social Services

<sup>4</sup> Ericson, M. & Vinson, T. (2010). Young People on Remand in Victoria: Balancing Individual and Community Interests. Richmond, Jesuit Social Services.

<sup>5</sup> Jesuit Social Services, (2013). Thinking Outside: Alternatives to remand for children (Research Report). Richmond, Jesuit Social Services

<sup>6</sup> Australian Institute of Health and Welfare, (2016). Young people in child protection and under youth justice supervision 2014–15. Data linkage series no. 22. Cat. no. CSI 24. Canberra: AIHW.

<sup>7</sup> Youth Parole Board (2016), Youth Parole Board Annual Report 2015-2016, Melbourne.

<sup>8</sup> Snow, P. & Powell, M. (2012). Youth (in)justice: Oral language competence in early life and risk for engagement in antisocial behaviour in adolescence - trends & issues in crime and criminal justice no.435. Canberra, Australian Institute of Criminology.

<sup>9</sup> Perry & Van de Kolk cited in Miller, R. M. (2007). Cumulative harm: A conceptual overview. Melbourne, Department of Human Services.

[http://www.dhs.vic.gov.au/\\_data/assets/pdf\\_file/0012/589665/cumulative-harm-conceptual-overview-part1.pdf](http://www.dhs.vic.gov.au/_data/assets/pdf_file/0012/589665/cumulative-harm-conceptual-overview-part1.pdf)

<sup>10</sup> Robinson G. Silburn, S.R. Arney F. (2011). The value of investment in the early years: Balancing costs of childhood services - Topical paper commissioned for the public consultations on the Northern Territory Early Childhood Plan. Darwin: Northern Territory Government.

<sup>11</sup> Indig, D., Vecchiato, C., Haysom, L., Beilby, R., Carter, J., Champion, U., Gaskin, C., Heller, E., Kumar, S., Mamone, N., Muir, P., van den Dolder, P. & Whitton, G. (2011). 2009 NSW Young People in Custody Health Survey: Full Report. Sydney, Justice Health and Juvenile Justice.

<http://www.justicehealth.nsw.gov.au/publications/ypichs-full.pdf>

<sup>12</sup> Youth Parole Board (2016), Youth Parole Board Annual Report 2015-2016, Melbourne.

<sup>13</sup> Lawrence D., Johnson S., Hafekost J., Boterhoven De Haan K., Sawyer M., Ainley J., Zubrick S.R. (2015). The Mental Health of Children and Adolescents. Report on the second Australian Child and Adolescent Survey of Mental Health and Wellbeing. Department of Health, Canberra.

<sup>14</sup> Arthur, R. (2012). Rethinking the criminal responsibility of young people in England and Wales. European Journal of Crime, Criminal Law and Criminal Justice.

[http://booksandjournals.brillonline.com/docserver/15718174/20/1/09289569\\_v20n1\\_s3.pdf?expires=1488254095&id=id&accname=guest&checksum=B3AE5984234B77885012EBD3BA021FDE](http://booksandjournals.brillonline.com/docserver/15718174/20/1/09289569_v20n1_s3.pdf?expires=1488254095&id=id&accname=guest&checksum=B3AE5984234B77885012EBD3BA021FDE) and Jesuit Social Services, 2013. Thinking Outside: Alternatives to remand for children (Research Report). Richmond, Jesuit Social Services

<sup>15</sup> Australian Institute of Health and Welfare, (2016). Youth justice in Australia 2014–15 - AIHW Bulletin no. 133. Cat. no. AUS 198. AIHW, Canberra

<sup>16</sup> Vinson, T & Rawthorne, M. (2015), Dropping off the Edge 2015, Jesuit Social Services and Catholic Social Services Australia,

<http://www.dote.org.au/findings/full-report/>

<sup>17</sup> Vinson, T (2007), Dropping off the Edge: The Distribution of Disadvantage in Australia, Jesuit Social Services and Catholic Social Services

Australia, [http://www.jss.org.au/files/Docs/policy-and-advocacy/publications/DOTE\\_2007.pdf](http://www.jss.org.au/files/Docs/policy-and-advocacy/publications/DOTE_2007.pdf)

- 
- <sup>18</sup> Homel, R. (2005), Developmental Crime Prevention, in Tilley, N., Handbook of crime prevention and community safety, Willan Publishing, Devon, UK, pp. 71 – 106.
- <sup>19</sup> Youth Parole Board (2016), Youth Parole Board Annual Report 2015-2016, Melbourne.
- <sup>20</sup> Department of Education and Training, (2016). Australian Early Development Census National Report 2015. Canberra, Department of Education and Training.
- <sup>21</sup> Barnett, W.S., Carolan, M.E., Squires, J.H., Clarke Brown, K. (2013). The state of preschool 2013: State preschool yearbook. New Brunswick, NJ, National Institute for Early Education Research.
- <sup>22</sup> Victorian Council of Social Service, (2017). State Budget Submission 2017-18, Melbourne, Victorian Council of Social Service.
- <sup>23</sup> Wan, Moffatt, Jones & Weatherburn (2012) The effect of arrest and imprisonment on crime, Crime and Justice Bulletin, No. 158, NSW Bureau of Crime Statistics and Research, Sydney.
- <sup>24</sup> Nagin, D., Cullen, T. & Jonson, C. (2009) 'Imprisonment and Reoffending', Crime and Justice: A Review of Research, Vol. 38.
- <sup>25</sup> Gendreau, P., Goggin, C. & Cullen, F. T. (1999) in Michael Tonry (ed) The Effects of Prison Sentences on Recidivism, Report to the Corrections Research and Development and Aboriginal Policy Branch, Ottawa, Solicitor General of Canada, pp. 115-200.
- <sup>26</sup> KPMG (2010) 'Review of the Youth Justice Group Conferencing Program – Final report', Department of Human Services, September 2010, Melbourne, Victoria.
- <sup>27</sup> Australian Institute of Health and Welfare, (2016). Young people returning to sentenced youth justice supervision 2014–15. Juvenile justice series no. 20. Cat. no. JUV 84. Canberra: AIHW.
- <sup>28</sup> KPMG (2010). Review of the youth justice group conferencing program: Final report. Melbourne: State Government of Victoria. [http://www.dhs.vic.gov.au/\\_data/assets/pdf\\_file/0006/675564/review-youth-groupconferencing-report-2011.pdf](http://www.dhs.vic.gov.au/_data/assets/pdf_file/0006/675564/review-youth-groupconferencing-report-2011.pdf)
- <sup>29</sup> Jesuit Social Services, (2013). Thinking Outside: Alternatives to remand for children. Richmond, Jesuit Social Services.
- <sup>30</sup> Victorian Government Aboriginal Affairs Report, (2016), Department of Premier and Cabinet, Victorian Government, Melbourne.
- <sup>31</sup> Larsen, J. (2014) 'Restorative justice in the Australian criminal justice system', Research and public policy series, Australian Institute of Criminology, Report 127.
- <sup>32</sup> Victorian Government (2015) Youth Justice Group Conferencing factsheet, March 2015, <<http://www.dhs.vic.gov.au/for-service-providers/children,-youth-and-families/youth-justice/group-conferencing-information/youth-justice-group-conferencing-fact-sheets>>.
- <sup>33</sup> Bazemore, G. & Schiff, M. F. (2004) 'Paradigm muddle or paradigm paralysis? The wide and narrow roads to restorative justice reform (or, a little confusion may be a good thing)', Contemporary Justice Review, Vol. 7(1), pp.37–57.
- <sup>34</sup> KPMG (2010). Review of the youth justice group conferencing program: Final report. Melbourne: State Government of Victoria. [http://www.dhs.vic.gov.au/\\_data/assets/pdf\\_file/0006/675564/review-youth-groupconferencing-report-2011.pdf](http://www.dhs.vic.gov.au/_data/assets/pdf_file/0006/675564/review-youth-groupconferencing-report-2011.pdf)
- <sup>35</sup> Australian Institute of Health and Welfare, (2016). Youth justice in Australia 2014–15 - AIHW Bulletin no. 133. Cat. no. AUS 198. AIHW, Canberra.
- <sup>36</sup> Australian Institute of Health and Welfare (2013), Young people aged 10–14 in the youth justice system 2011–2012, AIHW, Canberra; Jesuit Social Services and Effective Change Pty. Ltd.
- <sup>37</sup> Child Rights International Network (2016) Minimum ages of criminal responsibility around the world, <<https://www.crin.org/en/home/ages>>.
- <sup>38</sup> Hazel, N. (2008), 'Cross-national comparison of youth justice', Youth Justice Board for England and Wales, United Kingdom, <[http://dera.ioe.ac.uk/7996/1/Cross\\_national\\_final.pdf](http://dera.ioe.ac.uk/7996/1/Cross_national_final.pdf)>.
- <sup>39</sup> Youth Justice Ministerial Roundtable, June 2016, DHHS briefing.
- <sup>40</sup> Australian Institute of Health and Welfare, (2016). Youth detention population in Australia 2016. AIHW bulletin no. 138. Cat. no. AUS 210. Canberra: AIHW.
- <sup>41</sup> Youth Parole Board (2016), Youth Parole Board Annual Report 2015-2016, Melbourne.
- <sup>42</sup> Youth Parole Board (2016), Youth Parole Board Annual Report 2015-2016, Melbourne.
- <sup>43</sup> Honorary Justice Office (2016) *Report on the Bail Justice service in Victoria*, Department of Justice and Regulation.
- <sup>44</sup> M & P Henderson & Associates Pty Ltd (2008) *Bail Support Program Evaluation*, Report for Corrections Victoria, March 2008, [https://assets.justice.vic.gov.au/corrections/resources/4abe9ba6-19fe-4070-933e-45da2582277e/bsp\\_evaluation\\_final\\_report.pdf](https://assets.justice.vic.gov.au/corrections/resources/4abe9ba6-19fe-4070-933e-45da2582277e/bsp_evaluation_final_report.pdf)
- <sup>45</sup> Bateman, J., Henderson, C. & Kezelman, C. (2013) Trauma Informed Care and Practice: Towards a cultural shift in policy reform across mental health and human services in Australia, A National Strategic Direction, Position Paper and Recommendations of the National Trauma-Informed Care and Practice Advisory Working Group; Mental Health Coordinating Council.
- <sup>46</sup> Synergistiq (2013) 'Youth Justice Community Support Service – evaluation', Final Report 27 March 2013.
- <sup>47</sup> CorrectionalOfficer.org, (2017). Becoming a juvenile corrections officer. Accessed 24/02/2017 <http://www.correctionalofficer.org/career/juvenile-corrections-officer>
- <sup>48</sup> Robinson, M. (2015). To examine trauma-informed models of youth detention - USA, Norway, Netherlands. Winston Churchill Memorial Trust, Canberra. [https://www.churchilltrust.com.au/media/fellows/Robinson\\_M\\_2015\\_To\\_examine\\_trauma-informed\\_models\\_of\\_youth\\_detention\\_.pdf](https://www.churchilltrust.com.au/media/fellows/Robinson_M_2015_To_examine_trauma-informed_models_of_youth_detention_.pdf)
- <sup>49</sup> Hart, D. (2015). Correction or care? the use of custody for children in trouble. Prisoners' Education Trust, UK <http://www.prisonerseducation.org.uk/data/Hart%20Diane%20Report%202015%20Final.pdf>
- <sup>50</sup> World Health Organization (2014) Prisons and Health, [http://www.euro.who.int/\\_data/assets/pdf\\_file/0005/249188/Prisons-and-Health.pdf](http://www.euro.who.int/_data/assets/pdf_file/0005/249188/Prisons-and-Health.pdf).
- <sup>51</sup> Human Rights Watch (2012) Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States, October 2012, <<https://www.hrw.org/report/2012/10/10/growing-locked-down/youth-solitary-confinement-jails-and-prisons-across-united>>.
- <sup>52</sup> Begley, P & Maley J (2016), 'Solitary Confinement in Juvenile Jail Has Stopped, But Unclear When: Minister', Namoi Valley Independent, 5 November 2016.
- <sup>53</sup> Sentencing Advisory Council, (2016). Sentencing Children in Victoria Data - Update Report. Sentencing Advisory Council, Melbourne.
- <sup>54</sup> Horsburgh, D. (2004), 'How and when can I restrain a patient', Postgraduate Medical Journal, Vol. 80, pp. 7–12, <<http://pmj.bmj.com/content/80/939/7.full.pdf+html>>.
- <sup>55</sup> Elwick A et al. (2013), Improving outcomes for young offenders: an international perspective, CfBT Education Trust.
- <sup>56</sup> E2 (Rules 53.1 to 53.5), European Rules. The European Rules for juvenile offenders subject to sanctions and measures is a document advises member European Union states of how to implement established standards for juvenile offenders.
- <sup>57</sup> Human Rights Law Centre, 2017. Disturbing reports of prison guards punching restrained boys held at Victoria's Barwon maximum security adult prison – 17 February 2017. <https://www.hrlc.org.au/news/2017/2/17/disturbing-reports-of-prison-guards-punching-restrained-boys-held-at-victorias-barwon-maximum-security-adult-prison>