

# Inquiry into Youth Justice Centres in Victoria

A submission to the inquiry by the  
Standing Committee on Legal and  
Social Issues, Parliament of Victoria

March 2017



## About YACVic

The Youth Affairs Council Victoria (YACVic) is the peak body and leading policy advocate on young people's issues in Victoria. YACVic's vision is that young Victorians have their rights upheld and are valued as active participants in their communities.

YACVic is an independent, not-for-profit, member-driven organisation that represents young people (aged 12-25 years) and the sector that works with them. Through our research, advocacy and services, we:

- + lead policy responses on issues affecting young people
- + represent the youth sector and elevate young people's voices to government
- + resource high-quality youth work practice.

We are driven by our members and prioritise their needs and concerns.

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## Executive summary

Youth Affairs Council Victoria (YACVic) welcomes the opportunity to contribute to this inquiry, which will help to illuminate the conditions, dangers and areas of unmet need in Victoria's youth justice centres. During this tense time, it is more important than ever to listen to the expertise of our members in Victoria's youth services sector.

This inquiry also provides a vital opportunity to identify and address the causes driving young people's involvement in crime. Victoria is *not* experiencing a 'mass youth crime wave' – in fact, the numbers of young people involved in serious offending are remarkably low. But the issues driving youth offending point to broader, endemic problems within our families, schools, workplaces and services.

In our submission, we stress the importance of listening to the one group of 'experts' who have not been enabled to speak within this debate: young people themselves. Future policy and program development should be informed by regular engagement with young people who have had contact with the justice system. Throughout our submission we provide examples of insights from young people who have been involved with the justice system in Victoria and other states. They have articulated clearly and powerfully what they think makes a youth justice centre safe or unsafe, and how their offending and rehabilitation relate to issues including family, mental health, AOD use, cultural connectedness, mentoring, and relationships with youth justice staff.

The present conditions in Victoria's youth justice centres appear to be unsafe and harmful to both young people and staff. Causes include:

- Extremely high rates of trauma, drug use, mental illness, disability, school exclusion, family violence and disconnection from community and culture amongst the young people there, which have not been dealt with on the outside.
- Very high rates of young people held on remand, often due to lack of appropriate options in the community, and a shortage of relevant services for remandees.
- Serious shortages of regular, permanent and appropriately qualified staff in youth justice centres, and a failure to adequately support and train staff.
- Frequent lockdowns – a destructive cycle which is both caused by and serving to exacerbate staff shortages and challenging behaviours by young people.

- Major barriers to staff and young people being able to form positive, stable, trusting and respectful relationships, which are vital to young people's behavioural change and rehabilitation.
- Insufficient numbers of staff with expertise in working with challenging and traumatised young people within DHHS and the community and justice sectors.

In the current system, imprisonment of young people is closely associated with further reoffending. As such, we do not believe that young people's involvement in crime can be resolved by locking up greater numbers under harsher conditions. Instead, YACVic urges that reforms to our youth justice system include the following:

- Comprehensive, strategic, evidence-based planning for Victoria's disadvantaged young people, informed by the previous Vulnerable Youth Framework, linking closely to relevant planning in areas such as family violence and mental health, and backed up by dedicated new resourcing to strengthen Victoria's youth work sector and address drivers of youth crime through initiatives such as preventing school exclusion and investing in the early years. Youth justice planning should include a clearly articulated philosophy of care and desired outcomes, and should align with the UN *Rules for Protection of Juveniles Deprived of their Liberty*.
- Maintain and enhance effective elements of the current youth justice system, especially early interventions to divert young people away from crime and support young people at risk of re-offending to live safely in the community.
- Ensure the youth justice system has the expertise and flexibility to deal effectively with the changing characteristics, behaviours and needs of young offenders. Targeted approaches are needed to change the circumstances and conduct of Victoria's small number of high-volume and serious young offenders.
- Ensure Victoria's youth justice centres have the resourcing, capacity and expertise to work effectively and therapeutically with traumatised and disadvantaged young people to ensure that they leave the centres properly prepared to return to the community, including through re-engagement with education/employment, adequate housing, and safe and nurturing families. Some valuable therapeutic approaches exist, but lately it appears they have scarcely been tried.

## Advocating for Victoria's young people

Youth Affairs Council Victoria (YACVic). YACVic is the state peak body for young people aged 12-25 and the services that support them. In 2015-16 we had 313 members – approximately half of them young people, the others comprising local governments, community and health services and research bodies. Our vision is that young Victorians have their rights upheld and are valued as active participants in their communities.

In our work, YACVic is guided by the *Code of Ethical Practice* for the Victorian youth sector, which sets out the following key principles for working with young people:

- The safety of young people
- Positive health and wellbeing outcomes for young people
- The positive transitions and healthy development of young people
- Young people's connectedness to important people in their lives, such as family and community
- Respect for young people's human dignity and worth
- Social justice for young people
- The empowerment of all young people
- Young people's participation.

Valuing and supporting young people's active participation in decision-making does not mean treating young people as if they were no different to older adults, however. Children and adolescent young people under the age of 18 are not adults.\* They have their own opinions, capacity and agency, and they make their own contributions to their communities, but they are still at an early stage of neurological, psychological and social development. Ethical practice involves supporting young people to build the right qualities to enable their healthy development, enhancing their existing strengths

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\* For the purposes of this submission, we will use the terms 'youth' and 'young people' primarily to refer to people aged 17 and under, as this is the main cohort involved in youth justice centres and the broader youth justice system. In this submission, the term 'young people' is also meant to encompass the small number of people aged between 18-20 who are housed in youth justice centres under the 'dual track' system. Many of the issues we raise here are relevant to 18-25 year olds in the adult justice system too, but given the terms of reference for this inquiry, we have not had capacity to discuss this cohort here.

and recognising that they are going through a time of great transition and have strong potential to change themselves for the better, if properly supported.

It would be unreasonable to expect adolescent young people to always show the same degree of impulse control, forward planning and understanding of risk and reward, as we would expect from middle-aged people – especially if their functioning has been affected by trauma, drug use, mental illness and/or intellectual disability. The law recognises that young people are still developing crucial life skills and maturity, which is why the under-18s are restricted from doing ‘adult’ things such as marrying, voting, drinking, smoking, driving unaccompanied, making a will, leaving the school/training system, and leaving home to live independently.

It would not make sense to treat them the same as adults in the justice system, either.

### **Youth justice in Victoria – a strong history**

In many respects, Victoria has developed an effective system for preventing and addressing youth crime, and it is vital that we do not lose the worthwhile approaches we have developed. Despite widespread reporting of the serious and deplorable crimes committed by a small number of young people, young Victorians on the whole tend to be more law-abiding than their peers elsewhere. Victoria has also developed a number of intelligent initiatives for preventing crime and intervening early before a young person can become involved in more dangerous behaviour.

Victoria is not in the middle of a mass ‘youth crime wave’. In fact, our young offender rate is significantly lower than the national average. In 2015, only 1.4% of young Victorians aged 10-17 were alleged by police to have committed a crime, and fewer than 1% of young Victorians aged 10-17 were sentenced in the Children’s Court. The number of young people aged 10-17 who are sentenced to detention (103 in 2015-16) represents only 0.02% of Victoria’s young population.<sup>1 †</sup>

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<sup>†</sup> Victoria has two regular youth justice centre sites at Malmsbury and Parkville. Malmsbury Youth Justice Precinct comprises a Senior Youth Justice Centre for men aged 18-21 who have been sentenced by an adult court, and a Secure Youth Justice Centre for young men aged 15-20 who are on remand or sentenced. Parkville Youth Justice Precinct comprises Melbourne Youth Justice Centre for boys aged 15-17 who are on remand or sentenced, and the Parkville Youth Residential Centre for boys aged 10-14 who are on remand or sentenced, girls aged 10-17 who are

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Over the six years prior to December 2015 the number of young people sentenced in the Children’s Court fell by approximately 43%. There also appears to have been a decline in the (small) number of young people sentenced in higher courts for more serious crimes. In particular, the number of young offenders aged 10-14 declined by more than 37% between the periods 2006-10 and 2011-15. The Crime Statistics Agency classifies most young offenders in Victoria as ‘low’ offending; the majority will be successfully diverted from crime or simply ‘outgrow’ their bad behaviour. In 2015-16, Victoria had the third lowest rate of young people in detention on an average night out of all the states and territories (only the ACT and Tasmania were lower.)<sup>2</sup>

A 2016 report by the Australian Children’s Commissioners and Guardians held up Victoria’s youth justice system as an example of overall best practice for its strong emphasis on non-custodial interventions and effective engagement and coordination of multiple key stakeholders and support services.<sup>3</sup>

Of course, major challenges remain. As we will discuss, youth justice centres are under severe strain, and the system is struggling to deal effectively with the very small number of young people who are involved in repeated and serious offending. Much of Victoria’s supposed ‘youth crime wave’ is attributable to a surprisingly small group. A study by the Sentencing Advisory Council of 5,385 children sentenced in the Children’s Court in 2008-9 found that over an 11-year period, offenders with five or more sentence events made up less than a third of the study group, but committed three-quarters of proven charges.<sup>4</sup> Furthermore, in a study of the offending trajectories of young Victorians born between 1996-98, during the first eight years of their offending, the Crime Statistics Agency identified approximately 182 young people who were ‘high’ offenders. Despite being a tiny group (they made up only 1.6% of all young offenders) these high-offending young people were responsible for almost a quarter of all the youth offences committed across the eight-year period. The vast majority of their crimes (86%) were property and deception offences – combined with the fact that nearly half of these young people lived in Victoria’s most severely disadvantaged communities, and their median age of first police contact was 12, this hints at the role

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on remand, and girls and young women aged 10-20 who are sentenced. Recently a temporary youth unit was also established at the adult prison in Barwon.

of poverty and neglect in their offending. At the same time, 93% of these young people had been recorded for at least one crime against the person. A large proportion of young people recorded for the most serious offences come from this high-offending group.<sup>5</sup>

Reforms to youth justice should include new resourcing for specialist, evidence-based interventions to change the behaviour and circumstances of these ‘high’ offenders. Some interventions should particularly target the tiny group of repeat offenders who are aged 10-14. The number of offences per child in this very small cohort appears to be rising, and these children tend to be extremely vulnerable and at risk of ongoing, serious offending later in life.<sup>6</sup> However, at such a young age, they also have great potential for positive change, if supported correctly.

In the mean time, it is important we don’t lose the positive youth justice initiatives which are currently helping to deliver a safer community.

The Victorian Government has launched a number of welcome new initiatives to intervene early and divert young people away from a life of crime, before they can become acclimatised to prison environments and involved in cycles of more serious offending. These initiatives include:

- A Youth Crime Prevention Grants program aimed at addressing offending behaviour and recidivism by young people aged 10-24. \$6.5 million will be allocated across eight priority communities with higher than average crime rates and youth recidivism. There will also be \$2 million available for a competitive Youth Crime Prevention Grants stream, open to all other Victorian communities, and \$1.5 million for Koori Youth Crime Prevention Grants.
- Investment of \$5.6 million over two years in a state-wide pre-plea youth diversion program in the Children’s Court, and continued support for youth diversion pilots in the Dandenong, Broadmeadows, Sunshine, Werribee, Ballarat, Ararat and Stawell courts.
- Expansion of the Central After Hours Assessment and Bail Placement Service, and an undertaking to extend the Youth Justice Bail Supervision Scheme across the entire state. These initiatives provide guidance on bail options and help young people on bail to stay connected to education, employment and family life.

- Recruitment of 42 new youth specialist officers for Victoria Police, to target areas of high risk youth offending and work with at-risk young people.
- A new Intensive Monitoring and Control Bail Supervision Scheme, intended to provide each young person with a forensic risk assessment, intensive supervision and monitoring, and some personalised, after-hours support. While questions remain about how this scheme will operate, we recognise that young people on bail can be highly disengaged and vulnerable, and might benefit from focused efforts to reconnect them with services and prevent breaches of bail.
- Investment in youth work to strengthen young people's connections to community, family, education and work. Examples include the Empower Youth grants, which will fund organisations in disadvantaged areas to work with marginalised young people to strengthen their wellbeing and engagement; and the Young Pasifika Program, which will fund youth outreach workers to work with Pacific Islander young people in Casey, Wyndham, Brimbank and Dandenong.
- \$1.2 million for Aboriginal controlled organisations to coordinate Aboriginal Youth Support Service programs in north-east Melbourne and the Mallee, to help divert young people from crime, link them with education or training, and support them to address AOD problems and family challenges.
- \$45.5 million for an Ice Action Plan, including funding to support innovative rehabilitation models and help for families. The plan states 'We remain committed to effective responses that help low-level offenders get their life back on track, instead of spiralling into more crime and addiction.'<sup>7</sup>

YACVic welcomed these moves towards a more effective, preventative youth justice system. The youth services sector have also articulated that they value Victoria's 'dual track' youth justice system, which makes it possible for adult courts to sentence young people aged under 21 to custodial sentences in youth detention instead of adult prison, if the court is convinced that the young person has reasonable prospects of rehabilitation, and/or that they are particularly impressionable, immature, or likely to be subjected to undesirable influences in an adult prison. (As at 20 January 2017, 39% of young people detained in youth justice facilities were aged over 18 years.<sup>8</sup>) 'Dual track' is at the courts' discretion; people aged 18 and over can still be sentenced to an adult prison if this is considered an appropriate response.

Meanwhile, a major review of the youth justice policy framework has been underway within the Department of Health and Human Services, due for release in the first half of 2017. We understand this research will look into issues including the capacity of youth justice staff and the clarity concerning their roles, the nature of relationships within youth justice centres, and the impact of initiatives to change young people's behaviour and transition them out of justice centres. YACVic welcomed the announcement of this review, and we have contributed to their advisory group. It is important that the review continues, and that its recommendations help guide future reforms.

We urge that the many positive aspects of the youth justice system are not lost when responsibility for youth justice custodial services, community based youth justice and youth justice policy moves from the Department of Health and Human Services (DHHS) to the Department of Justice and Regulation. YACVic has significant concerns about this departmental move. We would question the capacity of the Department of Justice and Regulation to work effectively and appropriately with children as young as ten, who are amongst the most 'high needs' children in Victoria. We urge that youth justice be maintained and protected as an independent, expert entity, and not 'absorbed' over time into the adult justice system, a setting which would be a totally inappropriate for vulnerable and impressionable children and teenagers.

### **Listen to young people**

Despite massive media and parliamentary coverage of incidents at youth justice centres, there is one thing that has been glaringly absent from most of the debate: the voices of young people.

A small number of teenage boys in the youth justice centres have been highly effective in getting themselves 'noticed' through flamboyant and public acts of destruction and violence. However neither they nor their peers have been able to convey the depth of information which the Victorian Government and the wider community need in order to design a new direction for youth justice centres.

To fix any complex problem, we first need a proper understanding of the causes. No strategy to improve Victoria's youth justice centres can succeed unless it is informed

by full and expert evidence about what is happening, both inside the centres and in the lives of the young people before they arrive and after they leave. Some of this knowledge will come from youth justice staff, police, magistrates and community services. However, there are crucial insights which can only come from the young people themselves.

Young people can articulate their needs, wishes and viewpoints, if appropriately facilitated to do so. As consumers of services and targets of interventions, their insights are necessary in order to improve outcomes. Children and adolescent young people experience the world differently to adults, and they can reflect not only on their own position, but also on the behaviour and choices of the adults around them.<sup>9</sup>

Existing consultations with young people have shown that they have distinctive ideas about what makes them feel safe and calm inside the justice centres, what would make the centres work better, and what would stop them from re-offending. These ideas can be different to those of the adult decision-makers around them, and while this does not invalidate the knowledge of adult professionals, it does enhance our understanding of the situation and provide new possibilities for solutions.

Our colleagues in the Koorie Youth Council are currently planning (with the cooperation of DHHS) detailed consultations with Aboriginal young people who have experience of the justice system, both inside Malmsbury and Parkville and in several regional Victorian communities. Assuming this work proceeds (it is provisionally scheduled for May 2017), it should provide very valuable insights into a group of young people who are often labelled 'hard to reach'. Their insights should be used to inform this parliamentary inquiry and subsequent planning for the youth justice system.

We call upon this inquiry to support further engagement with young people, including those living in youth justice centres and those who've been involved in offending in the past but were successfully diverted, to get their ideas about what works and what doesn't. We understand there is some scope for consultation with young people within the current review of the youth justice system commissioned by DHHS; we await details about the scale, focus and approach, but would support further work regardless.

### ***Listen to young people: how lack of safety drives mental health problems and crime***

In 2015, the Koorie Youth Council (KYC) coordinated the Yarning Justice youth workshop in partnership with the Department of Justice and Regulation and in conjunction with Aboriginal Justice Forum 43. The workshop was youth-led and facilitated by young facilitators. Twenty-five young participants took part; they came from many different Victorian communities and had had contact with the justice system. The workshops focused on key drivers of young people's contact with the justice system (identified via the work of the Aboriginal Justice Agreement and KYC): community engagement and cultural learning; mental health education and breaking the stigma; creating a safe environment for young people; and creating a sense of belonging and resilience.

The young people identified the need to address identity issues and mental health education. They linked mental health issues strongly to problems with drug and alcohol misuse, family violence, discrimination, ignorance from wider society and inter-generational trauma. Drivers of mental and emotional distress and contact with the justice system identified by the young people included:

*'Drugs and alcohol. Disconnection from family & culture. Stress from work, money etc.'*

*'Family Violence. Bullying. Drug exposure. Unstable housing.'*

*'Young people feel helpless when involved in FV! No one to turn too for help.' [sic]*

*'A lot of people don't have a true understanding of mental health issues'*

*'Because they [young people] think people will judge them and treat them differently [if mental health problems were disclosed]'*

*'Judgement. Not wanting to appear "weak". Treated differently. Embarrassed. Denial.'*

Recommendations that emerged from the youth workshop included yarning circles to break down mental health stigma and foster mentoring and empowerment; cultural camps to provide education on different topics and foster healing and positive community engagement; and culturally safe spaces where young people can connect with services, learn about culture and celebrate being Aboriginal.<sup>10</sup>

Meaningful engagement with young people would be consistent with the Victorian Government's *Youth Engagement Charter*, which is intended for use right across government. The Charter's guiding principles include:

- Young people are the experts in their own experience.
- Young people must be at the centre of decision making about issues that are important to them. This leads to smarter and more effective policy and program design.
- Young people have the capacity and ability to drive change and shape their own destinies.

Accordingly, the Victorian Government has undertaken to:

- Recognise that young people must be at the centre of decision making about issues that are important to them.
- Utilise innovative engagement mechanisms.
- Value young people as genuine partners in decision-making processes.
- Ensure respect, transparency and integrity underpin all aspects of youth engagement.<sup>11</sup>

In the mean time, we will draw upon the findings of existing consultations with young people in Victoria's justice system, as well as some comparable findings from other states and territories.

### **Facilitating young people to take part in this debate**

Accessing young people's insights on this topic will need targeted and well supported work. Many researchers have observed the increasing difficulties they are experiencing when seeking to consult and represent highly vulnerable young people, including those in the child protection system and the youth justice system.

The Centre for Excellence in Child and Family Welfare and the CREATE Foundation have observed that the voices of highly vulnerable young people often go unheard in Australian research and policy / program development, due to ethical and legal barriers to communicating with them. For example, as a small community organisation, we

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have not undertaken significant new consultations with young people currently inside youth justice centres to inform this submission, as the short timelines made it highly unlikely that the detailed ethics and permission processes could be navigated in time.

While there are vital imperatives to protect the privacy and safety of young people and those around them, it is very concerning that many inquiries, reviews and reforms intended to enhance outcomes for vulnerable young people are being held back by lack of communication with the very people who are supposed to be the focus of this work. The CREATE report commented:

*‘as ethics regulation directs research away from “difficult” populations, topics, and methods, it creates systematic areas of ignorance about social conditions’ (Dingwall, 2016) ... ‘ethical review of research is so heavily focused on minimising risk [that] ... young people’s right to participate in discussion is often overlooked’ (Daley, 2015).<sup>12</sup>*

In a powerful recent study of young people’s experiences in residential care units, a research team engaged by the Royal Commission into Institutional Responses to Child Sexual Abuse observed:

*‘Excluding children from research for protectionist reasons may increase children’s vulnerability by silencing them and failing to provide them with opportunities to account for their experiences, to identify their needs and help shape strategies for overcoming the challenges and risks that they face.’<sup>13</sup>*

In the **Appendix**, we outline the approaches taken in recent consultations with young people involved in the justice system in various Australian states and other countries, and in the Victorian child protection system. With the support of the relevant Victorian Government stakeholders, some of these methodologies could be adapted to support future engagement with young people to inform planning of the youth justice system.

### **Youth justice centres under severe strain**

Despite the many positive aspects of youth justice in Victoria, some parts of the system are under serious and growing strain. Recently, accumulated pressures on the youth justice system exploded into violence and costly destruction inflicted by young

people at Victoria's youth justice centres. The media reported at least 13 incidents at the centres in 2016, followed by further issues in early 2017, notably the now-notorious escape of 15 young men from Malmsbury in January. With large sections of accommodation lost due to rioting, the Victorian Government transferred a number of young men (initially around 40) from Parkville to the newly-classified Grevillea youth unit at Barwon, a controversial move which has been the subject of legal challenges.<sup>‡</sup>

These incidents can be traced back to a number of causal factors. There has been a lot of discussion about facility design and maintenance shortcomings, notably at Parkville, which present young people with immediate opportunities for dangerous behaviour.<sup>14</sup> But we submit that such issues are relatively straightforward (if costly) to address. Much greater work is needed to deal with the drivers of serious offending by young people, many of which are complex and long-term.

The pressure on the youth justice system can be traced 'upstream' to a long-term failure to adequately address young people's needs in relation to high quality vocational training and employment options, and support in relation to the misuse of alcohol and other drugs, mental health problems, family violence, cultural loss and intergenerational trauma. For example, Andrew Bruun, CEO of the youth drug and alcohol support service YSAS, commented recently that their 50 outreach workers were unable to meet the very significant demand: 'All of them have full caseloads at the moment ... If we put another 10 workers on they would have full caseloads tomorrow.'<sup>15</sup>

Meanwhile, concerns have been raised about capacity within Victorian Government departments. Paul McDonald, CEO of Anglicare Victoria and former executive director of the Children Youth and Family Division of the Department of Human Services,

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<sup>‡</sup> Following an action brought by the Victorian Aboriginal Legal Service, the Secretary of the Department undertook that no Aboriginal or Torres Strait Islander young people would be transferred to the Grevillea unit without the consent of the Commissioner for Aboriginal Children and Young People. A further challenge was brought to the Victorian Supreme Court in December 2016 on behalf of 15 young men in Grevillea; the Court ruled that the Orders in Council establishing Grevillea were invalid and to no effect. However, the court also noted that there were no suitable facilities elsewhere to take them at the time. The Government has since obtained further Orders in Council on grounds that the initial problems identified at Grevillea have been addressed. (In December the Victorian Court of Appeal upheld the earlier Supreme Court decision that the Victorian Government acted unlawfully in using Barwon adult prison as a youth justice facility.) In February 2017 the Human Rights Legal Centre announced a new Supreme Court challenge against the accommodation of young people aged under 18 at Barwon.

attributes the current problems in part to a loss of expertise concerning youth justice within DHHS, due the weakening of key policy and advisory functions following what he describes as ‘a cavalier approach to public service staffing cuts several years ago that saw decades of experience leaked out the door.’<sup>16</sup>

Questions have also been raised about whether the youth justice system has remained adaptable enough to deal with new characteristics of young offenders. While we recognise that some young people in the justice system are presenting with newly challenging or dangerous behaviours, we do not think it is helpful or accurate to portray the situation as unprecedented, or to imply that these young people are inherently and irreparably ‘worse’ than any young offenders before them. Offender demographics will always be changing in relation to types of offence, types of drug use, early indicators, cultural backgrounds, age and social connections, and new crises or flashpoints will always be emerging. The youth justice system must be sufficiently expert and flexible to cope with these evolving challenges, which will continue to change into the future.

Additionally, there appears to be a shortage of appropriate post-release support, which can be a contributing factor in reoffending. Youth services have raised concerns with us that only a minority of young people exiting youth justice centres are receiving adequate post-release support. This might present particular problems for young people with disabilities, who now have to navigate a disability support system which is changing in radical and complex ways with the arrival of the NDIS.

Three other key factors have also placed great pressure on youth justice centres, and we will address them at greater length here. They are: the very high and complex needs of young people in justice centres; the large numbers of young people being held on remand; and the limited staff capacity in youth justice centres, which has had a number of negative consequences, including increased use of lockdowns and breakdown of relationships between young people and staff.

- ***High and complex needs of young people in youth justice centres***

Young people in youth justice centres show exceptionally high rates of disadvantage, poor health and developmental difficulties. According to the Youth Parole Board, of the young people detained on sentence or remand in 2015-16:

- 63% had been victims of trauma, abuse and/or neglect.
- 45% had been subject to a previous child protection order, and 19% were subject to a current order. Amongst the younger age group (aged 15 and under), two-thirds had been on a previous protection order.
- 62% had been suspended or expelled from school.
- 30% presented with mental health problems, while 18% had a history of self-harm or suicidal ideation.
- 11% were registered with Disability Services, while 24% presented with 'issues concerning their intellectual functioning'.
- 66% had a history of misusing alcohol and other drugs, and 90% were under the influence of alcohol and/or other drugs when their offending happened.<sup>17</sup>

Disability and mental illness are not always adequately identified in the justice system, and youth services have told us they believe these issues are more prevalent than the above figures have captured.

The impacts of trauma pose particular challenges for young people and workers in the youth justice system. Children and young people who have experienced ongoing and complex trauma – common in abusive or neglectful homes – can show severe physical, neurological and emotional problems as a result.

Trauma can present in a number of ways which increase a young person's likelihood of becoming involved in crime, and which increase the risk they will get into further trouble inside youth justice centres. Such manifestations of trauma include aggression, poor regulation of anger and other impulses, difficulty paying attention and following rules, withdrawal from people and surroundings, inappropriate responses to new challenges, difficulty making realistic assessments of risk, and difficulty forming and keeping positive relationships. Traumatized young people are also at elevated risk of self-medicating with alcohol and other drugs and engaging in high-stimulus, risky activities to gain a 'high' feeling in a brain which has been profoundly affected by stress and fear. Due to their painful relationships with adults in the past, and to a persistent sense of danger, some traumatized children and young people become suspicious and hostile when adults try to show care towards them. Dr. Bessel van der

Kolk, a clinician and researcher in the trauma field since the 1970s, commented that children will re-enact trauma by:

*‘fearful reactions, aggressive and sexual acting-out, avoidance and uncontrolled emotional reactions ... Because these children are prone to experience anything novel, including rules and other protective interventions, as punishments, they tend to regard teachers and therapists (and carers) who try to establish safety as perpetrators.’*

‘Last chances’ and warnings of future punishment often do not work for young people who have grown up in chaotic households, and isolating or banishing a traumatised young person as punishment is often interpreted by them as merely another form of rejection.<sup>18</sup> Other characteristics of youth justice centres, such as strip-searching, close confinement and an atmosphere of aggression and danger, can have the effect of exacerbating young people’s trauma symptoms and worsening their behaviours.

Trauma is a particular issue for the large proportion of young people in youth justice centres who have been clients of the child protection system. These young people are at elevated risk of coming into contact with the justice system, and of experiencing worse results inside that system. In a 2014 study of out-of-home care leavers in the youth justice system, a team of researchers from Monash University argued that a significant amount of offending amongst this cohort was trauma related. They also noted that many of these young people had been exposed from a very young age to criminal behaviours, including by family members and by other children in the care system. The researchers added that the stress of having to leave care at the age of 18, when most of the young people were not developmentally ready, was causing some of their dangerous behaviours to escalate.<sup>19</sup>

In addition, many young people in care have experienced serious disruptions to their education and to their relationships with family and friends. As such, they are less likely to have stable, protective networks which might have discouraged crime and supported rehabilitation. The fact that many of them have been ‘bounced’ through multiple support workers and services, sometimes since infancy, can also make them suspicious and dismissive of professional interventions, however well-meaning.

Young people with disabilities also experience particular challenges in the justice system. Due to communication barriers and the stress of being in a justice

environment, they may find it hard to interact positively with staff and other young people, follow the rules for supervision, bail and parole, take part in behaviour-change programs, make a good impression in police interviews and in court, or cope with strong emotions without getting into trouble. Many young people with disabilities are highly reliant on their families for support and may struggle to adapt to life alone in a youth justice centre. Some young people with autism or cognitive disability may also have distinctive ideas about what environments or activities make them feel secure and safe, which may not be easily accommodated in a prison setting.

People with disabilities in the justice system are more likely than their peers to have been victims of crime themselves, and they tend to have had more intensive contact with the justice system from a younger age.<sup>20</sup> A 2014 report by the Australian Human Rights Commission found that people with disabilities were also disproportionately vulnerable to harmful practices in the justice system, including prolonged periods of isolation.<sup>21</sup> This can reflect discrimination or lack of disability competence amongst staff – and it can serve to escalate behaviours of concern.

Young people who become involved in the justice system in the very early age group of 10-14 are of particular concern. While this is a very small cohort, they are highly vulnerable – most are known to child protection – and they are at particular risk of proceeding to ongoing and serious offending later in life. The average reoffending rate of young people who were first sentenced aged 10-12 is more than double that of young people who were first sentenced aged 19-20.<sup>22</sup>

It should be noted that across all the above-mentioned areas, Aboriginal young people are exceptionally vulnerable. In 2015-16, the Victorian Youth Parole Board stated that 16% of young people placed on Youth Residential Centre and Youth Justice Centre orders were Aboriginal. These young people are more likely than their peers to have been affected by severe disadvantage and intergenerational trauma; they are over-represented within the out-of-home care system; and they are more likely to have been involved in the justice system at the age of 13 or younger. They also experience higher than average rates of psychological distress and disability. While Victoria is less likely than most other states and territories to incarcerate Aboriginal young people, an Aboriginal young person in Victoria is still eleven times more likely to be imprisoned than their non-indigenous peers.<sup>23</sup>

### ***Listen to young people: complex disadvantage driving youth crime***

In 2015, Mission Australia held consultations with 16 young people in the Melbourne Youth Justice Centre (Parkville) and 8 young people in Malmsbury. They found that more than three-quarters of the young people nominated alcohol and other drugs (AOD) as one of the 'top three' issues that were most important to them. Comments included:

*'ICE takes your life'.*

*'ICE is a big issue in the community'.*

*'One friend starts using, then the rest of the friendship group start using.'*

*'The government need to offer AoD programs and youth programs that are enjoyable and will get youth off the streets'.*

Some young people argued there should be more detox and rehab facilities to reduce the long waiting lists, and raised concerns that it was difficult to get into detox/rehab without the right support worker to facilitate this. Some participants wanted a greater 'crackdown' on drug dealers; others wanted better education about AOD.

Approximately two-thirds of the young people also identified education in their top three issues. Some young people stressed how much they wanted to be able to access VCAL and a wide range of school subjects; others objected to students being 'kicked out of school' too easily instead of being helped to change their behaviour. Some worried that schools focused too much on test scores instead of meaningful teaching and learning. Some students appreciated the model offered by Parkville school; others felt it was not relevant because it wasn't mainstream education. A key recommendation was for more successful assertive outreach models to support disengaged young people to re-engage with education and stay engaged.

The next most popular concerns for the young people were mental health and employment. Concerns raised by the young people included: employers are now looking for people with Year 12 qualifications even to do entry-level jobs; there are not enough jobs for everyone; having a criminal record makes it hard to find employment; there needs to be more paid work for young people over the age of 21; and it can be very stressful looking for work without support – *'you start giving up on life'*.<sup>24</sup>

### ***Listen to young people: inequality, trauma and cultural loss driving youth crime***

In 2015, the Koorie Youth Council held two consultations with Aboriginal young people in Parkville College. They found that the four most common concerns identified by the young people as impacting on their lives were (in order): *'Troubles with mental health'*, *'Teachers and schools not understanding me and where I come from'*, *'Not knowing my culture'*, and *'People using drugs and alcohol'*.

The young people described their experiences of having family members with mental health issues. They felt mental health problems were more common in the Aboriginal community due to a history of injustice and the legacy of the Stolen Generations. They also expressed concerns about their own mental health due to isolation (spending a lot of time alone in their rooms). They wanted schools to have a better understanding of their culture, specifically the diversity of different Aboriginal communities.

In a second session, when asked 'What issues impact my life?', the young people's answers included:

*'Family violence'*

*'Needing better connection to community'*

*'Knowing my connection to my own culture and where I come from.'*

*'Reading and writing'*

*'The police'*

*'The prevalence of drugs and alcohol'.*

When asked what would make a difference, ideas from the young people included:

*Better support transitioning back into community when leaving youth justice centers.*

*Improved support from Youth justice, caseworkers & drug and alcohol services.*

*More emphasis on rehabilitation than imprisonment (more youth rehabilitation centers).*

*Learning more about individual cultural links more so than 'generic' culture.*

*More cultural specific and current reading materials for young people in custody.*

*Support agencies visiting youth justice centers more frequently.*

*Better advocacy for the needs of Koorie young people in youth justice centers.<sup>25</sup>*

- **Large numbers of young people on remand**

When the Youth Parole Board released their annual report for 2015-16, the vast majority (approximately 80%) of young people aged under 18 in Victorian youth justice centres were on remand, with the remaining 20% serving sentences.<sup>26</sup> Urgent steps have been underway to address this, but by 10 January 2017 the Victorian Ombudsman was reporting that nearly half of the population of the youth justice centres was still made up of remandees, and that remandees made up approximately 80% of the young people at Parkville.<sup>27</sup> As of February 2017, it is our understanding that most of the approximately 20 young people being held in the Grevillea unit at the adult Barwon prison are there on remand.<sup>28</sup>

Being held on remand is associated with an increase in disruptive and harmful behaviours by young people. The Youth Parole Board has observed '*custodial progress reports to the Board show a pattern of unsettled behaviour on remand but improved, more compliant behaviour after and on sentence.*'<sup>29</sup>

Between 2006-7 and 2015-16, the number of remand orders for young people increased by almost two-thirds. The number of individual young people on remand almost doubled between 2010-2016. Only about 20% of these young people actually receive a custodial sentence following their court case, often because they have already served at least the relevant amount of time.<sup>30</sup>

Some of these increases were attributed to 2013 reforms to the Bail Act, which imposed the same bail conditions on children as were applied to adults.<sup>31</sup> However, despite recent amendments to bail laws with respect to children, remand figures remain very high.<sup>32</sup> Feedback we have received from the youth sector attributes the problem to a number of factors: notably young people breaching bail, or not being granted bail, because they cannot meet bail conditions. This can be due to lack of adequate support and supervision from family and/or community services, or a lack of appropriately supported housing. (Many young people in the justice system are affected by intellectual disability, mental illness, trauma, and/or use of alcohol and other drugs, all of which may compromise their ability to meet bail conditions without close supervision from trusted adults.)

We have heard that some young people also end up on remand due to a build-up of minor offences which have not been addressed early, and that sometimes a delay in court processes makes bail untenable for young people with multiple charges against them. We hope the expansion and intensification of bail support services will help reduce the numbers of young people being held unnecessarily on remand. However, ongoing work will be needed, including adequately supported accommodation.

In the mean time, remand numbers have placed youth justice centres under strain.

There are various support programs for young people who have been sentenced, and for young people on community-based orders, but according to the youth sector there appear to be relatively few formal supports being accessed by remandees. While it is important to maintain the presumption of innocence and not treat unsentenced young people as if they were automatically guilty, yet we fear that the present setup, in practice, is depriving vulnerable (and potentially volatile) young people of supports which might have helped them and those around them.<sup>33</sup>

Meanwhile, being held on remand has other negative impacts on young people's behaviour and prospects. Long periods of time between offending and sentencing appear to dilute the effectiveness of the justice system, reducing young people's understanding of why they were arrested and how their actions have affected other people and themselves. (This may be a particular issue for young people with intellectual disability and/or trauma – a significant proportion of young offenders.) Meanwhile, young people on remand have been removed from any regular support they may have received from family, school or community services. They have been placed in an environment where they are implicitly encouraged to see themselves as 'young offenders', and where the prison experience becomes normalised. They have also lost the chance to demonstrate improved behaviours to a court; according to Jesuit Social Services, even when the type of charge and prior criminal record are controlled for, children who are remanded in custody before trial are more likely to end up being sentenced to a period of incarceration.<sup>34</sup> Until then, they live with great uncertainty and frustration as regards their future. Youth services report that this state of limbo has the effect of increasing their anxiety, boredom and challenging behaviours.

### **Further exposure to crime in youth detention settings**

In 2016, the Western Australian Commissioner for Children and Young People consulted with 92 young people in the youth justice system, some of whom had spent time in detention centres. Remarks from the young people included:

*'[When young people are locked up] for a long period of time it'll make them come out and want to do it again. I reckon that if they keep locking them up and let's just say they've been in here for quite a while, they're gunna get used to it. They're gunna keep coming back in because they like it.'*

*'Being locked up...is mainly a badder influence than being on the street and stealing and stuff, like us boys we have been locked up we have, like we seen everything.'*

*'I remember there was this one bloke in Banksia [detention centre] and he was going on about how he was planning all these crimes before he got out again, so I think it's just being surrounded by everyone, lot of criminals in one little compound I guess... if they're locking lot of people up...young kids...go into jail and hear all these stories about how these people stole all this stuff and that, they go, "oh that sounds really fun":'<sup>35</sup>*

Long, uncertain periods spent on remand seem likely to worsen a broader problem: young people do not always understand the processes or reasons for their imprisonment. This is concerning, not the least because a young person's rehabilitation would seem to depend in no small part on comprehending why they have been imprisoned in the first place.

For example, in 2014, a team of Monash University researchers conducted in-depth interviews with 15 young people who had been involved in both the justice system and the out-of-home care system in Victoria. (A history of child protection involvement is common amongst youth justice clients.) Based on their conversations with the young people, the researchers raised concerns about the capacity of these young people to understand and make sense of their own journey through the system, particularly in light of the significant amount of time that can elapse between offending and court consequences.

*‘While both positive and negative accounts [of the youth justice system] were provided, many responses indicated that young people were confused about Youth Justice processes and their own involvement in the system. There was little recall or understanding regarding what had transpired and why, with respect to police, courts and youth justice orders.’<sup>36</sup>*

This seemed to fit within the bigger picture that the researchers pieced together of the young people’s lives, which were often chaotic and impacted by trauma, neglect and developmental delays, all of which could make it difficult for them to articulate any clear narrative of cause and result.

Such insights suggest changes that are needed within the system, including how it communicates with its young clients. For example, the Victorian Ombudsman recently noted that they have heard repeated comments from some of the young men transferred from Parkville to the Grevillea unit at Barwon prison to the effect that they don’t understand why they are there.<sup>37</sup>

#### **- Staff shortages and lockdowns**

There are some excellent staff and positive initiatives in youth justice centres – Parkville College, in particular, has many strengths and should be enhanced. However, we are deeply concerned that the overall staffing capacity in recent years has not been adequate to enable the centres to run safely and appropriately.

The youth sector has raised concerns with us including:

- Most staff want to work constructively with young people, but must be properly supported to do so.
- Staff numbers are not sufficient to run the centres to a safe, normal routine; this leads to further disruption, aggression, and recourse to lockdowns.
- Turnover of staff is very high, making it hard to work as a united team, build relationships with young people and maintain good morale.

- Remuneration of staff does not align with the demands of their job, or the expertise which can be required to work with some of Victoria's most troubled young people.
- Staff need greater affirmation and recognition from their employers; their ideas and concerns should be listened to in a meaningful way.
- Stresses within the centres are made worse by a shortage of appropriate spaces where staff can take 'time out', rest briefly during their 12 hour shifts, and feel genuinely supported.

It would seem self-evident that youth justice centres should have the capacity to ensure young people keep regular hours which approximate a 'normal', active routine in the outside world – e.g. in relation to sleeping, eating, school, physical exercise, family contact, time outdoors, and creative and cultural expression. Without legitimate outlets for their energy and a meaningful routine which makes them feel safe and engaged, it is all too easy for challenging, aggressive and traumatised behaviours to escalate.

However, at present it appears very difficult for staff to facilitate positive outcomes. Staff shortages were cited by the Commissioner for Children and Young People in July 2016 as a reason for the very high numbers of lockdowns at that time, which resulted in young people being kept in their cells for extended periods because there were not enough staff on duty to allow them out.<sup>38</sup> The lockdown problem appears to have continued on and off since then. The Victorian Ombudsman has commented:

*'it is evident that this [frequent lockdowns] is affected by a toxic combination of staff shortages and increasing overcrowding. It is predictable that a regime of lockdowns for young people will create unrest, and equally predictable that more lockdowns will follow any unrest. The consequence of that, as the complaints tell us, is that young people not involved in rioting or unrest are punished along with their peers, to the obvious detriment of their rehabilitation.'*<sup>39</sup>

In November 2016, the Commissioner found that staffing issues in Malmsbury were causing further lockdowns, with young people in the secure units let out of their rooms for a mere 1-2 hours a day. In January 2017, when the breakouts occurred, the centre was

reported to be at total capacity, housing approximately 135 young men.<sup>40</sup> Concerns continue to be raised about lockdowns at Malmsbury, fluctuating according to staff numbers and infrastructure issues.<sup>41</sup>

A high rate of lockdowns was also observed in Parkville in December 2016 and January 2017. Staff shortages appear to have contributed to this; further lockdowns also occurred as a result of the rioting. By the end of 2016, Parkville had lost nearly half their accommodation to the riots, and housing the young people presented a serious challenge.<sup>42</sup> Some logistical relief was provided through the transfer of young people to Barwon prison, but 37 staff also went with them. We understand this has placed new staffing strain on Parkville, which has led to further lockdowns.<sup>43</sup>

Meanwhile, staffing capacity and the related issue of lockdowns also appear to have presented significant concerns at the Grevillea unit at Barwon. The Victorian Ombudsman and Commissioner for Children and Young People have identified persistent concerns about young people being held for long periods in their cells. Ordinarily, the boys were meant to spend 11 hours a day out of their cells, but there have been periods when some or all of them were kept in 21-23 hour lockdown – sometimes for as long as 10 or 11 days at a time – and periods when they were let out of their rooms for only 4 ½ hours a day. The main reasons appeared to be limited staff capacity and limited infrastructure, making it hard to separate young people from each other without isolating them. While lockdowns may hold danger at bay temporarily, they do not resolve whatever caused the tension, and indeed the stress and boredom of lockdown may increase the risk of further problems when the young people are allowed out. (There was a very concerning incident recently at Grevillea when a boy there was hospitalised with severe spinal injuries, apparently inflicted by the other boys.<sup>44</sup>) Some allegations have also been made about staff using isolation as punishment, or as an attempt to manage behaviours of concern. The highly restrictive and unpredictable conditions of lockdown have proven harmful to the mental health of the young people, and appear to have exacerbated tensions between them.<sup>45</sup>

Victoria's *Children, Youth and Families Act 2005* allows for the isolation of a young person in a youth justice setting (defined as the placing of the person in a locked room separate from others and from the normal routine of the prison) if '*all other reasonable*

steps have been taken to prevent the person from harming himself or herself or any other person or from damaging property' and if 'the person's behaviour presents an immediate threat to his or her safety or the safety of any other person or to property.' Periods of isolation must be approved by the Secretary of the Department of Health and Human Services (DHHS).<sup>46</sup> A 2016 report by the Australian Children's Commissioners and Guardians noted that in the Victorian youth justice system, isolation of an individual young person is intended to be an intervention of last resort, subject to strict approvals and checks.<sup>47</sup>

However, these principles do not seem to apply to the use of lockdowns as part of a safety and security management regime. While we do not suggest that lockdowns are typically used as a punitive measure, yet there seems a real danger that prolonged and unpredictable use of this practice may have some of the same harmful impacts as solitary confinement (defined as the physical and social isolation, except from guards, of individuals who are confined to their cells for at least 22 hours a day). The UN Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, has warned that solitary confinement can result in harmful and abnormal neurological symptoms, including anxiety, depression, paranoia, psychosis, self-harm, phobias, sleep disturbances and intolerance of social contact. These symptoms can continue long after the prisoner is released into the general population.<sup>48</sup> Australian's Children's Commissioners and Guardians have warned:

*'Children in detention are particularly susceptible to medical, social and psychological problems which can be seriously exacerbated by the use of seclusion cells or being left alone in their own cells for extended periods of time ... children with developmental disabilities or psychosocial problems should not be isolated; they may respond in unpredictable ways and be unable to convey how a period in isolation is affecting them.'*<sup>49</sup>

### **Listen to young people: good relationships with youth justice staff are critical**

In 2016 Western Australia's Commissioner for Children and Young People spoke with 92 young people who had been in the youth justice system, some of whom had spent time in the Banksia Hill detention centre. Many of the young people spoke of their wish for supportive relationships with positive adult role models, to counteract the many harmful relationships and bad influences they had experienced from adults before.

The young people indicated that they responded best to workers who built genuine relationships with them; who listened to them, got to know them, seemed sincerely concerned for their wellbeing, set high expectations for them, behaved respectfully and showed them trust. They mistrusted staff if they felt the staff were not listening to them, or did not show them real empathy, care, flexibility or persistence. Some also expressed a wish for workers from their own cultural communities. Comments from young people about the staff in the youth justice centre included:

*'There's officers in [the detention centre] I really get along with... they just like know how to talk with us boys...you get to know them a bit better, they like mates in here instead of trying to treat you like a prisoner and that.'*

*'Some [youth custodial officers] they are always happy... they play fight and stuff, muck around, faithful, they play cards with us, mess around and play ping pong with us.'*

*'Some officers I trust and there's some I don't really like... it's like they just come to work to do their job and then just want to go home ... say if we are swearing around and using bad words that we shouldn't be using, like some officers they will have a go at you straight out and they'll code you straight out they just tell you not to do that. But other ones they'll give you chances so you learn, you know?'*

*'[If I was in charge] I'll make a rule like staff members must be professional, not fake professional, they must always like protect the kids no matter what. I'll properly train all my workers and that, and each week, or each month or each fortnight, I'll organise a big thing with all the high bosses like myself, and all... the lower guys and all the kids as well. We all come along and have like a big... party but not a proper party, you know? Dancing with the CEO there.'<sup>50</sup>*

The young people made similar observations about workers in the broader youth justice system:

*'Yeah, [my youth justice officer] is pretty good, yeah... she's helped me through all this... if it hadn't been for her I'd been locked up... she pulls me up and tells me, 'you gotta stop.'... I told her every time I think I'm slipping you know, so she says, 'come in,' have a meeting with her, talk to her, and then yeah, it'll be fine... she's a good lady ... Yeah, I can trust her.'*

*'Well, I was [on an order] three, four other times before... being sad, hating myself, wearing like ratty clothes, rocking up kind of like not in a very good mentality, but then when I kinda like spoke to [my youth justice officer]... someone who bothered to listen, someone who wanted to help me out or make me feel like I was... not just some other criminal, I guess... She puts up with my s\*\*t. I was uncontactable for two to three weeks, she's still here... she gave me a chance.'*

*'My YJO's... really good, he's not always on my back and he trusts me... he cares about me ... He doesn't want to be too strict, like tell me what to do all the time, 'you can't do this, you have to do that,' but he expects me to be honest, you know ... When you have people that's like right there, really commanding stuff and you can't turn away from them, you know, you feel like angry and s\*\*t. But when they talkin' good to you, you feel like, respected.'*

*'Because they [workers] putting their trust in you... They are saying to you that they can see that you can do the right thing and so you try to do it I suppose.'*

*'So, let's say I had so many kids who need help, I would get, like, hire more staff members, for each single one of them, one-on-one time with them, more time, would be great.'*

*'People that know what they are talking about too, I hate it when they get someone in to come and talk to us and don't know what they are saying. They need someone who's got experience in that sort of s\*\*t - in the same position... I don't want to sound racist, but white fellas that don't know what's going on in the community ... They just make fools out of themselves.'*

*'They need to listen more, instead of just talking they should just listen, they should sit down and listen before they talk.'<sup>51</sup>*

- ***Good relationships have become very hard to build and maintain***

The message we hear repeatedly from the youth services sector is that a therapeutic, relational, trauma-informed approach has not ‘failed’ in youth justice centres; in recent years, staff have barely felt able to try it.

There has been much discussion lately about the need to remake Victoria’s youth justice centres to be ‘fit for purpose’. Undoubtedly such work is needed. However, infrastructure is only one aspect of the youth justice system. As the examples in the following section indicate, young people themselves commonly identify that it is human relationships which are critical in making an institutional setting (including youth justice settings) safe or unsafe, and in helping them to address their problems.

To facilitate a young person’s rehabilitation, it is vital they can form solid, trusting relationships with adults who can get to know the young person, set appropriate boundaries and expectations, show care towards them, and model respectful behaviour. Jesuit Social Services has observed that the existing knowledge base about youth justice interventions shows that one of the most important elements of effective practice is the nature of relationships between those offering support and the young people. The relationship between worker and participant and their level of meaningful contact appears to have a discernible impact on recidivism rates. Key elements influencing these relationships include: the young person’s belief that they are being heard and understood; reliability and predictability of the support worker’s treatment of the young person, and the level of warmth and self-expression in the relationship.<sup>52</sup>

But it is almost impossible for youth justice centre staff and young people to form such relationships if the staff are changing or leaving all the time, if staff cannot spend enough time with young people, or if the staff morale is very low. Our youth sector stakeholders have raised concerns about the lack of consistency and stability amongst youth justice centre staff, alleging that turnover and poor retention is a problem and that high numbers of short-term agency staff are being used, making it hard for staff to form strong relationships with young people or each other. In addition, we are told that some staff are given very limited information about the young people they are working with, making it hard to know how to respond to behaviours of concern. Anglicare CEO Paul McDonald commented recently:

*'Over many years, difficult young offenders would say to me how highly they thought of individual staff members. They would say things like "Mr Such-and-such was good to me" or "Mr Such-and-such told me a few things". I don't hear today's offenders speaking about staff in these terms. The relationship that held it all together between a young person and their detention has broken down and, incredibly, there is now a youth engagement culture crisis in the system.'*<sup>53</sup>

A 'senior prison insider' who recently spoke anonymously to the *Ballarat Courier* also raised major concerns about the 'revolving door of staff', and about what they described as serious cutbacks to educational and training services, which they felt was escalating boredom, disengagement and aggression amongst the young people.<sup>54</sup> Related points were raised recently by the Victorian Ombudsman and Commissioner for Children and Young People in relation to the Grevillea unit at Barwon, with ongoing concerns about limited access to education and psychological support.<sup>55</sup>

Along with an urgent need for greater and more consistent staff numbers, there also appears to be a need to enhance the support given to staff at youth justice centres. 'Upskilling' alone is not enough; staff need the time, leadership, team-building and encouragement to build strong relationships with young people, and their resourcing and remuneration should reflect this. Stronger support in the areas of assessment and case management also appears to be needed. In some cases, additional training may be necessary too. As of April 2016, youth custodial workers in Victoria undertook 4 weeks in-classroom training, with new employees also expected to enrol in and complete the Diploma of Youth Justice.<sup>56</sup> Some of our stakeholders in the youth sector have questioned whether this is enough for workers who are called upon to deal with some of Victoria's most high-needs young people. Internationally, there appears to be a shift towards increasing the professionalization levels of youth justice staff; in Nordic countries, for example, at least 50% have tertiary qualifications.<sup>57</sup>

(Note: some youth sector representatives have drawn our attention to the fact that the recent rioting and other violence does not appear to have spread to the young women's and younger boys' units at Parkville. Historically these units were known for taking a more therapeutic approach than their counterparts, as well as housing smaller numbers of young people. If these units have been relatively successful, it is worth investigating why their approaches were not realised elsewhere.)

### **Listen to young people: good relationships make youth justice centres safer**

In 2011, Queensland's Commission for Children and Young People and Child Guardian surveyed 109 young people in two detention centres (which was 92% of the youth detention population), asking them, amongst other things, what made them feel safe in detention. 98% of the young people agreed they felt safe in detention, and 69% said they felt safe there at all times. By far the most common reasons they gave for feeling safe concerned good relationships with staff and other young people. When asked 'What helps you feel safe?', young people's responses included:

- 'Your boys, teachers, youth workers.'*
- 'My friends, staff and caseworker. My family.'*
- 'Staff are nice and are helping me not to sniff.'*
- 'The staff and caseworker.'*
- 'Friends in here and the workers.'*
- 'Staff and friends.'*
- 'Knowing that they care about you.'*
- 'They treat me with respect when I treat them with respect.'*
- 'Having mates in here.'*
- 'Talking to family and friends every night.'*<sup>58</sup>

90% of the young people agreed that the staff helped them to manage their behaviour, and 82% felt the behavioural management at the centre was 'generally fair'. When asked what they liked about the workers, answers included:

- 'They are very good to you when you are angry.'*
- 'They give a chance and help us when we play up.'*
- 'They keep you company and if you have problems you can go see them.'*
- 'They sit down with you and listen to you.'*
- 'They are easy to get along with.'*
- 'They make you laugh.'*
- 'When they act like little kids and they talk and mess around with you.'*
- 'They try and help you with stuff you're going to do on the outside.'*
- 'Nice, polite, good, helpful. Playing with us.'*
- 'Some just have a lot of respect as we do with them.'*<sup>59</sup>

91% of the young people felt they had been well treated upon admission to the centre. Again, the reasons they gave for this were almost entirely relational, including:

*'Because everyone was nice and good and the food was great.'*

*'I felt well treated when I saw that the staff and the boys here were friendly, welcoming and respecting.'*

*'The staff made me comfortable, and the teachers as well.'*

*'The way they took care of me and explained things.'*

*'They cooked me a feed as soon as I got here.'*

*'When staff helped me with my injuries.'*<sup>60</sup>

Similarly, in a 2009 survey of 110 young people in Queensland youth detention centres, the Commissioner's researchers found the most common reason young people gave for feeling safe in detention was support from staff. The second most common reason was having contact with family and friends. Comments included:

*'Good teachers and friends and some youth workers.'*

*'I can talk to staff, they look after me, they listen to me.'*

*'Islander and Murri staff.'*

*'People around me and I get a lot of help in detention.'*

*'Knowing some people in the detention centre.'*

*'Because I have cousins and friends here.'*<sup>61</sup>

A 2008 survey of 81 young people in Queensland detention centres found similar themes. When asked what made them feel safe there, young people's replies included:

*'The staff treat you well and look after you and my brother and friends are in here too.'*

*'The staff and their supervision.'*

*'My relationship with youth workers, as I can talk to most of them about anything.'*

*'My cousins, friends, staff.'*

*'Female staff are easy to talk to about personal things.'*

*'Being with friend and family and staff.'*<sup>62</sup>

## Escalating imprisonment is not the solution

The main solution to the capacity issue, announced recently by the Victorian Government, has been a new \$288 million, 224-bed youth justice centre, to be opened in Werribee South in 2020. This complex will include a 12 bed mental health unit and an ‘intensive supervision unit’ of at least 8 beds. This approach was felt to be more practicable and with greater potential for expansion, than retrofitting the Parkville site.<sup>63</sup> In the mean time, the Victorian Government has announced that approximately 40 new staff from Corrections Victoria will be transferred to help meet capacity in Parkville and Malmsbury.<sup>64</sup>

We recognise that new staff and new infrastructure are urgently needed. We also recognise there are some young people whose current behaviour poses such as risk to other people and themselves that they need to spend time in secure facilities until this behaviour can be addressed. However, reforms to the system must go beyond merely ‘parking’ young people in prisons; there must be a focus on effective and meaningful behavioural change and rehabilitation. We are disturbed by the implied shift towards a highly punitive prison system for teenagers and pre-teens, and contend that such a shift would likely prove ineffectual as well as inhumane.

Radically increasing the numbers of young people held in youth justice centres – especially in their current form – is unlikely to deliver a stronger, safer community. As the previous President of the Children’s Court, Judge Paul Grant, has observed, while imprisoning a young person gives the community a respite from their offending, in the long term imprisonment of young people appears to enable or encourage further crime.<sup>65</sup> In a recent study released by Victoria’s Sentencing Advisory Council, researchers took the example of the 74 young people who were sentenced to a youth justice centre order in 2008-9, and found that they showed a reoffending rate of over 80%. Three-quarters were back in custody or supervision within six years.<sup>66</sup>

His Honour Judge Peter Johnstone, President of the NSW Children’s Court, also observed recently that imprisonment did not seem to show higher success rates than probation or community-based sanctions in terms of reducing young people’s involvement in criminal activities.<sup>67</sup> Indeed, he warned that being imprisoned often served to

encourage young people into escalating criminal behaviours, as they became acclimatised to life inside with other young offenders – a life which some of them may find easier to tolerate than their lives on the outside, which are often characterised by poverty, school exclusion, ill health and family violence.<sup>68</sup> The Australian Institute of Criminology have stated:

*‘It is accepted ... that prisons are “universities of crime” that enable offenders to learn more and better offending strategies and skills, and to create and maintain criminal networks. This may be particularly the case for juveniles, who, due to their immaturity, are especially susceptible to being influenced by their peers.’<sup>69</sup>*

Meanwhile, the use of new staff from the adult Corrections system may bring its own challenges. New staff are certainly needed at youth justice centres, but it is so far unclear to us what training and knowledge these staff will have in working with young people under the age of 18, particularly those presenting with intellectual disability, complex trauma or mental illness. (Keep in mind the residents at Parkville may be as young as ten years old.) If these staff are to be employed primarily for their experience in suppressing uprisings in adult prisons (as some government communications have implied<sup>70</sup>), we would question their capacity to provide day-to-day care to very young clients.

A young person with a history of involvement in the justice system told the Western Australian Commissioner for Children and Young People in 2016:

*‘People, pretty much society look at us... criminals as dangerous people when we do what we do. You know, but... we only dangerous as a result of how people treat us ... monsters are not just monsters like that, monsters get created first.’<sup>71</sup>*

### **Long-term planning with clear principles and intended outcomes**

Reforms to the youth justice system should not be short-term, piecemeal or developed without an evidence base. Long-term, comprehensive, strategic planning is needed, based on evidence about which interventions work to reduce and prevent young

people's offending behaviours. This planning should align closely and explicitly to related areas of reform, including educational engagement, family violence, child protection, mental health, the Ice Action Plan, homelessness and vocational education and training, given the interconnectedness of these issues with youth crime.

Speaking of the lack of support that highly disadvantaged young people experience out in the community, a student at Parkville College told the Koorie Youth Council in 2015:

*'They only wanna know us when we get locked up.'*<sup>72</sup>

The Victorian Government has released a Youth Policy focused on building youth engagement across government, which is very welcome. However, it would be valuable to develop an additional overarching strategy for improving outcomes for young people facing significant disadvantage, along the lines of the Vulnerable Youth Framework developed under the previous Labor Government. This strategy focused on education engagement, early identification of vulnerability, tailored responses for vulnerable groups, local partnerships, and effective and capable services. It was accompanied by new investment in youth workers and innovative projects to address disengagement. We would support comparable strategic work to address repeated offending and other indicators of disadvantage amongst highly vulnerable young Victorians.

Youth justice planning should make explicit the principles and purpose behind the youth justice system, and provide a clearly articulated model of care to guide the operations of youth justice centres. Rehabilitation and age-appropriate care should be central, along with an objective that young people should leave youth justice centres prepared and supported to live safely in adequate housing, engage with education or employment, and play a positive role in their communities.

We urge that future reforms align with the 1990 UN *Rules for the Protection of Juveniles Deprived of their Liberty*, which provides 'fundamental perspectives' on the treatment of young people under the age of 18 in correctional settings. These include:

- The number of juveniles detained in closed facilities should be small enough to enable individualized treatment. Detention facilities for juveniles should be

decentralized and of such size as to facilitate access and contact between the juveniles and their families. Small-scale detention facilities should be established and integrated into the social, economic and cultural environment of the community.

- The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities.
- Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty.
- Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment.
- Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities.
- Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.
- The carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained.
- Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from

inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

- Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. These and other specialist staff should normally be employed on a permanent basis.
- Personnel should be appointed as professional officers with adequate remuneration to attract and retain suitable women and men. The personnel of juvenile detention facilities should be continually encouraged to fulfil their duties and obligations in a humane, committed, professional, fair and efficient manner, to conduct themselves at all times in such a way as to deserve and gain the respect of the juveniles, and to provide juveniles with a positive role model and perspective.
- Personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present rules. The personnel should maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.
- Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.<sup>73</sup>

The principles and purpose of the youth justice system should also encompass what Jesuit Social Service (JSS) has identified as key strengths of Victoria's historical approach, including:

- An emphasis on diverting children from entering or progressing further in the criminal justice system;

- Recognising the unique vulnerabilities of children;
- Where possible, avoiding the disruption that custody can cause to a child's life;
- A dual-track system providing an option for young people (18 to 20 year olds) to be held in a youth justice centre rather than in an adult prison, if this is deemed appropriate by judicial officers.<sup>74</sup>

We also endorse the recent principles articulated by JSS to guide youth justice reform, which include a commitment to address the underlying causes of crime, invest in prevention and early intervention, divert and rehabilitate, and work within a strong network of support and accountability.

### **Invest in families**

The high levels of childhood trauma and out-of-home care amongst young people in youth justice centres point to the importance of tackling their problems at the root through early intervention in families who are struggling. At the same time, young people, even our most marginalised and criminalised young people, still tend to look to their families (however they define their families – and this may include extended family, carers and close friends) as their primary sources of support, strength and love. We need to build the capacity of families.

In 2016, in a joint letter to the Premier following the Chief Commissioner's Youth Summit 2016, YACVic joined with the Victorian Council of Social Service (VCOSS), the Centre for Multicultural Youth (CMY), the Koorie Youth Council (KYC), the Centre for Excellence in Child and Family Welfare, YSAS, Berry Street, Youthlaw and Jesuit Social Services, to make series of recommendations for reducing young people's involvement in crime. Here, we noted that the early years of life are critical to children's later development, shaping the way they learn, grow and build relationships, and setting the scene for their future mental and physical health, social adjustment, educational achievements and life expectancy. As such, it is highly concerning that one in five Victorian children are developmentally vulnerable by the time they start school.<sup>75</sup>

In the abovementioned letter, we called for an increase in funding and staffing for supported playgroups, particularly for highly vulnerable families involved in child

protection and out-of-home care, with the aim of improving children’s learning and social development and connecting vulnerable families to targeted support early on. We also urged more action to increase vulnerable children’s participation in high quality, affordable early learning services, from birth to school. (To achieve this, these services may need to develop outreach initiatives, transport support for disadvantaged families, and approaches which are accessible, integrated and culturally safe.)

Several months earlier, in our advocacy concerning young people’s exposure to family violence, YACVic had also emphasised the need for well-evaluated behavioural and attitudinal change programs for young people who have used violence in the home (note: the Youth Parole Board has noted that several young people in youth justice centres have intervention orders against them due to their violence against family members).<sup>76</sup> In addition, we called for culturally relevant interventions to support positive parenting and safe, nurturing intergenerational relationships within refugee and migrant communities.

Stronger steps are also needed to strengthen positive home lives and family connections for young people in the child protection system, who are at elevated risk of having contact with the justice system. Aboriginal young people in child protection are especially vulnerable. We support the recommendations to the Victorian Government from the recent report by the Commissioner for Aboriginal Children and Young People, *Always Was, Always Will Be Koori Children* (2016), which included:

- Work in partnership with the Aboriginal Children’s Forum on developing a strategy to divert Aboriginal children in out-of-home care from entering or progressing in the youth justice system.
- Target funding to both establish and sustain a range of Aboriginal community-based early years programs in areas with growing Aboriginal populations and high out-of-home care placement rates.
- Facilitate the development and implementation of a comprehensive strategy to respond to the prevalence of family violence in Aboriginal families.
- In partnership with Aboriginal organisations, develop and deliver education programs for Aboriginal children and young people in out-of-home care, focusing

on respectful relationships to break the cycle of intergenerational family violence.

- Develop and implement an approach to address intergenerational trauma, grief and loss that is both child specific and Koori informed, and by working with the extended family groups and clans of children involved with child protection to promote healing and facilitate placement and reunion options within Aboriginal families and communities.
- Fund additional Aboriginal kinship care support workers and develop initiatives to adequately support carers.
- Resource and expand culturally appropriate parenting skills programs for incarcerated parents to assist sustainable family reunion (for instance, holistic responses, such as housing, parenting skills, income and work, drug and alcohol and mental health issues).
- Cultural support plans must, at a minimum, include the child's family genogram and a plan for the child's return to Country and identify a suitable mentor who will enable the child's access to culture, leading to real experiences and cultural connections.<sup>77</sup>

In our recent joint advocacy with VCROSS, CMY, KYC, the Centre for Excellence in Child and Family Welfare, YSAS, Berry Street, Youthlaw and JSS, we also called upon the Victorian Government to raise the age of leaving out-of-home care from 18 to at least 21. Many steps are needed to address the high offending rate amongst young people in care, but we must also stop removing essential supports at such a high-risk age. Nowadays most young people rely on their families' support until well into their twenties, but the most disadvantaged young people in our communities – those in out-of-home care – are expected to become independent adults at the age of 18.

Rates of youth offending in general tend to 'peak' between the ages of 15-21, and studies of UK care leavers showed that their highest rates of offending were in their late teens. It makes no sense to remove support from a disadvantaged young person at a time when their likelihood of offending is at its highest. A 2005 study of Victorian care leavers found that over half of them received no help or very little help from their families in their first two years after leaving care, while the Council to Homeless Persons estimates that approximately half of young care-leavers aged 16-18 will become

homeless. A 2013 study of Victorian care-leavers found that their criminal behaviour as adults was clearly linked to being homeless and lacking post-care support.<sup>78</sup>

Studies of care-leavers in the UK found that those who stayed in the care system past the age of 18 were less likely to get involved in offending than those who left care earlier. International studies have also shown that care-leavers who receive practical, emotional and financial support as young adults are more likely to take part in further education and training.<sup>79</sup>

The Victorian Government currently supports some high-quality transitional care programs, but these interventions cannot meet the extent of the need, and continuity in a familiar and supportive home environment can be critical.

We urge that all young Victorians leaving care should be able (if they wish) to continue to access adequate, holistic and culturally appropriate care at a level equivalent to that provided to the under-18s, up until at least the age of 21. They might remain in home-based care or authorised and funded lead-tenant or supported accommodation arrangements; they should also have access to a housing guarantee to help them secure and maintain rental accommodation. All young care leavers should also have an education guarantee to provide them with access to fee-free VET and university education, in light of their distressingly high rates of school disengagement, social isolation and lack of family support. This extension of care until age 21 should be a requirement of the state, supported by appropriate regulation or legislation.

Meanwhile, families have the potential to play a valuable role when a young person has begun to have contact with the justice system. We support the view of Jesuit Social Services that youth justice interventions should include regular communication with family and efforts to link families with appropriate supports. There should also be capacity for family-specific interventions where appropriate, such as parenting skills development and family conferencing.<sup>80</sup>

### **Listen to young people: families are critical to both offending and rehabilitation**

In a 2008 survey by Queensland's Child Guardian of 81 young people in detention centres, 64% nominated their mother as the person they would talk to if they were worried about something, and 41% cited another family member. 56% expected to live with their parent(s) when they got out; 15% expected to live with another relative.<sup>81</sup>

In a 2016 survey by WA's Commissioner for Children and Young People, young people who had had contact with the justice system spoke of the need for positive relationships with family, warning that crime, neglect and violence in the home led young people into trouble. Comments from the young people included:

*'[S]ay you are referred to an agency and then they send you to rehab, and you're clean, but then you still got to go back home where they are drinking and smoking? ... So you gotta work with the whole family, not just the young people as well, you can't expect to change them cos it's the family's behaviour not just theirs.'*

*'Yeah, especially and if you're in a house where there's a lot of drama and a lot of alcohol and drugs and yeah, a lot of things... and that's what gets them in [the detention centre].'*

*'They seen it all their life, like I did. Their whole family has been through it for years and years and it just gets passed on down and down so yeah. It's pretty stuffed up, but.'*

The young people saw strong, healthy families as a protective factor against crime:

*'The kids want to be a happy family, not just a family who are having arguments every day, they want a family who are just there to love and care for the kids.'*

*'We don't want rules obviously, but rules are good obviously to put in place, cos when our parents set rules, they do work most of the time.'*

*'I just needed a positive space, you know [for a Supervised Release Order], and that's what I got from my auntie's house, it was all positive, so yeah, that's the only reason I made it, because I had the help and the family around that wanted me to do well.'*

*'I tell mum everything.'*<sup>82</sup>

## Invest in education

There is a strong link between criminal behaviours and students' exclusion and chronic disengagement from school. For example:

- Of the young people detained on sentence or remand in 2015-16, 62% had been suspended or expelled from school.
- A 2009 survey of 4,000 Australian and American students found that school suspension increases a young person's likelihood of engaging in risk-taking activities.
- A 2010 study conducted through the Centre for Adolescent Health, Murdoch Children's Institute, found that suspension was the third biggest risk factor increasing a student's likelihood of anti-social behaviour and violence.<sup>83</sup>

In 2014-15, Victoria's Education Justice Initiative (EJI) worked with 103 young people in the criminal division of the Melbourne Children's Court, and found that while all the young people said they were willing to engage in education, 84% of them had not attended a single day of school in the past month. School exclusion – formal and informal – was a frequent experience. A Legal Aid Lawyer told EJI:

*'If a young person is out there offending, it's often because there's not a lot happening during the day for them. ... They get suspended from school and then there's nothing keeping them supported, and so then things just spiral and get worse and worse.'*<sup>84</sup>

Meanwhile, in 2014 Corrections Victoria found that only 5 – 7% of adult Victorian prisoners had completed Year 12 or equivalent, and that poor literacy/numeracy was widespread.<sup>85</sup>

Young people who have been excluded repeatedly from school often have serious problems, such as mental illness, trauma, drug use, family conflict, or behavioural issues related to disability. School exclusion patterns also mirror broader disadvantage and incarceration, with Aboriginal students, students in care, and students with disabilities disproportionately likely to be excluded.<sup>86</sup>

We have welcomed the Victorian Government's strong commitment to strengthening student engagement, as evidenced by substantial new investments in student Equity funding, the Navigator, LOOKOUT and Reconnect programs, and the refunding of the School Focused Youth Service and Local Learning and Employment Networks.

However, more targeted action is still needed to prevent and reduce the forcible exclusion of students (and other forms of disengagement), and to re-engage these students. Here, we are concerned not only with formal suspensions and expulsions, but also with the unofficial processes through which students are urged or instructed to leave school or only attend part-time without a clear, beneficial and mutually-agreed transition plan. We are also concerned for those students who drop out of school without adequate follow-up or transition planning.

We urge a strong, integrated response to the problem, including:

- An explicit commitment to reduce and prevent the exclusion of students from education, via approaches which have a strong evidence base, including properly funded and widely available mentoring programs.
- Specialist support and advocacy for students facing exclusion and other forms of disengagement to re-engage with education, wherever they live. This should be provided by a body which is connected to schools but independent from them, and which can clarify a student's enrolment status, work with them and their families to identify their future options, and collaborate closely with schools, flexible learning providers, VET providers and services. In some communities this role is played by Navigator, but equivalent support is needed state-wide.
- Strengthen schools' capacity to work with students who are experiencing trauma and mental health problems. Schools need adequate access to wellbeing staff, psychologists, counsellors and youth workers, and appropriate support for all school staff to develop trauma-informed practice, identification skills and youth mental health first aid.
- Adequately fund and support schools to provide students with a range of high quality VET in Schools and VCAL options, without passing costs onto families experiencing disadvantage.

- Support secondary students, especially those facing isolation or disadvantage, to develop career aspirations and work-ready skills, and to access high quality mentoring and work ‘tasters’ relevant to their aspirations.
- Comprehensive transition planning for all children moving from primary to secondary school – a time of high risk of disengagement. This planning should span the year before and after transition, and identify and respond to ‘early warning signs’. Schools will need adequate support to understand their obligations, including around appropriate disclosures of information.
- Adequately fund best-practice flexible learning models, including within mainstream schools, in line with the Framework of Quality Flexible Learning Programs (FQLP) developed by Associate Professor Kitty te Riele.<sup>87</sup>

We also urge that the Victorian Government continue to resource and expand the work undertaken by the Education Justice Initiative (EJI), to support young people in contact with the justice system to re-engage with education. Expert assistance to re-engage is important. As one Senior Case Manager (Youth Justice) commented:

*‘For a lot of parents, once a child has been suspended or expelled from school, the parents just don’t know what to do and schools are not very helpful, I’ve found. Some schools will pass on a name or a number of another school and say, “here, ring them”, and then that’ll be it. And sometimes, getting past the reception at a school to talk to the right person is really difficult.’<sup>88</sup>*

A 2015 evaluation of the program conducted through Victoria University found that the educational enrolment of young clients increased over the period of EJI support from 51% to 75%, and that school attendance increased from 9% to 54%.<sup>89</sup>

The aspects of the EJI which were identified as especially useful were:

- Identification of relevant young people via active outreach and referral.
- Liaison with young people and their support services about their education history, school experiences, willingness to engage in education, and preferences for education or training in the future.
- Liaison with education providers, beginning with the young person’s most recent or local neighbourhood school, or alternative setting if appropriate. In most

cases EJI has had to contact more than one education provider in order to secure a successful outcome, and this process can be very time-consuming.

- Liaison with relevant departmental staff.
- Workers with specialist knowledge and access to DET (enabling them to clarify young people's educational and enrolment details, which are often unknown at first), and skill in navigating the human services and justice systems.
- Provision of clear, individualised information for young people and families about their education and training options.
- Dedicated advocacy and practical assistance for young people keen to re-engage.
- Direct support for schools to understand and educate young people with complex life circumstances.
- A communication style which is accessible, helpful, culturally sensitive and persistent, and which affirms schools for the good work they do.<sup>90</sup>

Such support must also be accessible to young people leaving youth justice centres, who may otherwise find it very hard to reengage with mainstream schooling.

Meanwhile, it is critical that all students up to at least the age of 17 who are in youth justice centres are enrolled and regularly taking part in education or training of an equivalent quality to that accessed by their peers in mainstream schools, and with an emphasis on transitions out into further education, apprenticeships, meaningful TAFE pathways and/or employment. A recent study of international youth justice approaches identified comprehensive educational screening assessment and intensive educational services delivered by skilled professionals as key aspects of an effective rehabilitative approach.<sup>91</sup> Such a level of educational engagement would seem difficult, if not impossible, to reconcile with an environment of frequent 'lockdowns'.

### **Invest in communities**

At the 2016 Chief Commissioner's Youth Summit, one point came up repeatedly in relation to youth crime in Victoria: that young people are less likely to engage in offending and other harmful behaviours if they have strong, supportive relationships with adults in their own communities who can provide positive role-modelling, outreach, mentoring and practical assistance. Summit participants repeatedly raised

the concern that crimes were being committed by disadvantaged young people who feel ‘locked out and not accepted by their own community.’ Victoria Police Chief Commissioner Graham Ashton observed ‘They don’t feel like they are a part of our broader society; they don’t feel like they are welcomed to participate in it’ – ‘Family is of course a critical component, but sadly, for some, there is no family support or role models.’ The Chief Commissioner emphasised:

*‘This is a critical issue – the role of families, and how we support children who lack caring and supportive adults in their lives. Everyone needs someone to disappoint – to know that someone cares and takes an interest in their wellbeing.’<sup>92</sup>*

For some young people, this role can be played by a youth worker. Youth work is based on the belief that all young people should have access to someone who will uphold their interests and help them navigate life’s challenges and develop pro-social coping skills. Such assistance is especially important for young people who do not feel comfortable approaching doctors, specialists or police, and young people whose family and friends cannot advocate for them or provide them with informed support. Some youth workers run generalist programs for young people in areas like arts, recreation, civic engagement and life skills. Others offer targeted support with problems such as homelessness, mental health, and alcohol and other drugs. Youth workers aim to prevent problems occurring in the first place, and to be an accessible point of support and referral where an intervention is needed.

The need for such assistance can be especially high amongst young people who are living unaccompanied, in unstable family situations or whose families are new to the country. However, at present there are relatively few youth workers, especially from Aboriginal and refugee and migrant communities.

In 2013, YACVic and VCOSS surveyed 213 youth services representing every local government area (LGA) in Victoria. Respondents identified that generalist youth services still played a crucial role in engaging young people, promoting their wellbeing and community participation, linking vulnerable young people to other relevant services, and improving coordination between different services. However, the report also found significant gaps. Approximately a third of the survey respondents identified a gap in ‘generalist youth services’ in their LGAs. Many respondents also stressed the

need to move beyond short-term ‘pilots’ in youth work, which cannot deliver truly sustainable benefits. Comments from survey respondents included:

- ‘The withdrawal of funding for generalist youth workers has had a huge impact. Youth often do not access specialist services.’
- ‘Lack of access to generalist youth workers has meant young people are falling through gaps. They may not meet certain (specialist service) criteria at this point. But they may well do if they are not linked in with generalist supports as an early intervention strategy.’
- ‘We need more generalist youth support services, who can work with who ever, on what ever.’<sup>93</sup>

Discussions at the Chief Commissioner’s Summit revealed that in many newly-arrived communities there are adults who are already doing this kind of work with local young people. However, many of these adults struggle to meet the need, and are not supported by funding, organisational structures or formal youth work / social work training.

We have seen some very valuable new commitments from the Victorian Government, notably the new Empower Youth grants and the Young Pacifika youth outreach program. However, there is still no long-term, state-wide strategy for ensuring that young people’s access to youth work is adequate to meet the need. Given the over-representation of young people in the justice system from some cultural communities (in 2015-16, 16% of young people placed on Youth Residential Centre and Youth Justice Centre orders were Aboriginal and 11% were Māori or Pacific Islander; and in 2014, young people born in Sudan were nearly five times more likely than other young Victorians to be processed as alleged offenders)<sup>94</sup>, we feel there would be particular value in targeted planning and investment to recruit, train and employ youth workers and social workers from these communities. This would strengthen young people’s access to workers who understand their background and can work with their families from a strengths base, and build the capacity of communities where local leaders are already working hard to support their young people without much public funding or specific training.

We also need strategies to ensure that young people in youth justice centres are supported by workers with strong knowledge and experience in youth work. We call for all workers in youth justice centres to be trained and supported to work within the *Code of Ethical Practice* for the Victorian Youth Sector.

### **Listen to young people: positive adult role models make a huge difference**

In 2016 Western Australia's Commissioner for Children and Young People spoke with 92 young people who had been in the youth justice system. Many of the young people spoke of the importance of strong mentor figures (formal and informal), explaining that they valued adults outside of their immediate families who were trustworthy, who had a long-term role in their lives, who engaged them in positive activities and gave them things to aspire to. Comments from the young people included:

*'First they [young people] need good people, which they can, 100 per cent, fully trust. Which will always be there, no matter what, whatever time of the day.'*

*'I need that support from [my mentor] as much as I can, yeah. Yeah, they tell me some good things, they helped me out. Like in my attendance I stopped coming for a while and they kept on talking to me and I got back on ... they just kept on telling me and telling me, got it through my head, 'got to stick at it' to get what I want, like my licence and stuff like that. I went to the licencing centre and passed it, yeah.'*

*'I want an adult to go around picking up kids, take them to the river, sit on the sand and speak to them about what's happening. Bring lunch and drinks and stuff and talk to them one by one. Just walk on the sand and speak to them one by one about what's going on. If you have a problem with your family, just let it out so we can tell other people, so we can get them kids not getting in trouble.'*

*'I like that bloke there... he can relate to where I come from, he's like pretty cool ya know, I think he had a little bit of a past and he can relate to us kids and points us in the right track, keep us going good... yeah I've known him for about two years, good while now.'*

*'A bit more positive role models... just to help the younger kids get back on track, tell 'em, sorta like, tell 'em what the consequences are really. And they need to do stuff with 'em a lot more - instead of being out on the streets. I think that could take their mind off of stealing, drinking, smoking, and that sort of stuff.'*

*'Not just the one [supportive] person... they should get a lot more people coming out and basically encouraging, giving them the encouragement to do what they love and not just what they are brought into because they know the wrong people.'<sup>95</sup>*

YACVic also supports the recommendations that arose from the 2015 Yarning Justice youth workshop, hosted by the Koorie Youth Council in conjunction with the Aboriginal Justice Forum 43, where young people who had had contact with the justice system discussed the role of mental health, growing up in unsafe environments, and disconnection from community and culture in driving young people's contact with the justice system. Their recommendations focused on the need for:

- Culturally safe youth spaces for young Koorie people to gather, share knowledge, learn about culture, connect with services, participate in outings and celebrate being Aboriginal.
- Greater relationship-building opportunities between young people and senior community members.
- Regular and ongoing yarning circles designed to create a safe environment for young people, focusing on empowerment, mentoring and the strengthening of identity.
- Cultural camps designed to include education on different topics; as well as foster healing, the sharing of traditional knowledge and encourage community engagement.

It is important that such initiatives reach young people who are in, or have spent time in, youth justice centres, as well as operating in a preventative fashion with young people in the community more generally.

### ***Listen to young people: loss of culture and community drives youth crime***

In 2015, the Koorie Youth Council (KYC) conducted the in-depth, youth-led ‘Yarning Justice’ workshop with 25 young people from right around Victoria, who had had contact with the justice system. This work was done in partnership with the Department of Justice and Regulation and in conjunction with Aboriginal Justice Forum 43. The workshops focused on key drivers of young people’s contact with the justice system, as identified via the work of the Aboriginal Justice Agreement and KYC.

Amongst other things, the young people raised concerns about lack of genuine connections with community and culture, and lack of resources or facilities to help them stay out of trouble. They described how young people could feel as if they did not fit in, were too scared or ashamed to ask for help, or were unsure who to ask. They also described how Koorie young people’s ability to create a sense of belonging and resilience was weakened by racism, stereotyping, and lack of cultural knowledge in wider society. Problems named by the young participants included:

*‘Racism’*

*‘Because people use stereotypes when they see me’ [sic]*

*‘other people (wider community) Question identity’*

*‘not feeling like I belong’*

*‘Some don’t know much about their identity or the indigenous background’*

*‘Parents grew up not knowing’*

*‘NOT MUCH ACCEPTANCE IN OWN COMMUNITY “NOT REALLY A BLACK FELLA”.’*

*‘Little or no cultural connection’*

*‘Disconnection with family’*

*‘because they [young people] feel they have no one to talk to or even if they did whoever think it’s silly or don’t listen’.*

Recommendations from the workshop included culturally safe youth groups where young people could share knowledge, learn about culture and celebrate being Aboriginal; relationship-building opportunities between young people and senior community members; yarning circles to create a safe environment for young people and encourage empowerment and mentoring; and cultural camps to foster healing, sharing of traditional knowledge, and community engagement.<sup>96</sup>

## Direct young people away from crime

To head young people off from offending and address the causes of criminal behaviour, it is important to ensure state-wide access to effective, evaluated diversion options. Diversion refers to interventions which divert young people from entering into or continuing their involvement in the criminal justice system. It aims to tackle the issues that are driving the young person's involvement in crime, including substance use, poor mental health, and disengagement from education and training.

Diversion can take place at a range of points in a young person's offending, including:

- Informal police cautions.
- Official police cautions.
- Referral of a young person by police to the Youth Support Service (YSS) to address causes of offending.
- Pre-plea options, when an offence goes to court but the young person is placed on a diversion plan before entering a formal plea of guilty. Upon successful completion of the plan, the offences are struck out and there is no criminal record. Programs here include:
  - ROPES, which links first-time offenders with a Victoria Police representative to undertake a ropes course together and develop trust and understanding
  - Right Step, which provides the young person at risk of reoffending with therapeutic case management and subsequent monitoring
  - The current Youth Diversion Pilot Program for young people appearing for the first or second time for a low-level offence.<sup>97</sup>
- Post-plea / pre-sentence options, when a young person pleads or is found guilty. Sentencing is deferred for the young person to participate in diversion, which may lead to a reduction in the sentence. One example is Youth Justice Group Conferencing for young people guilty of an offence serious enough to warrant a custodial sentence or a supervised community order. The conference brings together the young person, their family, the victims and the police to teach the young person about the impact of their offending and agree on steps to make

amends and prevent reoffending. These steps are set out in an outcome plan, presented to the Magistrate to consider when sentencing.

Some diversion models have shown strong indicators of effectiveness. For example, the Youth Diversion Pilot Program (JSS, YSAS and Centacare Ballarat) has been successfully completed by more than 90% of its participants, and it appears to have had positive impacts on young people's educational engagement, mental health support and employment prospects.<sup>98</sup> Of the 427 young people who completed a diversion over the fifteen months that the program has been operational, 88% received an intervention in relation to offending, such as discussions regarding the impact of their offending and victim empathy, support with anger management, and engagement in restorative processes such as family or community conferencing. 43% of the young people who completed diversion were provided with support in relation to community engagement and family life; 59% were supported to re-engage with education and employment; and 46% were supported to improve their health in areas including mental health and AOD use. Across all these areas, the majority of the young people who took part in an intervention showed an improvement in that field – e.g. re-engagement with education or a better understanding of the impacts of their offending.<sup>99</sup>

Similarly, an independent evaluation of the Youth Justice Group Conferencing conducted by Jesuit Social Services in metropolitan Melbourne found that more than 80% of young people who completed a Youth Justice Group Conference had not reoffended two years later.<sup>100</sup>

According to Smart Justice for Young People, the rates of NOT re-offending after two years have been evaluated as follows:

- ROPES pre-plea diversion program for first-time offenders (evaluated 2009) – 88%
- Right Step pre-plea program for young people at risk of repeated offending (evaluated 2013) – 61%
- Youth Justice Group Conferencing pre-sentence program (evaluated 2011) – 80%
- Community based supervision, including probation – 57%
- Detention (measured 2011) – 43%.<sup>101</sup>

Diversion pathways are also more economical than custodial options. According to Smart Justice for Young People, the average cost per young person for 3 months is:

- Right Step - \$3,000
- Youth Justice Group Conferencing - \$5,022
- Community based supervision - \$4,775
- Detention - \$48,221.<sup>102</sup>

However, Victoria remains the only state without a legislated court-based youth diversion scheme. Historically, young people's access to diversionary programs has been heavily at the discretion of individual decision makers within Victoria Police and the courts, and of course it is dependent upon local availability of programs, which varies a lot around the state. Legislating for diversion and funding it on a long-term, state-wide basis, would deliver improved outcomes for young people and the community.

We have heard from our stakeholders that it's important that youth diversion programs be long-term, available from the first point of contact with police, and able to start intervening intensively with a young person very early - e.g. pre-charge, not only pre-bail. Intensive one-on-one interventions and individual mentoring are needed. We have also heard that while the YSS model is highly valued, many young people need a longer timeframe for support, as it may take 10 episodes with a highly vulnerable young person to fully engage and develop trust.

Some stakeholders have also called for diversion models to be developed that are appropriate to young people who have committed multiple offences, in recognition that incarceration alone is not effective in directing them away from crime. Jordan and Farrell have confirmed that best practice diversion should go beyond working with one-off, low-level offenders, and include intensive, wrap-around approaches to working with young people at high risk of future offending. For this to succeed, however, there must be appropriate planning and service delivery in place.<sup>103</sup> This might include holistic case management for young people and their families, available after hours and on weekends.

Again, it is worth learning from international diversion models, and one which was highlighted by some of our members is the New Zealand model. In New Zealand's youth justice system, about 80% of young offenders are dealt with outside the court system, with community-based diversion supported by 250 police officers specifically skilled in youth work. Family group conferencing is used extensively and is well regarded; this brings together the young person who has offended, their extended family, the victim(s) of their crime, and other relevant people like police, social workers and health or education workers. The participants identify how to support the young person to acknowledge what they have done and how it affected other people, find practical ways to make amends for what they did, examine why they offended, and make positive changes, such as connections to education, employment, life skills or mentoring. The meetings are organised and led by a youth justice coordinator, and attendees work together to develop a legally-binding plan for the young person, including what they will do and who will support and monitor them. New Zealand is also distinguished by its use of 14 Rangatahi and two Pasifika courts, which apply local laws in a way which is consistent with the language and culture of Maori and Pacific Islander young people. Since the rollout of these courts in 2008, reoffending has dropped by 10-15%.<sup>104</sup>

### **Transform culture and practice within youth justice centres**

In light of the severe challenges facing Victoria's youth justice centres, we feel very significant changes are needed, including new investment not merely in infrastructure, but in staff and young people. While there are good initiatives and dedicated individuals within youth justice centres, it seems clear that the current model, overall, is not working. We need a shift towards high quality, well evaluated therapeutic approaches, which have demonstrated more positive outcomes in relation to recidivism than mere surveillance and coercion.<sup>105</sup>

It is worth considering some of the different models of youth justice centres which are showing successes in other countries. One highly regarded approach now being adopted in other sites internationally is the Missouri model. In the 2013 financial year, of the 962 young people discharged from the Missouri system, 87% had satisfactorily completed their youth justice programme and 88% were considered to have productive

community involvement – e.g. engagement in education and/or employment. A year after their discharge, 88% had *not* returned to justice system; after three years, 66% still remained ‘law-abiding’. Young people in the Missouri system show a higher rate of academic achievement than their peers in other youth prisons, a lower rate of violence towards staff and one another, and less recourse to restraint and isolation. Core elements of the Missouri model include:

- A philosophy which explicitly recognises the desire and capacity of all young people to succeed and make lasting behavioural changes, and a mission to provide the right help so that young people can change their lives and become successful, law-abiding adults.
- Small facilities which are non-prison-like and close to home. These range from non-secure group homes for low-level offenders to secure care facilities. Bed numbers range from 10 to 50 per facility, with an average of 20. The aim is to place young people within 50-75 miles of home, to encourage family contact. The homes include comfortable living and recreational spaces, young people’s art and sometimes pets. Young people and staff wear casual clothing.
- Safety is established primarily through strong relationships and supervision, rather than coercion. Each young person has a single staff member responsible for overseeing their care before, during and after their residence in a youth justice centre. This coordinator works with schools, treatment services and facility staff, and develops individual treatment plans which aim to meet the young person’s educational, health, vocational and psychosocial needs.
- A strong emphasis on quality, support and training of staff. 84% of youth justice workers have a bachelor’s degree or two years of experience in the local youth justice system and 60 hours of relevant college experience. The workers must complete 300 hours of training in their first two years of employment, and 40 hours of training each year subsequently to reinforce and enhance their skills. There is an emphasis on staff continuity; contract staff are rarely used.
- A focus on individual care within a group treatment model. Young people live, work and undertake therapy in small groups of 10-12, with a focus on conflict resolution, victim empathy, communication and social skills, problem-solving, substance abuse prevention, and healthy relationships.

- Building skills for success. The young people do 6-8 classroom hours a day, including academic and hands-on learning.
- Families are treated as partners in the young person's recovery.
- A strong focus on transitioning back into the community. While young people are in the centres, community re-engagement is emphasised, ranging from regular time spent out in the community engaged in productive projects (for the low-level offenders) to community projects being brought into the secure homes. When young people are released, they are given intensive case monitoring, a continuum of services, and access to 'day treatment' centres for help with educational, vocational, treatment and counselling issues.
- The model also includes some more contentious elements, including indeterminate sentencing, where young people's sentences are determined over time according to how well they progress in the residences and their assessed readiness to re-enter the community.<sup>106</sup>

A comparable model has also been developed in Spain, demonstrating an estimated 75% re-integration rate back into the community and a significant reduction in violent incidents. Key elements of the Spanish model include:

- A very high ratio of staff to young people. For a 61 bed facility, for example, they employ 80 educators, 20 semi educators and 7 security guards. Their secure residences have a ratio of 11 educators to 10 young people.
- Small facilities (maximum population is approximately 90).
- Clear delineation of staff responsibilities, so that most of the staff interacting with young people are educators, who have no role in physical restraint. Separate security guards are employed to focus solely on security and order.
- All staff have a relevant degree-level qualification, and managers/directors are psychologists.
- Young people's induction lasts approximately 20 days and includes full medical and psychological assessment and an individual plan.
- Young people see a psychologist daily.
- Judges and prosecutors visit young people in the centres to view their progress.
- Aggression and raised voices (including by staff) are not tolerated.
- Contact with families is encouraged and facilitated.<sup>107</sup>

While these are only two examples, they point to Victoria's need for new investments in appropriately qualified and well-supported staff, including specialist staff. Our own stakeholders in the youth sector have also reiterated to us we need to see much greater and more in-depth screening and assessment of young people entering justice centres, to identify their needs and create detailed, individualised plans to work with them. Given the high rates of cognitive disability, learning difficulties and histories of abuse and neglect within the population of youth justice centres, it would seem important to embed speech and language therapy and trauma-informed practice within this work.

Meanwhile, more dedicated efforts are needed to ensure a successful transition back into the community for young people leaving justice centres. This might potentially involve continuity of care with DHHS workers to offer post-release support.

### **Working with traumatised young people**

It is important that reforms to the youth justice system include developing organisational cultures which are informed by trauma theory, sensitive to the dynamics and impacts of trauma, and underpinned by key principles like safety, trustworthiness, choice, collaboration and empowerment, with the aim of minimising the risk of re-traumatising young people and maximising their capacity to make positive use of services.<sup>108</sup>

We understand a number of therapeutic units were about to be set up in Malmsbury, but that this has been delayed by the recent riots. The units were to be modelled on Berry Street's Take Two program, an intensive therapeutic service for young people who are child protection clients, who have experienced trauma, neglect and disrupted attachment, and who are showing signs of behavioural or emotional disturbance. We urge that future reforms learn from this model and build on it in youth justice centres.

We refer the reader to the work undertaken recently through a three-year Monash University study of offending and youth justice involvement among young people leaving care in Victoria. The researchers found that preventing and addressing the over-representation of young people in and leaving care in the youth justice system must

include a common understanding of the nature of complex trauma and its impacts, and shared responsibility across government and the broader community to work towards the healing and social inclusion of young people in and leaving care. We suggest that many of their recommendations could prove useful in relation to other vulnerable young people in the justice system too.

The researchers outlined the key principles for recovery from complex trauma as follows:

- Safety: maintaining safety across all environments
- Stability of environments and relationships
- Supportive connections as a key tool for addressing trauma
- Understanding of trauma and its impacts by service providers, and support for young people to understand their own experiences, needs and strengths
- Access to evidence-supported therapeutic interventions, particularly those addressing the impact of complex trauma
- Ongoing evaluation of outcomes of interventions and services, and a commitment to continuous improvement.<sup>109</sup>

The researchers recommended multiple strategies to prevent and reduce offending, intended to engage the many service systems that come into contact with vulnerable young people. Their specific recommendations for improving youth justice settings encompassed the following:

- Provide training and support to deliver trauma-informed services across the youth justice sector.
- Embed screening/assessment of trauma into practice.
- Improve the delivery of trauma-specific interventions within custodial youth justice settings.
- Develop approaches which support young people to address core difficulties like emotional regulation.
- Prioritise specific therapeutic interventions for young people on dual child protection / youth justice orders who are aged 10 to 14, as they are exceptionally vulnerable.

- Develop gender-specific responses in light of the particularly high rates of trauma amongst young women in youth justice settings and the different traumatic histories that tend to characterise young men and young women in custody.
- Culturally appropriate trauma-specific approaches for Aboriginal young people.
- Legislate for accessible, appropriate diversion options.
- Address the aspects of the youth justice system which have high potential to re-traumatise young people, including exposure to violence, bullying and strip-searching. A frequent lack of adequate support for staff to understand and cope with trauma-related behaviours is also a barrier to overcome.

The researchers observed that a recent study investigated the impact of introducing trauma-informed practice coupled with psycho-educational training groups for young people in three youth justice facilities in the US; the results showed significant reductions in disciplinary incidents and the use of disciplinary seclusion, suggesting that delivery of this program to staff and young people was associated with more pro-social behaviour and a safer environment.<sup>110</sup>

### **Learning from therapeutic residential care**

The gradual reform of Victoria's youth residential care units might also offer lessons for youth justice centres, as 'resi care' moves towards higher requirements for staff qualifications, stronger training for staff, 'spot audits', and stricter requirements for compliance. Again, youth justice centres need adequate staffing, remuneration and expertise on the ground to make this work.

The lessons learned from evaluations of therapeutic models of residential care would seem to present some valuable insights to help guide reform of Victoria's youth justice centres. While the two sectors are obviously different, they are both working with cohorts of young people with histories of significant trauma, neglect and marginalisation. Like youth justice settings, residential care settings have historically been plagued with violence, disruption, high staff turnover and dysfunctional relationships.

Therapeutic residential care refers to intensive, time-limited care for a child or young person in statutory care. The model responds to the effects of abuse, neglect and separation from family by developing positive, safe, healing relationships and practice which is informed by a sound understanding of trauma, damaged attachment, and developmental needs.

Key elements of effective therapeutic residential care include:

- Prioritising the safety of staff members and young people.
- Strong, positive relationships between staff members and young people, which are recognised and valued as being integral to therapeutic healing.
- A clearly articulated philosophy of care, well understood by all staff.
- Ongoing staff training on the rationale underpinning of the practice, and opportunities for staff to reflect on their practice.
- An environment which is safe, stable, predictable and consistent, where young people are protected from re-traumatising experiences.
- Addressing the therapeutic needs of young people based on specialised, comprehensive and in-depth assessment.
- Programs which are responsive to the characteristics and needs of young people so that they can heal, develop and grow, and which include psycho-education about trauma, and address grief and loss.
- Specialist therapeutic input where necessary.
- Access to trauma and loss counselling and trauma-focused cognitive behaviour therapy.
- Anger management and empathy training for young offenders.
- Staff members have relevant qualifications and experience, and specialist training in trauma theory and its application.
- Individualised personal treatment plans for each young person (reviewed regularly) that guide the implementation of service delivery by all team members.
- Staff listen to young people, communicate clearly with them about their care plan, and allow them to participate in decision-making processes regarding their therapeutic program.

- Engagement with young peoples' family of origin where possible, and with other community stakeholders such as schools.
- Young people remain engaged with cultural practices.
- Comprehensive planning for leaving the service and early engagement with post-care people and supports.
- Ongoing program evaluation and consequent adaptations, incorporating young people's voices, and done in collaboration with external research bodies such as universities.<sup>111</sup>

Crisis prevention and de-escalation are important issues here, and youth justice centres must have access to non-violent means of intervention. There appears to be relatively little peer-reviewed work on the best approaches, but two that are well-regarded are the Non Violence Crisis Intervention (NVCi) model and the Therapeutic Crisis Intervention (TCI) model. The latter was raised with us by some of our stakeholders in the youth sector, who note the growing adoption of TCI in Victorian residential care units, suggesting that aspects of it might be adapted in youth justice centres. TCI aims to provide a model for crisis prevention and intervention amongst vulnerable children and young people. Based on research and successful pilot models developed through the Family Life Development Center (FLDC) at Cornell University, the TCI model is designed within a trauma and attachment framework and gives relational strategies to assist organisations to:

- Prevent crises from occurring
- De-escalate potential crises
- Manage acute physical behaviour
- Reduce potential and actual injury to young people and staff
- Teach young people adaptive coping skills
- Develop a strong learning culture within the organisation.

Training covers creating a culture of non-violence; preventing and de-escalating potential crisis situations with a young person; managing a crisis situation in a therapeutic manner (including the option of intervening physically, when necessary, in a manner that minimises risk of harm to the staff or young person); processing crisis events with young people to help improve their coping strategies; and effectively

training others in your organisation. A key objective is to minimize the use of physical interventions such as restraint and, if possible, to eliminate the need for them altogether.<sup>112</sup>

### **Learning from trauma-informed education models**

It is worth considering how reforms to youth justice centres might be usefully informed by effective models of trauma-informed schooling, developed for communities with high levels of vulnerability and behavioural issues amongst their students. One example of this is the Berry Street Education Model (BSEM), which provides schools with training, curriculum and strategies to engage the most challenging and traumatised students via cognitive and behavioural change. Under this model, school leaders and teachers are offered a suite of structured professional development, consultation, resources and mentoring programs, with comprehensive training developed to meet the needs of a specific school community and delivered on site at the school to the staff there.

In the Berry Street School, where the model was developed, students went on to average 1.8 years of learning in one academic year.<sup>113</sup> When the model was extended in 2015 to one primary school and one secondary school in communities with high levels of disadvantage, disengagement and child protection involvement, teachers and students observed a number of positive impacts. These included:

- Academic improvement, including in end-of-year exams and backed up by AusVELS data.
- A reduction in numbers of students identified as being of ‘key behaviour concern’, and an increase in student safety.
- A decrease in negative incidents. For example, at one school there was a decrease in suspensions from 57 students in 2014 before the program commenced, to 7 the year after; at the other school, suspensions decreased amongst the BSEM participants from 17 in 2014 to 9 in 2015.<sup>114</sup>

The design of the BSEM draws on neuro-scientific findings in contending that a young person’s biological and developmental responses to trauma need to be addressed

before they can be ready to build relationships and engage with learning. There is an emphasis on creating environments in which young people can learn self-regulation and co-regulation, identify their emotions and responses, manage their behaviour, communicate with others, de-escalate situations, and return to a comfortable state after agitation. All this is supported by classroom activities and teaching approaches that have both physical and emotional aspects.

Participants learn classroom and whole-school strategies focused on five domains:

- Body – Building school-wide rhythms and body-regulation through a focus on physical and emotional regulation of the stress response, de-escalation in school and classroom contexts, and mindfulness opportunities throughout the school day.
- Relationship – Increasing relational capacities in staff and students through attachment and attunement principles with specific relationship strategies with difficult to engage young people.
- Stamina – Creating a strong culture of independence for academic tasks by nurturing resilience, emotional intelligence and a growth mindset.
- Engagement – Employing engagement strategies that build willingness in struggling students.
- Character – Harnessing a values and a character strengths approach to enable successful student self-knowledge which leads to empowered future pathways.

For the model to succeed, school-wide uptake and engagement of all staff (including non-teaching staff) is important. BSEM strategies, activities and elements should be integrated into daily routines and curriculum. It is also worth noting that the schools which successfully adopted this model were already genuinely keen to make positive changes and willing to recognise that ‘mainstream’ approaches were not working for many students – i.e., there was existing institutional support and leadership in favour of change.<sup>115</sup>

### ***Listen to young people: what do traumatised young people consider a safe living space?***

In 2016, researchers engaged by the Royal Commission into Institutional Responses to Child Sexual Abuse examined young people's experiences of safety in residential care units. (While this is obviously not the same cohort to young people in justice centres, unfortunately there is a strong and documented overlap between the two sectors.) Through detailed qualitative interviews with 27 young people aged 10-21 who had been in residential care units, the researchers identified a number of key insights which, we submit, also have relevance to youth justice settings.

Unfortunately most of the young people had not experienced residential care units as safe places, on the whole. However, they gave very clear feedback on what would make a residential unit safe. Features of safe units included the following:

- They were 'home-like', and the young residents had multiple trusted relationships within and outside of the unit.
- Young people knew their peers and got along well; there was no aggressive or abusive behaviour.
- There was a sense of stability and predictability, with clear and fair rules, stable living arrangements (not multiple placement changes) and minimal physical risks.
- Young people had a sense of control and a say in how things operate.
- There were adequate numbers of staff, and staff were appropriate and trustworthy.
- Workers took time to get to know young people and watched out for threats. (A frequent complaint was that staff members weren't around when young people needed to speak with them, or that staff did not really care and were 'just doing it for the job.')
- Staff initiated conversations with young people about safety/wellbeing issues, rather than requiring individual young people to seek out support themselves.
- Where a safety concern was raised, staff would make sure young people knew what was being done to address the problem.<sup>116</sup>

## Recommendations

Advocate for the following key steps and policy/program directions:

1. Develop a long-term, overarching strategy for improving outcomes for young people facing significant disadvantage, including young people who are in contact with, or at elevated risk of contact with, the youth justice system. This strategy should:
  - a) Draw upon the approaches of the previous Vulnerable Youth Framework.
  - b) Focus on education engagement, early identification of vulnerability, tailored responses for vulnerable groups, local partnerships, and effective and capable services.
  - c) Align closely and explicitly with related areas of reform, including educational engagement, family violence, child protection, mental health, the Ice Action Plan, homelessness and vocational education and training.
  - d) Be based on evidence about what works to prevent and reduce offending by young people.
  - e) Be informed by the findings of the current review of the youth justice system commissioned by DHHS (Penny Armytage and Prof. James Ogloff).
  - f) Articulate the principles and purpose(s) of the youth justice system, including a clear philosophy and model of care to guide the operations of youth justice centres. These should align closely with the 1990 UN *Rules for the Protection of Juveniles Deprived of their Liberty*, and rehabilitation and age-appropriate care should be central. There should be an explicit objective that young people leave youth justice centres prepared and supported to live safely in the community.
  - g) Be accompanied by new investment in youth workers and innovative projects to address disengagement and prevent crime.
  
2. Support ongoing, meaningful engagement with young people who have had contact with the justice system, to help inform policy and program development. For example:

- a) Resource new initiatives to engage and consult meaningfully with young people who have an experience of youth justice centres. This approach should be informed by the existing findings and models outlined in the **Appendix** and led by organisations with demonstrated expertise in supporting vulnerable young people.
- b) Work with the Independent Visitor Program for Youth Justice Centres (Commission for Children and Young People) to explore further possibilities for their program to gather and share the views of young people about their experiences of custody. Additional resourcing may be needed to strengthen their capacity. The Independent Visitors are specially supported volunteers who attend youth justice centres on a monthly basis to provide information and assistance to help young people's experience of being in custody, monitor their safety and wellbeing, and promote their rights and interests.
- c) Support the Justice For Koorie Youth project being planned by the Koorie Youth Council (KYC), which will include detailed consultations with Aboriginal young people both inside youth justice centres and in regional communities.
- d) Support the KYC to undertake further in-depth consultations with Aboriginal young people to inform the work of the Aboriginal Justice Forum, as they did in 2015 with their Yarning Justice initiative. This work could potentially be conducted on an annual basis.

In order to facilitate all this, further work may be needed with DHHS, Department of Justice, research bodies and youth support services to review the processes concerning legal and ethics clearance for conducting research with vulnerable young people. Here, the aim should be to ensure that adequate expert supports are in place to enable young people to take part in safe, ethical, confidential, age-appropriate and timely consultations concerning their experiences of the justice system and the community services system, if they wish to do so.

3. Maintain and strengthen aspects of Victoria's current youth justice system which have demonstrated positive impacts. In particular:
  - a) Enshrine youth diversion in legislation, and guarantee long-term resourcing to diversion initiatives sufficient to meet the needs of young people, wherever they live. There should be a spectrum of diversion options articulated clearly

in the legislation and available state-wide, including police warnings, formal cautions, pre-charge, pre-plea and pre-sentencing models, as well as time-limited intensive case management for some young people following their participation in group conferencing. Young people should be able to access diversion pathways which are culturally appropriate and resourced to assess their circumstances and develop a diversion plan tailored to the needs of the individual. Further work is need to make effective diversion approaches available (where appropriate and safe) to young people with more complex needs, who may have committed multiple offences.

- b) Retain the dual track system, which allows young people up to the age of 21 who have been deemed suitable by the courts to serve their custodial sentence in a youth facility rather than an adult prison.
  - c) Maintain and strengthen Parkville College to operate 7 days a week, 52 weeks a year, and work appropriately with students who have disabilities and/or social, emotional, learning and behavioural difficulties.
  - d) Continue to resource and expand where needed the work of the Education Justice Initiative (EJI) to support young people in contact with the justice system to re-engage with education.
4. Transform youth justice centres into a new model which can intervene intensively and therapeutically, support young people to transform their behaviours and address the causes of their involvement in crime, and ensure that by the time young people leave the centres they have re-engaged with education, training, and/or employment, have a safe home and a nurturing family/community environment to return to, and are receiving appropriate, ongoing support to avoid re-offending. Steps to achieve this should include:
- a) Comprehensive screening of all young people entering youth justice centres, including a full medical, mental health and educational assessment to identify their needs and create detailed, individualised plans for them. This should include assessing their needs in relation to speech and language therapy, disability support, trauma-informed practice, AOD use, and risk of harm towards self or others.
  - b) Small facilities where young people keep hours and routines in relation to sleeping, education, exercise, time outdoors and contact with family which

approximate as closely as possible those which would be considered regular and healthy in the outside world.

- c) A high ratio of appropriately qualified staff to young people and clear delineation of staff responsibilities. Existing research indicates the best mix of professionals should include front-line staff, medical and mental health staff (including registered psychologists, child psychiatrists and psychiatric nurses), educational and vocational staff and cultural advisors.<sup>117</sup> Staff numbers, expertise, support, training, experience and remuneration should be appropriate to enable them to build trusting, therapeutic relationships with young people who have very high needs and challenging behaviours. Frequent turnover of staff and recourse to lockdowns must be addressed and averted as highly detrimental to the effective operation of the centres and the rehabilitation of young people. Management must take a lead in providing youth justice staff with adequate and supportive supervision, meaningful consultation and recognition, and structured, tailored professional development by qualified instructors, accompanied by tools and resources relevant to their working environment and additional mentoring as needed. Critical areas for regular, high quality training should include understanding and responding to trauma and family violence; developing disability competence and mental health competence; identifying and responding to the unique needs of Aboriginal young people and young people from diverse cultural backgrounds; and working within the *Code of Ethical Practice for the Victorian Youth Sector*.
- d) Organisational cultures within youth justice centres which are informed by trauma theory, sensitive to the dynamics and impacts of trauma, and underpinned by key principles like safety, trustworthiness, choice, collaboration and empowerment, with the aim of minimising the risk of re-traumatising young people and maximising their capacity to make positive use of supports. (For specific directions, we refer the reader to the work of the Centre for Excellence in Child and Family Welfare, and to recent research including Mendes, Baidawi and Snow, 2014, *Good Practice in Reducing the Over-Representation of Care Leavers in the Youth Justice System*.)
- e) Management of youth justice centres is informed by current, high quality research into therapeutic models of care and education, including:

- Evaluations of therapeutic models of residential care.
  - Models to prevent and de-escalate crises, such as the therapeutic crisis intervention (TCI) model, which is now being adopted in some Victorian residential care units.
  - Lessons from intensive therapeutic models aimed at young people with histories of child protection involvement, trauma, and behaviours of concern, such as the Berry Street Take Two model.
  - Lessons from trauma-informed models of teaching and classroom management, such as the Berry Street Education Model, which work with the most challenging and traumatised students via cognitive and behavioural change.
- f) Operation of youth justice centres treats re-engagement with education and/or high quality vocational education as central and critical.
- g) Prohibition of the use of solitary confinement (as defined by the UN Special Rapporteur on Torture) against young people under the age of 18, backed up by new wording in the *Children, Youth and Families Act 2005*. There should also be clear maximum time limits on the use of other forms of isolation against a young person under the age of 18. These limits should be guided by expert evidence from the fields of youth mental health, trauma-informed practice and disability competence.
- h) Physical design of new youth justice centres should be informed by evaluated good practices in working with trauma-affected young people, young people with mental illness or cognitive disability, Aboriginal young people and young people from refugee and migrant backgrounds. Any design must allow for different groups to be housed separately for safety and wellbeing reasons.
- i) Ensure the transformation of youth justice centres is informed by the emerging findings from the reform of Victoria's residential care units. Key elements of this reform include elevated staff qualifications, improved training for staff, 'spot audits', and stricter requirements for compliance. Targeted resourcing is needed to achieve all this.
- j) Adequate transitional planning and post-release support (including post-release mentoring for up to 12 months) for all young people leaving youth justice centres. This should include some continuity of care with support workers whom young people have formed strong connections with, and help

to adjust to new support systems on the outside, such as NDIS. (A recent study of international youth justice approaches recommended that exit planning should commence shortly after a young person arrives in a youth justice centre, in recognition that their length of stay may be unknown and that young people tend to show better outcomes when they clearly understand their own transition planning.<sup>118</sup>)

- k) As soon as possible, transfer young people under the age of 18 out of Barwon prison, in recognition that Grevillea unit does not have the long-term capacity to provide the kinds of age-appropriate therapeutic interventions described above.
5. In light of the need for youth justice to be directed by experts in the field, and in recognition of young people's unique vulnerabilities and potential for rehabilitation, ensure that Youth Justice operates as a strong, independent, distinct division within the Department of Justice and Regulation. It must not be 'absorbed' or 'eroded' into a corrections system designed for adults. Youth Justice should set their own strategy, policy and standards for the management of youth justice facilities, ensure consistency of service delivery through analysis of incidents, issues and trends, and collaborate very closely with DHHS, especially in relation to young people on dual orders (a significant proportion of Youth Justice clients). The work of Youth Justice should be informed by a community safety youth justice taskforce, comprised of senior stakeholders from Victoria Police, DHHS, and the youth and community services sector.
6. Address the unacceptably high numbers of young people being held on remand and their shortage of adequate supports. In particular:
- a) Bring remandee matters before the courts in a timely fashion.
  - b) Ensure all young people on remand can access AOD support and expert, evidence-based therapeutic and behaviour-change programs, to an equivalent level to those supports provided to young people who have been sentenced.
  - c) Ensure adequate resourcing of safe and suitable community-based options for young people facing court, to reduce the numbers held in custody. Such supports should be able to provide intensive case management of young

people, including after-hours and weekend capacity, as well as adequate housing, managed re-engagement with education and/or employment, specialist interventions in relation to mental health and AOD, and cultural and family strengthening. The expansion and intensification of bail support services provides an opportunity to put such supports in place.

7. Resource expert and targeted interventions aimed at young people who are living in the community but are at elevated risk of future reoffending, to direct them away from crime and address barriers to their wellbeing and positive engagement. In particular:
  - a) Provide adequate levels of intensive case-management for the small group of young people committing high volumes of offences, when they are still living in the community. Such interventions should focus on diverting young people from crime, supporting them to develop pro-social skills and reconnect with their families, communities and the education/training system, and referring them to support services in areas like mental health and AOD where necessary. For young people with very high needs, this can necessitate assertive outreach and after-hours/weekend support. These supports should include family strengthening, re-engagement with education, training and employment, building social and cultural connections, and addressing issues such as alcohol and other drug use and mental illness. This initiative should build on the work undertaken through the Youth Justice Community Support Service (YJCSS) provided through Jesuit Social Services.
  - b) Make a renewed commitment, with additional resourcing where relevant, to reduce the engagement of Aboriginal children and young people in the justice system. Interventions should be culturally appropriate and well evaluated, and should include an emphasis on strengthening young people's positive connections to culture and community.
  - c) Raise the minimum age at which a child can be charged with a criminal offence from 10 to 12 years of age, in line with United Nations standards, and in recognition of the inexperience and high vulnerability of this cohort. Resource age-appropriate and therapeutic interventions for children aged 10 and 11 who become involved in crime and anti-social

behaviour, and their families. These approaches should be evidence-based and may include restorative justice and intensive case management. They should have a wellbeing focus, address issues of family dysfunction, trauma and neglect, and ensure the child is accessing adequate supports for issues such as disability, school engagement and cultural strengthening.

- d) As recommended by the Australian Human Rights Commission (2014), develop a holistic, overarching response to the inequitable treatment of people with disabilities within the justice system, through a Disability Justice Strategy. This strategy should focus on the following outcomes for people with disabilities: safety and freedom from violence; effective access to justice; non-discrimination; respect for inherent dignity and the individual's freedom to make their own decisions; and full community participation.<sup>119</sup>

8. As part of the vulnerable youth strategy outlined in Recommendation 1, and in alignment with planning in other relevant areas like education and family violence, plan and resource a number of immediate changes within the community and education sectors which would make a strong impact in terms of preventing young people's engagement in crime. In particular, we recommend:

- a) Raise the age for leaving out-of-home care to at least 21, in light of the disproportionate risks of crime and severe disadvantage experienced by young people who have been in the child protection system. Care leavers aged 18-21 should be able (if they wish) to continue to access adequate and culturally appropriate support, including a housing guarantee and vocational/higher education guarantee, and expert assistance and advocacy to access and maintain housing and education.
- b) Prevent and reduce students' exclusion and disengagement from education, in light of the strong link between youth crime and exclusion/chronic disengagement from school. In particular, we call for:
  - i. An explicit commitment to reduce and prevent the exclusion of students from education, via approaches which have a strong evidence base, including properly funded and widely available mentoring programs.

- ii. Specialist support and advocacy for students facing exclusion and other forms of disengagement to re-engage with education, wherever they live. This should be provided by a body which is connected to schools but independent from them, and which can clarify a student's enrolment status, work with them and their families to identify their future options, and collaborate closely with schools, flexible learning providers, VET providers and services. In some communities this role is played by Navigator, but equivalent support is needed state-wide.
- iii. Strengthen schools' capacity to work with students who are experiencing trauma and mental health problems. Schools need adequate access to wellbeing staff, psychologists, counsellors and youth workers, and appropriate support for all school staff to develop trauma-informed practice, identification skills and youth mental health first aid.
- iv. Adequately fund and support schools to provide students with a range of high quality VET in Schools and VCAL options, without passing costs onto families on low incomes.
- v. Continue to resource and expand where needed the work of the Education Justice Initiative (EJI) to support young people in contact with the justice system to re-engage with education.
- vi. Support secondary students, especially those facing isolation or disadvantage, to develop career aspirations and work-ready skills, and to access high quality mentoring and work 'tasters' relevant to their aspirations.
- vii. Comprehensive transition planning for all children moving from primary to secondary school.
- viii. Adequately fund best-practice flexible learning models, including within mainstream schools, in line with the Framework of Quality Flexible Learning Programs (FQLP) developed by Associate Professor Kitty te Riele.
- ix. Collect and make available relevant data about the numbers of students disengaging each year, including formal and informal exclusions and reduced attendance, and a breakdown of excluded

students according to age, disability, out-of-home care status and Aboriginal or Torres Strait Islander status.

- c) Expand investment in the early years to prevent later offending. In particular:
  - i. Increase funding and staffing for supported playgroups, particularly for highly vulnerable families involved in child protection and out-of-home care, with the aim of improving children's learning and social development and connecting vulnerable families to targeted support early on.
  - ii. Increase vulnerable children's participation in high quality, affordable, culturally safe early learning services, from birth to school.
- d) Resource a long-term, state-wide strategy for ensuring that young people's access to youth work is adequate to meet the need. This should include:
  - i. A new initiative to recruit, train and employ youth workers and social workers from culturally diverse communities and the Koorie community. This should include a scholarship program at a degree course level and a targeted internship/cadetship program. (This work should be informed by findings from the Empower Youth initiative and Youth Pacifika program.)
  - ii. A commitment that all Victorian communities with higher than average levels of disadvantage should have access to relevant youth work interventions at a level approximately equal to that resourced through the Empower Youth grants.
- e) Implement the recommendations of the Commissioner for Aboriginal Children and Young People's *Always Was, Always Will Be Koori Children* (2016), particularly those that relate to prevent Aboriginal children in care from becoming involved in crime, and supporting their recovering from trauma, grief and cultural loss.
- f) Implement the recommendations from the Koorie Youth Council's 2015 *Yarning Justice* youth workshop, in conjunction with the Aboriginal Justice Forum 43, which called for:
  - i. Culturally safe youth spaces for young Koorie people to gather, share knowledge, learn about culture, connect with services, participate in outings and celebrate being Aboriginal.

- ii. Regular and ongoing yarning circles designed to create a safe environment for young people, focusing on empowerment, mentoring and the strengthening of identity.
  - iii. Cultural camps designed to include education on different topics, as well as foster healing, the sharing of traditional knowledge and encourage community engagement.
  - iv. Greater relationship-building opportunities between young people and senior community members, with a stronger emphasis on cultural awareness training that includes members of the Koorie community and supports cultural understanding.
- iii.
- g) Resource well-evaluated behavioural and attitudinal change programs for young people who have used violence in the home. These initiatives should be available to Victorian families wherever they live, and should have the capacity to connect young people to services to address trauma, mental illness, alcohol and other drug use, and cultural disconnection, and to provide expert support for family reunification where this is safe and desired by all participants. (See research by Good Shepherd scoping the different models of intervention piloted to address adolescent violence in the home.)<sup>120</sup>
  - h) Develop, evaluate and expand culturally relevant parenting workshops and support for communities from refugee and migrant backgrounds.
  - i) Resource and evaluate innovative projects to bring together younger and older people from migrant and refugee communities in a positive, supported environment, with the aim of strengthening intergenerational relationships.

Thanks to everyone who contributed to this submission, especially the 65 people who took part in our consultation forum hosted jointly with the Victorian Council of Social Service, Smart Justice for Young people and the Federation of Community Legal Centres.

## Appendix

There have been several recent consultative studies with young people in the youth justice system in Victoria, and in other states and countries. These approaches and methodologies might be adapted to inform future studies of Victorian youth justice centres. The studies include:

- In 2015, Mission Australia held two focus groups in Melbourne Youth Justice Centre (Parkville) with 16 young people, and a focus group in Malmsbury with 8 young people. These consultations were designed to inform the Victorian Government's current Youth Policy; as such, their scope was broad and did not focus on life inside the youth justice centres. The sessions were led by one of Mission Australia's training facilitators, who had a youth work background and was experienced in hosting workshops for vulnerable and disengaged young people. A Mission Australia case manager supported the facilitator and collated the responses. There was an emphasis on creating a safe and friendly circle session. Before questions were posed, the facilitator ensured each young person had a good understanding of why they were there and what would be done with their responses.<sup>121</sup>
- In 2015 the Koorie Youth Council (KYC) also held two consultation workshops with young people at Parkville College to inform the Victorian Government's current Youth Policy. The sessions were designed in consultation with college staff to ensure they would be meaningful for the students. In the first workshop, the young people were asked to use stickers to prioritise issues that impacted the most on them from a list (developed in consultation with college staff):
  - People using drugs or alcohol.
  - Not knowing my culture.
  - Experiencing racism.
  - Troubles with mental health.
  - Not having somewhere stable to live.
  - Teachers and schools not understanding me and where I come from.
  - There's nothing to do where I live.
  - I don't feel supported by people in my life.

In the second workshop, the young people were asked to identify and talk about the issues that were important to them, the issues that impacted on their lives, and what changes would make a difference.<sup>122</sup>

- In 2015, the KYC coordinated the Yarning Justice youth workshop in partnership with the Department of Justice and Regulation and in conjunction with Aboriginal Justice Forum 43 (AJF43). The workshop was youth-led and facilitated by young facilitators. Participants came from all over Victoria, represented a variety of identities and were aged between 15-25. Some were supported by parents and support workers from various organisations. The workshops were structured around key themes, with a focus on prevention and early intervention:
  - Community engagement and cultural learning
  - Mental health education and breaking the stigma
  - Creating a safe environment for young people
  - Creating a sense of belonging and resilience.

These themes were developed out of information about key drivers of young people's contact with the justice system, derived from the existing learnings from the Aboriginal Justice Agreement and KYC's work with young people.

Participants split into groups according to the themes they were most interested in, where they brainstormed and discussed key issues. The facilitators led their groups through a co-design process of active discussion, focussing on why the young people felt these issues existed, delving deeper to identify the underlying factors that contribute to contact with the justice system. Young people were drawing on their own experience to assist in reframing issues and focusing on solutions. These solutions were then further brainstormed into how they could be implemented using a 'who, how, where, what and why' questioning strategy. The outcomes of the workshop were then presented to the AJF43 community forum, giving the young people a chance to discuss the issues further with senior Koorie community members and government representatives.<sup>123</sup>

- In a 2016 study, the Commissioner for Children and Young People in Western Australia communicated with 92 of children and young people aged 10-19 years who had had contact with the justice system. A quarter of the young people had been held in custody; the rest had been given community supervision. 72% of them were Aboriginal. Young people spoke with the researchers via individual interviews (face-to-face or telephone) and focus groups of up to four

participants. Their consent was requested before interviews were taped and transcribed; in the small number of cases where the young person did not want to be taped, they agreed to interviewers taking notes by hand. An intensive art-based consultation was run over three days at Banksia Hill Detention Centre in which young people created artworks reflecting their wishes for the future, including a doll-making workshop with a textile artist where the young people created figurines of their future selves. With the young people's consent, their art was used to illustrate the report.<sup>124</sup>

- In 2011, Queensland's Commission for Children and Young People and Child Guardian surveyed 109 out of the 119 young people residing in the state's two youth detention centres, in Brisbane and Townsville. The survey covered ten topics: admission to detention, basic entitlements and self-expression, family and community contact, interactions with staff, education and other programming, health care, behaviour management, complaints and advocacy, legal matters, and transition planning and aftercare. The survey was administered simultaneously across several classrooms within the detention centres, to small groups of between 4 and 6 young people. A support team of teachers, teacher aides, and representatives from the Commission's research team and community visitors program operated in each classroom to help young people complete their questionnaires.<sup>125</sup>
- In a 2008 study of young women in four UK youth justice centres, conducted by researchers from the Department of Public Health and Oxford University, researchers used a needs assessment questionnaire to reach 73 young women (83% of the young female inmate population). They also consulted with 11 young women through focus groups and 16 through semi-structured interviews. Youth justice workers were consulted separately. Participation was voluntary, no incentives were provided, and confidentiality was assured except in cases where a young person disclosed an intention to harm others or herself, or attempt an escape. All written information was verbally explained to the young women and assistance provided to those who needed it. Female researchers conducted the focus groups and interviews, and no custodial staff or other professionals were present.<sup>126</sup>

A detailed model of ethical research with vulnerable young people is also provided in a 2016 study undertaken to inform the Royal Commission into Institutional Responses to Child Sexual Abuse. Researchers from the Australian Catholic University held qualitative interviews with 27 young people aged 10-21 to understand their perspectives on safety in residential care. To start with, the researchers engaged five young people with experiences of residential care to help confirm the project's aims, scope, tools and topics, and any ethical and practical tensions that might arise.

Semi-structured, face-to-face individual interviews and small group interviews were then conducted. The young people were asked to identify words, thoughts and feelings that described safety, and what made them safe or unsafe. They were provided with vignettes which reflected safety concerns and asked to reflect on how these situations might affect a young person, and what help the young person might need. Young people who raised concerns about sexual violence were asked about what might help to prevent it and improve safety in residential care. Those who did not nominate concerns about sexual abuse were asked more generalised questions about how services might protect them from harm.

Protective measures were put in place throughout the research. The non-government organisations involved were provided with a screening tool to assess whether there were any young people who should not be invited to take part, due to exceptionally unsafe circumstances. Researchers obtained written and verbal consent from the young people (as well as child protection authorities); they explained to the young people the project's purpose, what young participants would be expected to do, the rights of the participants, and what the young people could do if they were unhappy about any aspect of the research. They also checked how safe and supported the young people were in their outside lives.

The young people were given multiple opportunities to decide whether and how they wanted to take part in the interviews, whether there were things they did not want included in the research findings, and whether there was anything they would like researchers to share with their support workers. Where sexual abuse was reported, researchers ensured the relevant services were aware of the disclosure and that legal reporting obligations had been fulfilled. They checked in with the young participants

after the discussions to make sure that they were not distressed and to seek help for them if necessary.

The information from the interviews were then discussed with a small advisory group of young people who had lived in residential care, to help clarify the findings and shape the conclusions.<sup>127</sup>

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