



Submission to *Our youth, our way* – Systemic inquiry into the over-representation of Aboriginal children and young people in Victoria's youth justice system

November 2019

Contents

Jesuit Social Services: Who we are and what we do	2
Background and context.....	3
What strategies and programs are working well in Victoria that help reduce youth justice involvement for Aboriginal young people, and why do they work?	4
How could the system become more culturally appropriate in its responses to Aboriginal youth offending?.....	4
What systemic changes are required to reduce youth justice involvement for Aboriginal young people in Victoria?.....	9
Appendices	15

Jesuit Social Services: Who we are and what we do

Jesuit Social Services has been working for more than 40 years delivering support services and advocating for improved policies, legislation and resources to achieve strong, cohesive and vibrant communities where every individual can play their role and flourish.

We are a social change organisation working with some of the most marginalised individuals and communities, often experiencing multiple and complex challenges. Jesuit Social Services works where the need is greatest and where we have the capacity, experience and skills to make the most difference.

Our services span Victoria, New South Wales and the Northern Territory where we support more than 57,000 individuals and families annually.

Our service delivery and advocacy focuses on the following key areas:

- **Justice and crime prevention** – people involved with the justice system
- **Mental health and wellbeing** – people with multiple and complex needs including mental illness, trauma, homelessness and complex bereavement
- **Settlement and community building** – recently arrived immigrants and refugees, and disadvantaged communities
- **Education, training and employment** – people with barriers to sustainable employment
- **Gender Justice** – providing leadership on the reduction of violence and other harmful behaviours prevalent among boys and men, and building new approaches to improve their wellbeing and keep families and communities safe.
- **Ecological justice.**

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

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

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

Background and context

Jesuit Social Services welcomes the opportunity to contribute to the Commission for Children and Young People's *Our Youth, Our Way* systemic inquiry into the over-representation of Aboriginal children and young people in Victoria's youth justice system.

This submission will respond to the questions outlined in the Inquiry Terms of Reference:

- *What strategies and programs are working well in Victoria that help reduce youth justice involvement for Aboriginal young people, and why do they work?*
- *How could the system become more culturally appropriate in its responses to Aboriginal youth offending?*
- *What systemic changes are required to reduce youth justice involvement for Aboriginal young people in Victoria?*

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

We believe the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system is a national disgrace. Almost three decades ago, the report of the Royal Commission into Aboriginal Deaths in Custody was tabled in the Federal Parliament. It prompted cries of shame and promises to do better – however, little has improved and, in many areas, we have gone backwards.

The impacts of colonisation, racism and dispossession continue to be felt by Aboriginal and Torres Strait Islander people and communities today, and over-representation in the justice system must be understood as a result of this. Jesuit Social Services considers the ongoing intergenerational trauma and disadvantage resulting from structural racism as the central causes of this over-representation. Incarcerating Aboriginal and Torres Strait Islander children and young people undermines their connection to culture and cuts them off from their families and communities, worsening intergenerational disadvantage.¹

Fundamentally, Aboriginal and Torres Strait Islander peoples must have a voice and control over addressing issues that affect them, and support to strengthen their families and communities through greater connection to culture and tradition. The strengths of Aboriginal and Torres Strait Islander peoples must be harnessed to increase protective factors and prevent contact with the justice system.

Responding to the over-incarceration of Aboriginal and Torres Strait Islander people in the justice system needs a long-term, whole-of-government approach that is built on trusting, strong relationships with Aboriginal people, organisations and communities. We must recognise the role that intergenerational trauma and disadvantage play in children and young people's behaviour, and respond in culturally appropriate ways, involving communities, Elders and families in our approach to supporting young people.

Phase Four of the Victorian Aboriginal Justice Agreement demonstrates a positive commitment to working alongside Aboriginal communities of Victoria to address the over-representation of Aboriginal and Torres Strait Islander people in the justice system, with self-determination as the core policy approach. However, there is still more to be done to divert Aboriginal and Torres Strait Islander children and young people away from the youth justice system, and the Agreement must be met with appropriate investment in community and divestment from expansion of youth justice detention.

The Victorian Government treaty process is a positive development in promoting Aboriginal self-determination, and its ethos should be reflected elsewhere. As the Victorian Government embarks on wide-scale reforms to youth justice legislation and strategy in Victoria, the language of human rights, including access to culture for Aboriginal children and young people, should be at the heart. A visual representation of our vision for youth justice is included as an appendix to this submission.

We would welcome an opportunity to discuss the recommendations offered in this submission in further depth with the Commission for Children and Young People.

What strategies and programs are working well in Victoria that help reduce youth justice involvement for Aboriginal young people, and why do they work?

Barreng Moorop: A whole-of-family approach

Recognising the need to divert vulnerable children away from the youth justice system, Jesuit Social Services delivered the *Barreng Moorop* program in partnership with the Victorian Aboriginal Legal Service (VALS) and the Victorian Aboriginal Child Care Agency (VACCA), which now delivers the program.

Barreng Moorop works with 10-14 year old children, their siblings and their families and their communities where appropriate residing in the North and West metropolitan regions of Melbourne who intersect the criminal justice system. The program provides a culturally responsive and trauma informed service to divert young Aboriginal people away from the criminal justice system.

Barreng Moorop uses assertive outreach and long-term intensive support to families experiencing multiple and complex needs. *Barreng Moorop* provides a wrap-around case management response, understanding the composition of Aboriginal families, in which the extended family is the norm. The responsibility of child care and rearing is shared amongst a range of family members with, in many cases, a multi-generational core of kin providing primary care. In response *Barreng Moorop* works with, and provides support to, family members with the focus of using family, community and culture as a protective factor to divert young people away from the criminal justice system.

We believe that Barreng Moorop model should be expanded throughout Victoria to provide a whole-of-family approach to children in Aboriginal and Torres Strait Islander communities in trouble with the law.

How could the system become more culturally appropriate in its responses to Aboriginal youth offending?

Restorative justice

Jesuit Social Services is currently delivering a Restorative Justice Pilot Project in partnership with Eastern Metro and Hume RAJACs. Using a co-design process to develop culturally informed restorative justice services for Aboriginal young people who are coming into contact with the criminal justice system, the Restorative Justice Pilot Project is the first of the place-based, community-led justice projects under Burra Lotjpa Dunguludja.

Funded by the Koori Justice Unit, this work will help demonstrate the benefits of joined up approaches that combine restorative justice practice with the cultural knowledge and experience of the RAJACs.

We support improved access to restorative justice for Aboriginal and Torres Strait Islander children and young people, including in schools, for those in out-of-home care placements, at multiple points of diversion, through courts, in custody and pre- and post-release.

For justice-involved Aboriginal and Torres Strait Islander children and young people, there is potential for more family group conferencing and restorative practice in the pre-release phase to support young people and their families to heal damaged relationships and exit youth justice centres with planned support strategies in place.

To further strengthen Youth Justice Group Conferencing in Victoria, we recommend that the Victorian Government legislate for a model of Group Conferencing that is ‘opt-out’ rather than ‘opt-in’ to promote better uptake of the program. In addition to proven programs like Youth Justice Group Conferencing, we believe many of these young people and their families would benefit from targeted but time-limited intensive case management support post-group conference. We recommend building the capacity of, and funding, an Aboriginal Community Controlled Organisation to do this work in partnership with mainstream providers.

Programs that support Aboriginal children and their families

Much of youth justice system and its support services do not work explicitly or extensively with the families of justice-involved children and young people, but are based on individual case management. The introduction of support services that work in an assertive outreach capacity with children and young people, their families and communities would offer a more holistic model of support.

This could be enhanced with referrals from any point along the justice continuum – from court to release from custody – and self-referral from young people. Our response should allow young people to stay with a single program throughout the ‘justice journey’, rather than re-establishing relationships with workers in new programs as their circumstances shift.

Staffing

Jesuit Social Services believes that events over the past five years in youth justice centres in Victoria have highlighted the risk of using an under-skilled, under-resourced and casualised workforce to address the needs of a vulnerable and complex group of children and young people.

We envision a Victorian youth justice workforce that is highly qualified and grounded in principles that place the rights, interests, developmental and cultural needs, and rehabilitation of children and young people at the forefront. This means actively ensuring that Aboriginal children have access to culture while in youth detention.

Jesuit Social Services’ 2017 and 2019 #JusticeSolutions study tours looked beyond our borders for solutions to youth justice problems in Victoria and Australia. Senior leaders of our organisation have visited New Zealand, Norway, Germany, Spain, the United Kingdom and the United States.

In the Netherlands, staff require a minimum three-year bachelor degree to work in youth prisons, and in Spain’s youth detention ‘Re-education Centres’ run by non-profit organisation Diagrama, front-line staff (named ‘educators’) are expected to have a professional qualification. In Norway, the training

undertaken by correctional staff is currently a minimum of two years, and plans are in place to extend this to a three year Bachelor degree in the very near future.

In New Zealand, Jesuit Social Services staff visited two youth justice centres - Korowai Manaaki and Te Maioha o Parekarangi.

Catherine Neville, Executive Director of Advocacy and Strategic Communications at Jesuit Social Services, reflected on the visit to Korowai Manaaki:

“There is a strong focus on relationship with the children and young people, with what they call “care staff” doing regular eight hour shifts, plus a clinical team of social workers and psychologists, each with a caseload of around six young people. The clinical team is responsible for the assessment of each young person, development and implementation of an Individual Support Plan, and the plan for exit from the centre.”

Across youth justice residences, 70 per cent of young people are Māori.² Staff at Korowai Manaaki estimated that 10 per cent of staff at the youth justice centre were Māori themselves.

In Victoria, Aboriginal and Torres Strait Islander children and young people often have had limited culturally appropriate supports in custody. A lack of culturally responsive services can hinder the prospects of rehabilitation for Aboriginal and Torres Strait Islander children and young people³, and is likely to amplify and worsen the multiple disadvantages and vulnerabilities that Indigenous people already face both within detention and post-release.

In order to address the multiple and complex disadvantages that justice-involved Aboriginal and Torres Strait Islander children and young people face, we believe that culturally appropriate support should be available to Aboriginal and Torres Strait Islander peoples in all youth justice facilities. This should include restorative approaches to conflict resolution within custody. As in youth justice facilities in New Zealand, this work should be led by Aboriginal people themselves.

This would be achieved by employing Aboriginal staff or engaging Aboriginal Community Controlled Organisations to deliver therapeutic and rehabilitative programs in youth justice centres, and ensuring that positions designed to support Aboriginal and Torres Strait Islander children in custody are staffed at all times.

Solitary confinement

The Victorian Ombudsman’s latest investigation into the use of solitary confinement in Victoria elucidated the continued mistreatment of children and young people in prisons and youth justice centres in our state. The report also highlighted that despite evidence of its particularly harmful effects on Aboriginal children and young people, solitary confinement is disproportionately used against them while they are imprisoned:

“Almost 30 years ago the Royal Commission into Aboriginal Deaths in Custody acknowledged the ‘extreme anxiety suffered by Aboriginal prisoners committed to solitary confinement’ and recommended that Corrective Services recognise that ‘it is undesirable in the highest degree that an Aboriginal prisoner should be placed in segregation or isolated detention.’ Despite

this, the investigation observed at Malmesbury a disproportionate use of isolation involving Aboriginal young people.”

Aboriginal children should not be subject to the kinds of confinement shown to occur in the Ombudsman’s report. **The use of solitary confinement (the physical isolation of individuals for 22 or more hours a day without meaningful human contact) across youth justice facilities should be banned, as recommended by the Victorian Ombudsman.**

Staff must be equipped with the skills to work with children to ensure safety without the use of solitary confinement, and work in environments conducive to this. **We recommend the use of restorative practice as a proven methodology to facilitate a transition from behaviour management to relationship management in custodial settings.**

Courts

As outlined in our *#JusticeSolutions – New Zealand tour* Final Report⁴, we saw that culture and spirituality was deeply valued in New Zealand’s justice system. Māori and Pasifika tradition was at the centre of the courts, youth justice centres, and the adult prison we visited.

Perhaps the most visible expression of the value of culture was in the alternative youth courts for Māori and Pasifika young people. These courts are open to young offenders in New Zealand of all backgrounds, and are centred on the person – the offender, their family and the victim – and on building ties of community and identity.

The Rangatahi Courts are held at a maraeⁱ and are centred on restorative justice principles. Māori judges preside in these courts, and emphasise the young person’s connection to their heritage, ancestors, natural surroundings, their whānauⁱⁱ and wider community. Rangatahi Courts place an emphasis on Māori tikangaⁱⁱⁱ and pride in culture and self. Courtroom hearings normally involve the young person, their family, victims, and community Elders. Young people learn and deliver their pepeha^{iv} at the beginning of the proceeding. The proceedings start with sharing food between all participants – officials and young people alike.

What we learnt from both Australian Indigenous courts and from Rangatahi and Pasifika Courts is that person-centred and culturally strengthening approaches benefit young people and communities. We saw in New Zealand the immense value of embedded cultural practice for the Māori and non-Māori community alike. Approaches that put young people at the centre, and look to create links to culture and community, can also be beneficial to young people in the wider court system, not just within the context of culturally responsive courts.

We believe Koori Courts in Victoria should be enhanced by elements of the New Zealand model, further embedding culture, language and community control over youth justice processes with a restorative framework.

ⁱ Māori meeting grounds

ⁱⁱ Extended family and family group

ⁱⁱⁱ General behaviour guidelines for daily life and interaction in Māori culture, handed down through generations.

^{iv} Traditional greeting of tribal identity

Racial Equity Tool

One of the measures being used in the US to address the over-representation of minority groups in the criminal justice system is the adoption of 'Racial Equity Tools', which Jesuit Social Services was introduced to during meetings with Seattle University and the City of Seattle as part of our 2017 #JusticeSolutions study tour.⁵

Racial Equity Tools provide a structure for institutionalising the consideration of racial equity and involve assessing (in several ways and at several stages) racial elements of any new proposals. The Tool is designed to integrate explicit consideration of racial equity in decisions, including policies, practices, programs and budgets. The tool is both a product and a process. Use of a Racial Equity Tool can help to develop strategies and actions that reduce racial inequities and improve outcomes for all groups, such as lowering the over-representation of people of colour in detention.

The Tool recognises that many current inequities in our society are sustained by historical legacies, structures and systems that repeat patterns of exclusion. Without intentional intervention, institutions and structures will continue to perpetuate racial inequities. A Racial Equity Tool⁶:

- proactively seeks to eliminate racial inequities and advance equity
- identifies clear goals, objectives and measurable outcomes
- engages community in decision-making processes
- identifies who will benefit or be burdened by a given decision, examines potential unintended consequences of a decision, and develops strategies to advance racial equity and mitigate unintended negative consequences
- develops mechanisms for successful implementation and evaluation of impact.

The tool can be used at multiple levels to increase impact and effectiveness, such as:

- **Government staff:** the routine use of a Racial Equity Tool by staff provides the opportunity to integrate racial equity across the breadth, meaning all governmental functions, and depth, meaning across hierarchy.
- **Elected officials:** elected officials have the opportunity to use a Racial Equity Tool to set broad priorities, bringing consistency between values and practice.
- **Community organisations:** community based organisations can ask questions of government about use of Racial Equity Tools to ensure accountability. In addition, community based organisations can use a similar or aligned Racial Equity Tool within their own organisations to also advance racial equity.

Racial Equity Tools promote data and evidence-based policy decisions that also target specific geographic areas, critical if we are to address locational, entrenched disadvantage. They promote targeting our responses to the most vulnerable members of society and they encourage governments to recognise the unintended consequences of their decisions and to partner with disproportionately affected communities to achieve long-term positive change.

⁵ Two examples of Racial Equity Tools can be found at:

http://www.seattle.gov/Documents/Departments/RSJI/RacialEquityToolkit_FINAL_August2012.pdf and
http://racialequityalliance.org/wp-content/uploads/2015/10/GARE-Racial_Equity_Toolkit.pdf

Racial Equity Tools may be useful in the Australian context, particularly for addressing the over-representation of Aboriginal and Torres Strait peoples in the criminal justice system. There is a need for widespread agreement that any policy, practice or legislative change that has the potential to adversely affect Aboriginal and Torres Strait Islander peoples be thoroughly assessed and reviewed. Racial Equity Tools are a promising mechanism to begin addressing this issue.

What systemic changes are required to reduce youth justice involvement for Aboriginal young people in Victoria?

Preventing contact with the justice system

Jesuit Social Services considers that there are a range of policy, legislative and programmatic reforms that would see Aboriginal and Torres Strait Islander children and young people thrive. These relate to the youth justice system itself, to other systems such as care services with which many children and young people 'crossover', as well as addressing structural disadvantage and enhancing self-determination of Aboriginal and Torres Strait Islander communities.

Supporting Aboriginal and Torres Strait Islander communities

Efforts to reduce the high incarceration rates of Aboriginal and Torres Strait Islander children and young people must encompass healing and strengthen self-determination. Until these issues are addressed, the over-representation in the justice system is likely to continue. As the *Uluru Statement from the Heart*⁶ put it:

Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are alienated from their families at unprecedented rates. This cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future. These dimensions of our crisis tell plainly the structural nature of our problem. This is the torment of our powerlessness. We seek constitutional reforms to empower our people and take a rightful place in our own country. When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country.

Victorian Aboriginal communities must be supported to continue to flourish, giving children and young people the connection to culture and history which is shown to be a protective factor against justice involvement. **To reduce structural disadvantage, investment in place-based responses that are community led and community driven are needed. A community capacity building approach should be supported to bring together the government, community organisations, Aboriginal Community Controlled Organisations and Aboriginal communities.** Through this partnership, knowledge and capacity can be built to respond more effectively, by addressing underlying issues and strengthening connection to culture and community.

Reforms to Care Services

Victorian Aboriginal children are dramatically over-represented in out-of-home care services in comparison with both non-Aboriginal children and Aboriginal children from other states and territories, being more than 16 times more likely to be in out-of-home care than their non-Indigenous counterparts.

It is also well established that there are clear links between young people's involvement in child protection system and youth justice, and rates of 'crossover' for Aboriginal and Torres Strait Islander children are particularly poor; in a recent analysis conducted by the Sentencing Advisory Council, sentenced and diverted children who had experienced out-of-home care were 11.5 times more likely to be Aboriginal and Torres Strait Islander.⁷

As such, any approaches to reducing Aboriginal and Torres Strait Islander over-representation in the justice system must also involve addressing shortcomings and systemic problems within the care service system.

We support the recommendations of the Commission's final report of the Inquiry into compliance with the intent of the Aboriginal Child Placement Principle in Victoria, noting in particular that:

It is essential that the child protection system becomes more Aboriginal-friendly and culturally competent. To support the government's commitment to self-determination, Aboriginal people must be represented at every level of the child protection sector, both within government and in the community. This representation should extend beyond casework roles to include management, leadership and executive positions. Aboriginal decision-makers should participate in all stages of child protection including the Aboriginal Children's Forum; the co-design of policies and programs; Area Panels that set local priorities; and Aboriginal community-controlled organisations that provide case management for Aboriginal children.

Expanding restorative justice to out-of-home care

Immediate steps must be taken to prevent the criminalisation of young people in care services, and Jesuit Social Services believes that there is an opportunity to work in a better way with young people who find themselves in challenging situations in out-of-home care settings. Currently these young people have limited access to a therapeutic, diversionary, restorative based process to work through the issues they face. Too often, the criminal justice system ends up being the default response for these young people.

Restorative approaches to diversion at the point of initial contact with the justice system are critical. A restorative justice process using the methodology of Group Conferencing is an effective means of addressing conflict and repairing the harms experienced by children in residential units. These approaches must also include specific responses for Aboriginal and Torres Strait Islander children and young people in care.

Additional investment would complement the principles outlined in the Victorian Government's *Roadmap for Reform: strong families, safe children* by providing an effective therapeutic and restorative intervention at the pre-court/pre-sentence stage to address issues that contribute to young people's challenging behaviour within residential units and therefore divert them from possible criminal charges. We call for a pilot delivered by an Aboriginal Community Controlled Organisation to be trialled in Victoria to meet this need.

Kinship, placement, and cultural connection

Key issues identified in *In the child's best interests: Inquiry into compliance with the intent of the Aboriginal Child Placement Principle in Victoria*⁸ included systemic barriers to correctly determining Aboriginality, inadequate involvement and resourcing of the Aboriginal Child Specialist Advice and

Support Service and a lack of evidence to demonstrate Aboriginal children are being placed at the highest level of the placement hierarchy. More significant compliance failures included the failure to convene timely Aboriginal Family-Led Decision-Making meetings when protective concerns relating to Aboriginal children are identified, and the lack of cultural support or case plans clearly identify ways to ensure continuing contact with community and culture.

As part of a holistic approach to planning for children in out-of-home care, Victoria has implemented 'cultural plans' – a comprehensive record of a child's Aboriginal cultural information, which sets out intentions to maintain and develop the child's Aboriginal identity and connection to community and culture.⁹ The 2018/19 Budget allocated \$11.9 million over four years to continue this model of cultural planning,¹⁰ and 847 cultural plans have been endorsed since their implementation in 2017.¹¹ However, by the end of March 2019, just 33 per cent of Aboriginal children and young people had approved cultural plans.¹²

Connecting Aboriginal and Torres Strait Islander children and young people in care to culture and community is a protective factor against justice involvement. **Stronger kinship support for children and young people in care is needed, and Aboriginal Community Controlled Organisations must be better resourced to support cultural plan development and implementation.**¹³

Exit Planning

Exit from care services is a highly vulnerable time for young people, when young people are more likely to make contact with the justice system.¹⁴ Vulnerability is mitigated when young people have comprehensive exit plans and access to the supports they need. For Aboriginal and Torres Strait Islander young people, this must include access and connection to culture and community.

As it stands, exit planning rarely commences until a young person turns 16, but should be a priority from the point of entry into care.¹⁵ **Aboriginal Controlled Community Organisations must be engaged and resourced in exit planning for all Aboriginal children and young people in care services and to provide services for Aboriginal and Torres Strait Islander care-leavers.**

The Government has extend support for 250 young people in foster and residential care to the age of 21 as part of its commitment to the Homestretch campaign to raise the age of leaving care to 21. While this is a promising foundation, support is needed for all young people leaving care services of any kind up until at least 21.

Education

Disengagement from education can often be the first sign that a young person has started on a trajectory into anti-social behaviour and involvement with the youth justice system. In Victoria, based on a snapshot conducted by the Youth Parole Board of 226 young people involved in youth justice, 68 per cent had been previously suspended or expelled from school.¹⁶ Initiatives supporting disengaged learners, as outlined below, should be expanded and strengthened.

Koorie Engagement Support Officers

In our experience, Koorie Engagement Support Officers play a valuable role in providing advice to schools about culturally inclusive learning environments, co-ordinating services to support engagement and improving outcomes for Koorie children and young people. Based on this model, **we believe more resources and investment should be dedicated to enable schools to work with families, communities,**

education and service providers to support Aboriginal and Torres Strait Islander learners to participate fully in education, and to support students and families through transitions across all learning stages where appropriate (e.g. into early years, primary, secondary and further education).

Expanding Navigator

Jesuit Social Services delivers casework and support to disadvantaged young learners as part of the Victorian Government's *Navigator* initiative. *Navigator* works with disengaged learners aged between 12 and 17 to engage with them and their support networks to return them to education or training. Re-engaging vulnerable young people in educational, learning and employment pathways gives them the foundational skills and opportunities they need to flourish. The program's work includes the development of individualised learning and cultural plans, and restorative practice including therapeutic and practical support. Jesuit Social Services welcomes the state-wide expansion of the program. In Jesuit Social Services' experience delivering *Navigator*, we have found that young people would also benefit from better coordination between the varying services they interact with. For instance, our work with young people with histories of out-of-home care have often been disengaged from education for some time. Beginning with the school, coordination should be extending to youth justice, family violence services and child protection. **By lowering the age of eligibility for the program to 10, we can intervene earlier with these at-risk young people to disrupt the potential pathway into the youth justice system.**

Case study: Navigator program

When Steven (not his real name), a young Aboriginal boy, engaged with Jesuit Social Services' Navigator program in late 2016 he was experiencing significant challenges with his education. Steven had long-standing issues with attendance, had a diagnosed learning disability and was not receiving any extra assistance in the classroom. Steven only attended three days of school in 2017 and although his mother tried several times to seek extra support for him in the classroom, he was never provided with an Individual Learning Plan. He was also struggling with family conflict, low confidence and a lack of understanding around his own complex needs.

Steven's Navigator case worker was able to gain a deep understanding of his personal challenges, build a sense of trust with him and link him in to culturally-specific services including counselling and group activities. Steven was also supported to enrol in a flexible learning centre where his individual needs were better supported, and where he could benefit from an Individual Learning Plan. Navigator helped Steven re-engage with education and, two years later, he attends approximately 80 per cent of his school timetable. His confidence has grown to the point that he has applied for casual work, which his mother identifies as a major success in his life, and is engaged with work experience through his school.

Steven's story demonstrates the importance of long-term case management with a focus on a young person's health and wellbeing, and the need for a culturally sensitive and respectful framework.

Housing

Aboriginal people in Victoria make up more than 10 per cent of the homeless population despite only comprising one per cent of the general population. The proportion of Aboriginal people in Victoria who had contact with homeless services last year dwarfs all other states. On Census night 2016, 39 per cent of Indigenous people who were homeless were aged 18 or under, most of them under the age of 12.¹⁷

A specific housing strategy for Aboriginal children and young people is needed. This strategy should include a diversity of housing and support approaches for Aboriginal children and young people and

their families. A range of options is required, including alternatives to remand and step-down models to support children and young people as they transition out of youth justice custody or care services.

Jesuit Social Services' Next Steps model prevents homelessness amongst vulnerable young people aged 16–24 involved with the justice system by delivering intensive case management support and providing supported accommodation through our Dillon House facility. This is one such model that could be adapted and delivered on a greater scale to prevent homelessness amongst justice-involved Aboriginal children and young people.

Homelessness amongst justice-involved Aboriginal and Torres Strait Islander children and young people cannot be addressed without significant additional investment in public housing stock across the board. **This is why we call on the Victorian Government to Increase access to public and social housing and build at least 3,000 new public housing properties each year over the next four years.**

Broader youth justice reform

In addition to the recommendations above, reforms to address broader youth justice system failures and shortcomings are needed to reduce the number of Aboriginal and Torres Strait Islander children and young people in detention. These include:

- Raising the age of criminal responsibility to 14 years and funding programs that take a restorative and therapeutic approach to anti-social behaviour in children under the age of 14 years, given that on an average day in 2017-18, 29 per cent of children aged 10-13 under justice supervision were Aboriginal and Torres Strait Islander.
- Investing in alternatives to remand such as supported bail housing in order to reduce the number of children on remand and ensure that detention is a last resort.
- Ensure that children and young people on remand have access to therapeutic, rehabilitative programs and to cultural support, given that remanding young people to custody can disconnect children and young people from family, community and country.
- Expanding the dual track system to include 21-24 year olds.
- Requiring the youth justice workforce – including detention officers and other staff in youth detention centres – to have a minimum professional qualification to ensure the interests, developmental and cultural needs of children are adequately met.
- Limit youth justice detention to best practice models by creating small, home-like facilities for children and young people, close to community, with adequate transitional facilities to prepare young people for release and reintegration.
- Introducing a spent convictions scheme in Victoria to ensure a person's criminal record does not unfairly impact their ability to obtain employment and fully participate in society.

Further details on each of these is included in Jesuit Social Services' publications, including:

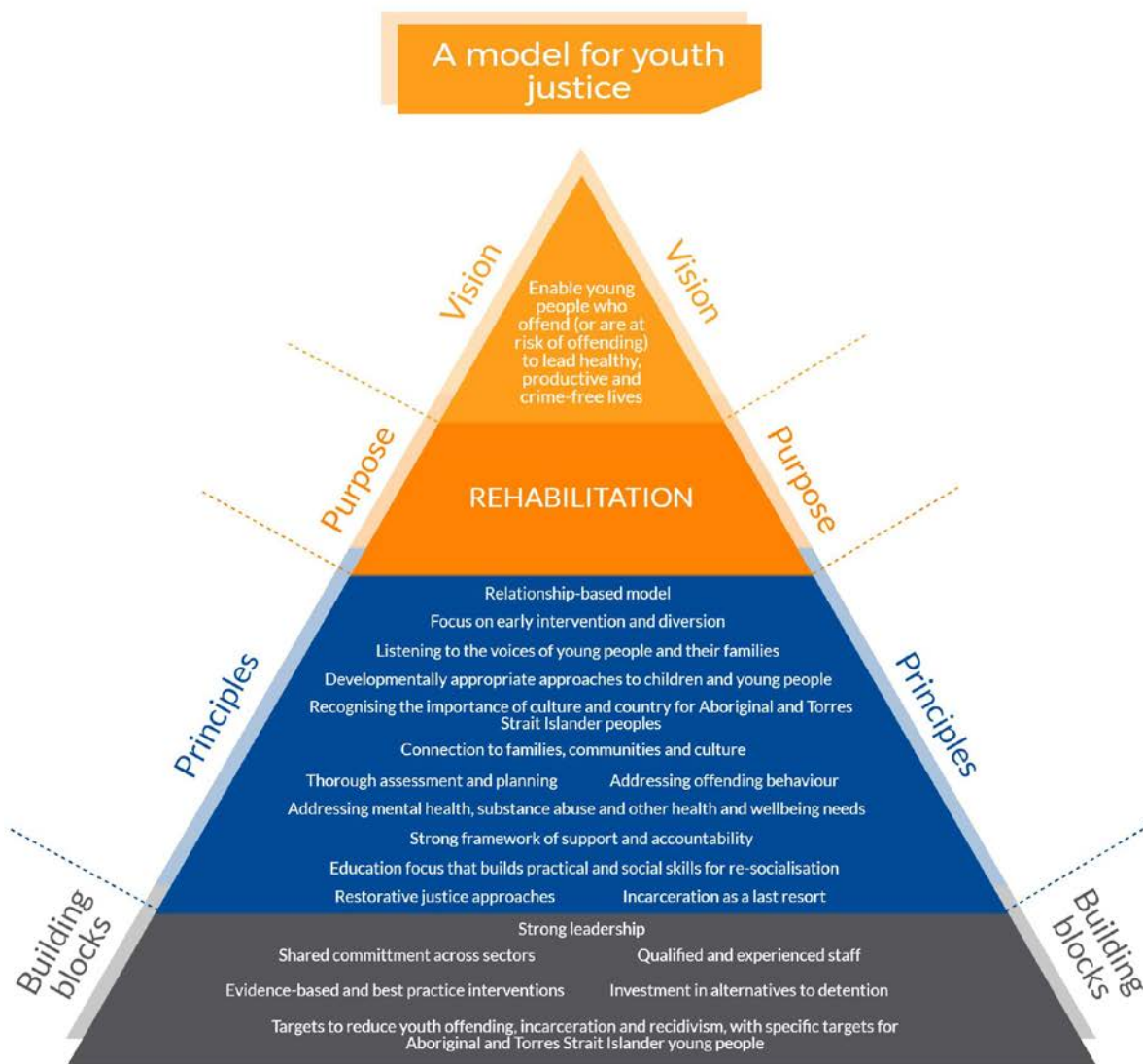
- *#JusticeSolutions: Expanding the conversation (Europe and the USA)¹⁸ and #JusticeSolutions – New Zealand tour¹⁹*
- *All alone: Young adults in the Victorian justice system²⁰*
- Submission to the 2019/20 Victorian State Budget²¹
- Submission to the ALRC Discussion Paper: Incarceration Rates of Aboriginal and Torres Strait Islander Peoples²²

- Submission to the Legal and Social Issues Committee inquiry into a legislated spent convictions scheme in Victoria²³

We also note the critical work of significant inquiries, reports and policy campaigns that offer a roadmap for positive reforms, including the Australian Law Reform Commission's *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*²⁴, Royal Commission into the Detention and Protection of Children in the Northern Territory²⁵, *The same four walls: Inquiry into the use of isolation, separation and lockdowns in the Victorian youth justice system*²⁶ and Change the Record campaign's *Blueprint for Change*²⁷.

In many ways we already have the solutions – the challenge is to commit to change and make them a reality. We call on Governments to commit now to developing new youth justice strategies based on the evidence of what works, so that we can begin building a truly just Victoria.

Appendix: A vision and model for youth justice in Victoria



Detention

- Adopt a relationship-based model across every aspect of operations
- Dynamic security
- Offer small community-based settings (prioritising normality, and ongoing engagement with family and community)
- Facilitate connection with family, community and culture
- Prioritise education and skills for life
- Address offending behaviour
- Address mental health, substance abuse and other health and wellbeing needs
- Focus on re-socialisation, transition and re-integration to the community
- Keep remandees separate from sentenced offenders
- Engage and support staff who have appropriate personal attributes, qualifications and experience to build relationships of trust and deliver on the re-socialisation goal

-
- ¹ Victorian Equal Opportunity & Human Rights Commission. (2018). Aboriginal cultural rights in youth justice centres. Retrieved from <https://www.humanrightscommission.vic.gov.au/home/our-resources-and-publications/reports/item/1729-aboriginal-cultural-rights-in-youth-justice-centres-jul-2018>
- ² Office of the Children's Commissioner. (2017). *State of Care 2017: A focus on Oranga Tamariki's secure residences*. Retrieved from <http://www.occ.org.nz/assets/State-of-Care.pdf>.
- ³ Shepherd, S.M., Oglloff, J., & Thomas, S. (2016). Are Australian prisons meeting the needs of Indigenous offenders? *Health Justice* 2016. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5151790/>
- ⁴ Jesuit Social Services. (2019). #JusticeSolutions New Zealand Tour Final Report. Retrieved from <https://jss.org.au/justicesolutions-new-zealand-tour/>
- ⁵ Jesuit Social Services. (2017). #JusticeSolutions: Expanding the conversation. Retrieved from <https://jss.org.au/justicesolutions-expanding-the-conversation/>
- ⁶ Uluru Statement from the Heart. (2017). Retrieved from https://www.referendumcouncil.org.au/sites/default/files/2017-05/Uluru_Statement_From_The_Heart_0.PDF
- ⁷ Sentencing Advisory Council. (2019). Crossover Kids: Vulnerable Children in the Youth Justice System. Retrieved from <https://www.sentencingcouncil.vic.gov.au/publications/crossover-kids-vulnerable-children-youth-justice-system>
- ⁸ Commission for Children and Young People. (2015). In the child's best interests: inquiry into compliance with intent of the Aboriginal Child Placement Principle in Victoria. Retrieved from <https://ccyp.vic.gov.au/assets/Publications-inquiries/In-the-childs-best-interests-inquiry-report.pdf>
- ⁹ Department of Health and Human Services. (2017). Child Protection Manual. Retrieved from <https://www.cmanual.vic.gov.au/advice-and-protocols/advice/aboriginal-children/cultural-plans>
- ¹⁰ Family Matters. (2019). The Family Matters Report 2019: Measuring trends to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia. Retrieved from <https://www.familymatters.org.au/family-matters-report-reveals-increasing-crisis-for-aboriginal-and-torres-strait-islander-children/>
- ¹¹ Ibid.
- ¹² Ibid.
- ¹³ Baidawi, S., Mendes, P., & Saunders, B.J. (2017). The complexities of cultural support planning for Indigenous children in and leaving out-of-home care: the views of service providers in Victoria, Australia. *Child and Family Social Work* 22, pp. 731-740.
- ¹⁴ Baidawi, S. (2017). The transition from out-of-home care and offending behaviours. Australian Institute of Family Studies. Retrieved from <https://aifs.gov.au/cfca/2017/09/08/transition-out-home-care-and-offending-behaviours>
- ¹⁵ Jackomos, A. (2016). Being strong in Aboriginal identity and culture protects young people leaving care. *Parity* 29, 1.
- ¹⁶ Youth Parole Board. (2019). *Youth Parole Board Annual Report 2018-19*. Melbourne: Victorian Government, Department of Justice and Regulation.
- ¹⁷ AIHW. (2019). Aboriginal and Torres Strait Islander people: a focus report on housing and homelessness. Retrieved from <https://www.aihw.gov.au/reports/housing-assistance/indigenous-people-focus-housing-homelessness/contents/at-a-glance>
- ¹⁸ Jesuit Social Services. (2017). #JusticeSolutions: Expanding the conversation. Retrieved from <https://jss.org.au/justicesolutions-expanding-the-conversation/>
- ¹⁹ Jesuit Social Services. (2019). #JusticeSolutions New Zealand Tour Final Report. Retrieved from <https://jss.org.au/justicesolutions-new-zealand-tour/>
- ²⁰ Jesuit Social Services. (2018). All Alone: young adults in the Victorian Justice System. Retrieved from <https://jss.org.au/all-alone-young-adults-in-the-victorian-justice-system/>
- ²¹ Jesuit Social Services. (2019). Submission to 2019-20 Victorian State Budget. Retrieved from <https://jss.org.au/submission-to-the-2019-20-victorian-state-budget/>
- ²² Jesuit Social Services. (2017). Submission to the ALRC discussion paper: Incarceration rates of Aboriginal and Torres Strait Islander peoples. Retrieved from <https://jss.org.au/submission-to-the-alrc-discussion-paper-incarceration-rates-of-aboriginal-and-torres-strait-islander-peoples/>
- ²³ Jesuit Social Services. (2019). Submission to the Legal and Social Issues Committee inquiry into a legislated spent convictions scheme in Victoria. Retrieved from <https://jss.org.au/submission-to-the-legal-and-social-issues-committee-inquiry-into-a-legislated-spent-convictions-scheme-in-victoria/>
- ²⁴ ALRC. (2018). Pathways to justice – inquiry into the incarceration rate of Aboriginal and Torres Strait Islander Peoples. Retrieved from <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-133-summary/>
- ²⁵ Royal Commission into the Detention and Protection of Children in the Northern Territory. (2017). Final Report. Retrieved from <https://www.royalcommission.gov.au/royal-commission-detention-and-protection-children-northern-territory>
- ²⁶ Commission for Children and Young People. (2017). The same four walls: inquiry into the use of isolation, separation and lockdowns in the Victorian youth justice system. Retrieved from <https://ccyp.vic.gov.au/upholding-childrens-rights/systemic-inquiries/the-same-four-walls/>

²⁷ Change the Record. (2015). Policy framework - Blueprint for change. Retrieved from <https://changetherecord.org.au/policy-framework-blueprint-for-change>