

Submission to the inquiry into Victoria's Criminal Justice System

August 2021

The Australian Red Cross (Red Cross) welcomes the inquiry into the Victorian Justice System. We are pleased to present our submission to this inquiry. Red Cross is committed to improving the lives of those experiencing vulnerability. People who are in contact with the justice system are amongst the most marginalised groups in our community. Our justice programs aim to ensure that those people go on to live positive and productive lives in the community. Our vision is to see stronger, safer and socially cohesive communities, with improved access to community-led, evidence-based early intervention and prevention services, and a justice system centred on rehabilitation, reintegration and reducing recidivism. Red Cross provides support to people in contact with the justice system across multiple states and territories in Australia both within the prison setting and in the community, including pre and post release mentoring, Community Based Health and First Aid, and employment support.

This submission focuses on young people. It is informed by Red Cross' work supporting people in contact with the justice system, and by the voices and experiences of four members of our Red Cross Youth Justice Advisory Group (YJAG); a team of young people with lived experience of the justice system, established to provide young people with a platform to share stories, advocate for change and influence justice initiatives both at Red Cross and across the sector.

The evidence described in this report shows that young people in contact with the justice system often come from disadvantaged backgrounds and this disadvantage is often compounded by experiences of feeling racially targeted or discriminated against which has a lasting impact on their life. They face barriers to accessing effective and culturally appropriate supports and services which contributes to their likelihood of having contact with the Victorian justice system.

Recommendations:

1. Co-design additional education supports for young people who are participating in mainstream schooling and provide alternative education options for young people with lived experience of the justice system, to support young people find ways to realise their value and to thrive.
2. Pilot and invest in alternative education pathways to provide at-risk young people with opportunities to achieve education goals outside of the mainstream schooling system. Education pathways should be flexible, engaging and developmentally as well as culturally appropriate.
3. Evaluate the effectiveness of existing employment services for at-risk young people in Victoria, and invest in real, paid employment opportunities for young people who have had contact with the justice system in a variety of industries including sport coaching and the arts, as well as alternative employment options such as business mentorship and start-up funding.
4. Introduce concrete economic incentives that encourage businesses to hire young people who have had contact with the justice system, such as a wage subsidy or a training grant. Initiatives that support and encourage employers to ensure their workplaces are welcoming to those who have had contact with the justice system should be promoted.

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5. Ensure effective culturally appropriate supports and services are available for people who have committed offences to ensure that people are supported across all points of contact with the justice system. Culturally appropriate supports and services should be evidence based, effective and sufficient to meet demand.
6. Where services are supporting Aboriginal and Torres Strait Islander young peoples, autonomy and power should be given to their communities to ensure that solutions are community-designed, led and implemented. Services should be available to all young people in contact with the justice system, and accessible throughout Victoria.
7. Further invest in diversionary programs that are co-designed, evidence-based, and long-term, as a strategy to reduce rates of recidivism. Diversionary approaches should be accessible across Victoria, evaluated regularly for appropriateness and effectiveness, and tailored to respond to the needs of specific groups including Aboriginal and Torres Strait Islander peoples, young people, and people from culturally and linguistically diverse (CALD) backgrounds.

I would be pleased to discuss this submission and our recommendations further and to collaborate towards positive change to Victoria's criminal justice system.

Yours sincerely,



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Introduction

The Australian Red Cross (Red Cross) welcomes the Inquiry into Victoria's Criminal Justice System. We recognise that people who are in contact with the justice system are amongst the most marginalised groups in our community. Red Cross is committed to working towards improving the lives of those people.

This submission focuses on young people. It is informed by Red Cross' work supporting people in contact with the justice system, and by the voices and experiences of four members of our Red Cross Youth Justice Advisory Group (YJAG); a team of young people with lived experience of the justice system, established to provide young people with a platform to share stories, advocate for change and influence justice initiatives both at Red Cross and across the sector.

Young people make up a significant, and increasing, proportion of those in the justice system. On an average day in Victoria in 2019-20, 925 young people were under youth justice supervision. Of those young people, 81 percent were supervised in the community with the other 19 percent in detention, and more than half (57%) of those in detention were on remand (unsentenced). Indigenous young people were 10 times more likely to be incarcerated than non-indigenous young people, representing 15 percent of those under supervision. The number of young people under supervision has been decreasing over the past five years with a 15 percent decrease since 2015; however the number of young people in detention has increased by 11 percent (Australian Institute of Health and Welfare (AIHW) 2021).

This submission will respond to points one and two of the Victorian Justice System Inquiry Terms of Reference:

- (1) an analysis of factors influencing Victoria's growing remand and prison populations;
- (2) strategies to reduce rates of criminal recidivism.

What contributes to contact with the justice system?

Disadvantage

"Sometimes it's just really tough, like your mum needs help or your brother's got no shoes so you find a way to make money, it doesn't matter if it's dirty or not. It's out of necessity." (YJAG member)

Many young people, particularly those from culturally and linguistically diverse (CALD) backgrounds, face barriers when it comes to accessing assistance and social services (VEOHRC 2008). While services can appear to be accessible, barriers can include being unaware of the services available or how to access assistance; eligibility criteria; language difficulties; and engagement with support resulting in provoking judgement or negative responses from peer networks and family as well as prompting a negative self-image and feelings of shame in recognising the need for assistance. In addition, the way service providers may discuss or view topics can differ to that of the cultural and social contexts the young person is embedded within (Sawrikar & Katz 2008).

Aboriginal and Torres Strait Islander young peoples are simultaneously faced with entrenched disadvantage and impacted by complex intergenerational trauma. Significantly over-represented in both the criminal justice system and the child protection system, Aboriginal and Torres Strait Islander young peoples are often battling health challenges, mental illness, neuro-disability, experiencing

lower education and growing up in families in financial hardship, often in regional or remote areas of Victoria with less accessible services (Chalton et al 2020; Armytage & Ogloff 2017).

YJAG members report that young people involved with the criminal justice system often come from disadvantaged backgrounds and face many barriers to socio-economic participation. One example is not being able to join a basketball team due to the cost (of fees and uniform); the lack of constructive ways to use their time compounded with socio-economical disadvantage can inadvertently open the doorway to anti-social behaviours, leading to contact with the justice system. A lack of understanding of the long-term consequences that their actions have on their lives can also contribute to their likelihood of having contact with the justice system in Victoria.

“When you’re a 15-year-old, you don’t really know who you are, you don’t really know what life’s about, you don’t really know what the deal is. You can’t see past the next two weeks let alone the next two years, so a young person making an offence isn’t gonna know how those actions are creating consequences later on and putting them in prison or detention isn’t helpful cause it’s not teaching them anything.” (YJAG member)

Young people feel targeted by police

Whether racial targeting by police is perceived or actual, Red Cross understands that this sentiment can have a profound impact on young people’s perception of themselves and sense of self-worth. This experience has an impact on their ability to trust workers, and on their engagement with justice-related initiatives and services.

Feeling singled out or mistreated based on their age and skin colour is a sentiment held by YJAG members. YJAG members report feeling targeted by police. They feel that they are followed or questioned because of their appearance, and that they are treated differently even when they comply with police orders. They believe that racism and discrimination are barriers to participation in socio-economic opportunities and that young people are often stereotyped by the mainstream media.

There is a body of evidence demonstrating that discrimination and exclusion impact CALD young people’s engagement with the law, police and the justice system (Bartels 2011). CALD young people are more likely to have negative perceptions and experiences of police including feeling targeted (Sivasubramaniam & Goodman-Delahunty 2008; Armytage & Ogloff 2017), this is in part due to the prevalence of internalised biases as well as the tendency for police to both target and over-police CALD young people and their communities (VEOHRC 2008; Weber 2020).

The evidence also shows that experiences of implicit and explicit discrimination and racism cause significant harm and trauma, feeding and magnifying other challenges young people face such as mental illness (AHRC 2010; VEOHRC 2008). Similarly, being perceived and treated as different or the ‘other’ causes exclusion and isolation for CALD young people, increasing the likelihood of disconnection from education and minimising engagement with prosocial behaviours and activities (AHRC 2010; Armytage & Ogloff 2017).

Supports and services

Interventions that detain young people (whether convicted or on remand) can sever the young person from positive networks and limit their exposure to prosocial behaviours. A criminal record represents a significant barrier to the young person’s chances of building a fulfilling life.

There is a need for more evidence based, effective and culturally appropriate services to help young people manage the behaviours that are contributing to their offending, and to transition to life outside of the justice system. This is supported by research showing that:

- Causes of antisocial behaviour and crime by young people are complex, multifaceted and intersecting; they are likely to have experienced abuse, neglect and violence which in turn feed trauma and mental illness (McAtamney & Morgan 2009).
- Research consistently identifies common themes including socioeconomic disadvantage, poor educational attainment, substance abuse, cognitive impairment and family histories of offending (McAtamney & Morgan 2009). The cumulative effect of these risk factors exacerbates challenges and increases the probability of young people offending (Hemphill et al 2005).
- Young people who have contact with the justice system can face stigma for the duration of their life, impacting education, travel, and employment opportunities, as well as relationships (Pager 2003).
- A young person's self-image contributes to secondary desistance through the emergence of a concept of self that is separate to being labelled a criminal. Maruna and Farrall (2004) posit that these shifts in identity and self-concept are critical in securing longer-term, sustained changes in offending behaviour, rather than temporary lulls in offending (primary desistance).

The following sections make recommendations for how re-investing in education, employment and culturally appropriate supports and services can act as strategies to reduce Victoria's growing remand and prison populations and to reduce rates of recidivism.

Alternatives to education

Red Cross understands that young people want to feel as though they have something valuable to contribute. Providing alternative education options to at-risk young people that allow them to thrive and realise their potential provides the opportunity for young people to participate meaningfully in society and is also an important early intervention strategy to reduce the likelihood of anti-social behaviour or offending. Alternative educational programs and supports for young people need to be flexible, engaging and developmentally and culturally appropriate.

“Coaching or mentorship would be good cause even if they don't finish with school they can still hit those goals.” (YJAG member)

Young people want to learn, grow, and contribute to society. Mainstream education is not for everybody and feeling like a failure at school can impact a young person's drive and willingness to strive. There is significant recognition that young people who engage in antisocial behaviours are often disengaged from traditional education (Thomas et al 2016).

“School isn't for everyone and that's okay. Accepting and recognising that, but also giving options and not go, ‘well you're not good at this so we're just gonna abandon you’, so that we open up doors for a lot of young people.” (YJAG member)

The majority of antisocial behaviour by young people is temporary, with young people generally growing out of offending behaviours (Richards 2010). Criminal justice interventions can inhibit a young person's opportunity to grow out of their antisocial behaviours, particularly when the young person is exposed to other youth offenders. Engagement in education is important, but are there enough of the right options for young people who are struggling to thrive in mainstream school?

“Having a meaningful teaching practice and taking them to different pathways. It’s okay if they’re not taking VCE or they’re not doing the IB or an academic stream. The point is they’re doing and contributing something meaningful to society, not projecting shame or anything like that because that’s not helpful.” (YJAG member)

“There’s a lot of messaging that you go to school then you go to uni and that’s the path, that’s the only path. And we need to try to break the messaging like hey that’s not the only path. They’re not communicated to young people properly.” (YJAG member)

Opportunities:

- Offer additional, personalised and culturally appropriate supports within schools to support mainstream education pathways, such as education coaches or mentors.
- Have a meaningful teaching practice that enables young people’s access to different pathways other than mainstream schooling, in a supportive and informed way.

Recommendations:

1. Co-design additional education supports for young people who are participating in mainstream schooling, and provide alternative education options for young people with lived experience of the justice system, to support young people find ways to realise their value and to thrive.
2. Pilot and invest in alternative education pathways to provide at-risk young people with opportunities to achieve education goals outside of the mainstream schooling system. Education pathways should be flexible, engaging and developmentally as well as culturally appropriate.

Employment

“Employment opportunities are important but employment opportunities that are meaningful for young people are more important. Something that is not going to inspire or promote creativity in a young person is not gonna get them out of the cycle that’s put them in prison in the first place.” (YJAG member)

“It’s not enough just giving someone a minimum wage job thinking it’s a helpful thing to do, when young people have a lot more drive and motivation. Young people need to be given work that they’re passionate about and that they’re interested in.” (YJAG member)

There is a need to provide real socio-economic opportunities that are meaningful, sustainable and innovative for young people. Despite the existing employment-related services available to young people in Victoria, these often amount to seemingly unending referral pathways that assist young people to constantly ‘prepare’ for work that is not actually available for them to access. There are very limited linkages to the private sector and businesses who have the decision-making power to employ and provide real employment opportunities for young people.

In Victoria, Red Cross offers WorkREDi: a case management program supporting young people in contact with the justice system to look for work. We meet the young person where they are at in their employment journey and support them to overcome barriers that are impacting their ability to look for work. WorkREDi can offer training and skill development opportunities and we are networking closely with businesses to work towards offering real paid employment opportunities. Additionally, WorkREDi supports employers to understand the experiences, challenges and complexities facing young people in contact with the justice system and provides support for both the young person and the organisation to respond to challenges.

Opportunities:

- Concrete economic incentives would be helpful to encourage businesses to hire young people who have had contact with the justice system, such as a wage subsidy or a training grant, or an incentive for experienced staff to mentor newly hired young people.
- Educate and support employers to eliminate bias and uncertainty around engagement with the justice system and help them to understand that a successful employment opportunity is the role of both parties.

“Having police checks and young people not having opportunities just because of a mistake they made when they were still very young and did not have any opportunities.” (YJAG member)

- Introducing initiatives that support employers to be more welcoming to those who have had contact with the justice system (including when records are disclosed on a police check) would be highly beneficial. Providing this support to employers would enable them to employ young people with a criminal history, in a manner that is supportive and manages risks. For example, Red Cross is currently working with other sector organisations to develop a Resource Hub (online platform). The Hub will provide information and practical tools to ensure employers are better equipped to recruit, support and welcome young people who have had contact with the justice system, into their workplace.

From our experience in working with young people impacted by the justice system through WorkREDi and YJAG, Red Cross understands that young people want to contribute to their communities and make their families proud, but they are faced with many challenges. We support young people in their painstaking attempts to apply for employment opportunities despite their reported experiences of feeling excluded and discouraged by the barriers that they face, which can include the police check process. Young people have expressed to Red Cross that they desire more opportunities to access innovative and alternative ways of earning an income, such as entrepreneurship and self-employment. Such opportunities would enable them to work on their own terms whilst still contributing meaningfully to society.

“I would highly advocate for some sort of business mentorship or entrepreneur’s funding or something. Like if you can’t get a job cause every single employer is asking you for a police check or checks your criminal history, that’s really problematic and that’s really hard. How is a young person meant to get a job?” (YJAG member)

“If there’s a way to create a business or start freelancing, or get money to run your business and you just need to write what your business is going to do, that will be amazing.” (YJAG member)

“Maybe roles in sports could be fun, like coaching a basketball team or a footy team, or something creative like music or art like a graffiti art challenge and implementing street art.” (YJAG member)

Recommendations:

3. Evaluate the effectiveness of existing employment services for at-risk young people in Victoria, and invest in real, paid employment opportunities for young people who have had contact with the justice system in a variety of industries including sport coaching and the arts, as well as alternative employment options such as business mentorship and start-up funding.

4. Introduce concrete economic incentives that encourage businesses to hire young people who have had contact with the justice system, such as a wage subsidy or a training grant. Initiatives that support and encourage employers to ensure their workplaces are welcoming to those who have had contact with the justice system should be promoted.

Culturally appropriate supports

YJAG members have expressed to Red Cross that they feel there should be different ways of responding to and supporting people from varying cultural backgrounds that are more culturally appropriate. They report that a standardised one-size-fits-all approach can leave people feeling marginalised and excluded, with un-met needs.

Interacting with and navigating the legal system and its procedures is an intimidating and difficult task for anyone, but for CALD young people, there are additional barriers. There can be a wide gap in knowledge and a lack of alignment between what the young person understands of the law, procedures and expectations, compared with that of the actual legal system (Bartels 2011; VEOHRC 2008).

In youth justice custodial settings, CALD cultural support workers assist youth justice staff with matters such as communication with family and care teams, escorting young people, explaining justice topics and providing cultural advice (Victorian Auditor-General's Office 2018). However, the Auditor General's Office (2018) notes that "culturally appropriate treatment and support is not embedded in youth justice centres". CALD young people are not provided the option of developing a cultural support plan in custody and there is no integration of CALD specific needs in case planning. The Department of Justice recently incorporated requirements in its case management framework for interventions to consider the young person's cultural needs and to work towards promoting cultural ties (Victorian Auditor-General's Office 2018). Red Cross welcomes these steps but notes that despite this, young people are still reporting that more culturally appropriate supports are required.

To support the cultural appropriateness of sentencing of Aboriginal and Torres Strait Islander peoples, the Koori court exists in multiple locations throughout Victoria. Koori Court officers in both the magistrates and children's Koori court offer both non-legal advice and support, as well as assistance to Aboriginal and Torres Strait Islander communities to better understand the court processes (Magistrates' Court of Victoria 2020). Despite the presence of the Koori Court in Victoria, challenges remain; it is only available to young people who plead guilty or are found guilty, and it is also not available in all areas of Victoria.

Recommendations:

5. Ensure effective culturally appropriate supports and services are available for people who have committed offences to ensure that people are supported across all points of contact with the justice system. Culturally appropriate supports and services should be evidence based, effective and sufficient to meet demand.
6. Where services are supporting Aboriginal and Torres Strait Islander young peoples in contact with the justice system, autonomy and power should be given to these communities to ensure that solutions are community designed, led and implemented. Services should be available to all young people in contact with the justice system, and accessible in all locations across Victoria.

Although required at any stage of life, supports and services are particularly useful as an early intervention strategy. Once in contact with the justice system, in addition to supports and services, diversion strategies are an effective way to reduce criminal recidivism.

Diversion programs

The evidence

The rate of reoffending after having been processed through the criminal justice system demonstrates the failings of the current approach and its inability to provide the rehabilitation and support that young people require.

- The majority of young people who are processed by and come into contact with the Children's Court will reoffend (Chen et al. 2005).
- The younger the person is when they have contact with the Children's Court, the higher the likelihood of recidivism.
- Notably, children who were sentenced to detention were more likely to reoffend than children who were sentenced to community-based supervision (AIHW 2015).

When young people engage in antisocial or harmful behaviours, the response can have far reaching implications for that person's capacity to positively engage in society for the duration of their life. Processing through the formal criminal justice system can exacerbate harm and feed a cycle of offending behaviours by marginalising and further disrupting the young person's life (Bernburg & Krohn 2003). Approaches that work to target the ecologies of youth antisocial behaviour are better suited for reducing offending.

Diversionary approaches are practical tools and initiatives that police, courts and corrections can use to prevent someone from becoming further involved in the criminal justice system. They generally target the factors that are contributing to a person's offending behaviour, for example drug or alcohol abuse. They enable a person to address the underlying causes of their offending often in lieu of another punishment and so can prevent a person from becoming entrenched in a cycle of offending.

"Finding out what's really important for the young person is more helpful rather than well you did this so here's the punishment." (YJAG member)

"Some sort of restorative practice that allows young people to re-assess and re-evaluate what matters and why they shouldn't reoffend. Just giving them punishment isn't teaching anything." (YJAG member)

What is working?

- Police cautioning (which can be either formal or informal), is more common for young offenders (25%) compared to adults (2.7%) and is considered for non-serious offences. Cautioning works; in 2009, 80% of young people in Victoria didn't reoffend in the following year, and 65% didn't reoffend in the following three years (Karp & Little, 2012).
- A review of a Northern Territory program (the Northern Territory Juvenile Pre-court Diversion Scheme) aimed at diverting young people away from court processes found that young people who attended court were more likely to reoffend, and more quickly, than those engaging with diversion measures (Cunningham 2007).
- Diversionary programs have been well received by magistrates in Victoria and are already viewed as a positive addition that work to keep young people away from the criminal justice system (Thomas et al 2016).

Restorative justice is one form of diversion. The term refers to programs aimed at bringing multiple parties together in relation to an offence (including both the offender and the victim, or a representative) and having the parties work towards a resolution of an issue through discussion, conferencing and mediation. Restorative measures offer an avenue for offenders to develop an

awareness of how their behaviour impacts others and creates space for conversations that serve the overall diversionary process. Restorative justice programs show increased satisfaction from both the offender and the victim, and reduced recidivism when compared with conventional justice approaches such as incarceration or probation (Latimer 2005).

Right Step is a successful example of a diversion program in Victoria. Two thirds of the young people in the Right Step diversion program did not reoffend, which is particularly significant given that Right Step worked with children who had carried out serious offences. Through the weekly meetings over two months, the program attempts to target some of the causes of offending. A case manager works with the young person to design a plan relevant to the challenges faced by that young person such as mental health and substance use support, housing services and employment or educational assistance. When young people did reoffend after being diverted from the court system, the reoffending was generally less severe (Youth Connect & Right Step 2012).

A recent review identified common features across intervention programs that were associated with effectiveness and reduced recidivism. According to this review, programs should:

- be evidence-based,
- include a risk, needs and responsivity assessment to match an offender with the most appropriate services,
- cater to individual needs and circumstances,
- have clear and consistent protocols, and regular contact over a longer period of time, but still be flexible enough to meet changing needs,
- consist of a practitioner-client relationship that is a collaborative working alliance, based on clarity, openness, humour and respect,
- reinforce the protective factors of clients and recognise their strengths (Pooley, 2020).

For offenders of Indigenous culture, programs should encompass cultural sensitivity and be designed and implemented with the input of community cultural leaders. Practitioners with shared culture are more likely to be perceived as credible and prevent young people further experiencing bias or racism. There is limited evidence on the effectiveness of current programs being used, demonstrating the need for ongoing evaluation of a variety of outcomes (Pooley, 2020).

Current challenges

In Victoria, according to a 2012 study, police were less likely to use diversion as a response when compared to other states in Australia (Karp & Little, 2012). Diversion programs can be few and some not well known, and the resourcing available for diversionary measures is inconsistent. Diversion programs rely on a combination of government, community and philanthropic funding, and on the work of community members; young people in rural and regional Victoria experience inequitable access to diversion (Farrell 2013). To ensure diversion is effective, a reliable and long-term source of funding and consistent application across Victoria is required (Farrell 2013).

Diversion programs need to be targeted and relevant. YJAG members feel that young people should have some control over what they can do as part of their 'penalties'. One YJAG member stated that they were required to do an anger management course for a year, and upon release, were asked to do the same course for six months. The YJAG member expressed that he would have been more engaged if he was participating in a course that he felt was helpful to him.

Diversion programs are not always applied consistently across the various groups of people. Aboriginal and Torres Strait Islander young peoples who offend for the first time were less likely to receive a caution or be directed to a diversion program than non-indigenous offenders (Papalia et al.

2019). There is a report regarding an examination of a Queensland based group of young people that found that Aboriginal young people's initial contact with the justice system was more likely to be an appearance at court, as opposed to receiving a caution from Police (Allard et al. 2010).

In relation to restorative justice, despite the effectiveness that has been discussed earlier in this submission, a recent longitudinal study in Queensland found that restorative justice conferencing was less effective for Aboriginal and Torres Strait Islander young peoples when compared with non-Aboriginal and Torres Strait Islander young peoples. Recidivism rates were found to be higher following conferencing, with Aboriginal and Torres Strait Islander young peoples more likely to reoffend within two years (Little et al 2018). The study did not describe the type of conference process used, nor whether local and relevant cultural communities were involved in its design and implementation. The results of this study demonstrate the importance of ensuring that all diversion programs are culturally tailored and appropriate.

Diversion: an underutilised opportunity

Red Cross supports diversionary measures as they undoubtedly improve outcomes. Perversely, the more contact a young person has with the formal justice system (including remand) and its processes, the less likely they are to reduce their offending behaviours (McAra & McVie 2007). This makes youth diversion a uniquely important priority. When young people participate in particular forms of diversion after offending, there is a decreased likelihood of recidivism compared with those in the criminal justice system (Latimer et al 2001). When diversion is conducted emphasising targeted assistance, young people can be kept away from the justice system in the short-term and their potential to offend as an adult can be minimised.

Investing in diversionary interventions early on creates significant savings for the justice system in the long term. The Australian Government Productivity Commission (2021) reports that in Victoria it costs \$2449.85 per day for each young person in detention-based supervision, compared to \$295.36 per day for community-based supervision. The social costs of imprisonment to young people, their families and the broader community cannot be underestimated, infiltrating many facets of life including employment, mental and physical health, housing, education and community cohesiveness. The more we invest early, the less it costs governments and the community later on.

Diversionary programs that allow young people to exercise a degree of agency are preferable because they enable assistance to be better aligned with the needs identified by the young person themselves (Thomas et al 2016). Enabling agency is a strength-based mechanism, that hands young people a sense of control and responsibility that conventional justice methods do not.

Recommendation:

7. Further invest in diversionary programs that are co-designed, evidence-based, and long-term, as a strategy to reduce rates of recidivism. Diversionary approaches should be accessible across Victoria, evaluated regularly for appropriateness and effectiveness, and tailored to respond to the needs of specific groups including Aboriginal and Torres Strait Islander peoples, young people, and people from CALD backgrounds.

Conclusion

Australian Red Cross recommends that the underlying contributing factors that lead to young people having contact with the justice system be addressed by way of supports and services, including alternative education options, investment in real, paid employment opportunities in a variety of industries, and business mentoring. Economic incentives would assist businesses to hire young people in contact with the justice system and ensure that workplaces are welcoming. Supports and services should be evidence based, effective, culturally appropriate for both Aboriginal and Torres Strait Islander peoples and CALD young people, and sufficient at meeting demand in both regional and metropolitan areas. Finally, Red Cross encourages long-term investment in evidence-based diversionary programs as a strategy to reduce rates of recidivism in Victoria.

References

- Allard, T et al. 2010, 'Police diversion of young offenders and Indigenous over-representation. (cover story)', *Trends & Issues in Crime & Criminal Justice*, (390), pp. 1–6.
- Armytage, P and Ogloff, J 2017, 'Youth Justice Review and Strategy: Meeting needs and reducing offending', Executive summary - July 2017. Victorian Government: Melbourne.
- Australian Government Productivity Commission 2021, *Report on Government Services 2021*, Productivity Commission, viewed 24 August 2021, <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/community-services/youth-justice>
- Australian Human Rights Commission (AHRC) 2010, 'In our words—African Australians: A review of human rights and social inclusion issues', AHRC, Sydney.
- Australian Institute of Health and Welfare 2021, 'Youth Justice in Australia 2019–20', Cat. No. JUV 134, Canberra.
- Australian Institute of Health and Welfare 2015, 'Young people returning to sentenced youth justice supervision', *Juvenile Justice Series*, No. 18, Canberra.
- Bartels, L 2011, 'Crime prevention programs for culturally and linguistically diverse communities in Australia', Research in practice no. 18, Australian Institute of Criminology, Canberra.
- Bernburg, J & Krohn, M 2003, 'Labeling, Life Chances, and Adult Crime: The Direct and Indirect Effects of Official Intervention in Adolescence on Crime in Early Adulthood', *Criminology*, Vol. 41, pp. 1287–318.
- Chalton, A, Kenny, A & Stewart, F 2020, 'Crossover Kids: Vulnerable Children in the Youth Justice System Report 3: Sentencing Children Who Have Experienced Trauma', Sentencing Advisory Council Melbourne, Victoria, Australia.
- Chen, S, Matruglio, T, Weatherburn, D and Hua, J 2005, 'The Transition from Juvenile to Adult Criminal Careers', *Crime and Justice Bulletin*, No 86.
- Cunningham, T 2007, 'Pre-court Diversion in the Northern Territory: Impact on Juvenile Offending', *Trends and Issues in Crime and Criminal Justice*, No. 339, Australian Institute of Criminology.
- Davidson, F et al. 2017, 'Mental Health and Criminal Charges: Variation in Diversion Pathways in Australia', *Psychiatry, Psychology and Law*, 24(6), pp. 888–898.
- Farrell, J 2013, 'Juvenile Justice Diversion in Victoria: A Blank Canvas?', *Current Issues in Criminal Justice*, Vol. 23, No. 4, pp. 419-437.
- Gatti, U, Tremblay, R and Vitaro, F 2009, 'Iatrogenic Effect of Juvenile Justice', *Journal of Child Psychology and Psychiatry*, Vol. 50, pp. 991–8.
- Hemphill, S, Toumbourou, J, W and Catalano, R, F 2005, 'Predictors of violence, antisocial behaviour and relational aggression in Australian adolescents: A longitudinal study', Criminology Research Council, Canberra.
- Karp, T & Little, H 2012, 'Sentencing children and young people in Victoria', Sentencing Advisory Council Melbourne, Victoria, Australia.

- Little, S, Stewart, A & Ryan, N 2018, 'Restorative Justice Conferencing: Not a Panacea for the Overrepresentation of Australia's Indigenous Youth in the Criminal Justice System', *International Journal of Offender Therapy and Comparative Criminology*, 62(13), pp. 4067–4090.
- Latimer, J, Dowden, C and Muise, D 2005, 'The Effectiveness of Restorative Justice Practices: A Meta-analysis', *The Prison Journal*, Vol. 85, No. 2, pp. 127-144.
- Magistrates' Court of Victoria (MCV) 2020, *Aboriginal and Torres Strait Islander*, MCV, viewed 30 August 2021, <https://www.mcv.vic.gov.au/find-support/aboriginal-and-torres-strait-islander>
- Maruna and Farrall 2004, 'Desistance from Crime: A Theoretical Reformulation', *Soziologie der Kriminalität*, pp. 171-194.
- McAra L and McVie S 2007, 'Youth Justice? The Impact of System Contact on Patterns of Desistance from Offending', *European Journal of Criminology*, Vol. 4, pp. 315–345.
- McAtamney, A and Morgan, A 2009, 'Key issues in antisocial behaviour', Summary Paper No. 5, Australian Institute of Criminology, Canberra.
- Pager, D 2003, 'The Mark of a Criminal Record', *American Journal of Sociology*, Vol. 108, pp. 937–75.
- Papalia, N et al. 2019, 'Disparities in Criminal Justice System Responses to First-Time Juvenile Offenders According to Indigenous Status', *Criminal Justice and Behavior*, 46(8), pp. 1067–1087.
- Pooley, K 2020, 'What are the characteristics of effective youth offender programs?', *Trends & Issues in Crime & Criminal Justice*, (604), pp. 1–22.
- Richards, K 2010, 'Police-Referral Restorative Justice for Juveniles in Australia', *Trends and Issues in Crime and Criminal Justice*, No 398, Australian Institute of Criminology, Canberra.
- Sawrikar, P and Katz, I 2008, 'Enhancing family and relationship service accessibility and delivery to culturally and linguistically diverse families in Australia', AFRC Issues no. 3, Australian Institute of Family Studies, Melbourne.
- Sivasubramaniam D and Goodman-Delahunty J 2008, 'Ethnicity and bias: Perceptions of police bias', *International Journal of Police Science and Management*, Vol. 10, pp. 388–401.
- Thomas, S, Liddell, M and Johns, D 2016, 'Evaluation of the Youth Diversion Pilot Program (YDPP: Stage 3)', Final Report, Melbourne.
- Victorian Equal Opportunity and Human Rights Commission (VEOHRC) 2008, 'Rights of passage: The experiences of Australian-Sudanese young people'. VEOHRC, Melbourne.
- Weber, L 2020, 'Systemic racism, violence, and the over-policing of minority groups in Victoria', *Monash University*, 22 June, viewed 23 July 2021, <https://lens.monash.edu/@politics-society/2020/06/22/1380706/systemic-racism-violence-and-the-over-policing-of-ethnic-minority-groups>
- Victorian Auditor-General's Office 2018, 'Managing Rehabilitation Services in Detention', Independent assurance report to Parliament, 2018-19:4, August, Victorian Government, Melbourne.
- Youth Connect & Right Step 2012, 'A Step in the Right Direction: Diverting Young People from the Victorian Justice System – Pilot Evaluation Report', October.