



Submission to the Inquiry into Victoria's Justice System

September 2021



Jesuit
Social Services
Building a Just Society

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Jesuit Social Services: Who we are and what we do

Jesuit Social Services is a social change organisation that delivers practical support and advocates for policies to achieve strong, cohesive and vibrant communities where every individual can play their role and flourish. For more than 40 years, we have accompanied people involved in, or at risk of becoming involved in, the criminal justice system. In Victoria, we work with people to prevent and divert involvement in the justice system and support people exiting prison and youth justice facilities.

We work to build a just society by advocating for social change and promoting the health and wellbeing of disadvantaged people, families, and communities. We value all persons and seek to engage with them in a respectful way that acknowledges their experiences and skills and gives them the opportunity to harness their full potential. As a social change organisation, we seek to *do* and to *influence* by working alongside people experiencing disadvantage and advocating for systemic change. Our service delivery and advocacy focuses on the following areas:

Justice and crime prevention – people involved with the justice system

Mental health and wellbeing – people with multiple and complex needs including mental illness, trauma, homelessness and bereavement

Settlement and community building – recently arrived immigrants and refugees, and disadvantaged communities

Education, training and employment – people with barriers to education and 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 – advocating and conducting research around the systemic change needed to achieve a ‘just transition’ towards a sustainable future, and supporting community members to lead more sustainable lives.

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, businesses, the community sector, and communities themselves 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 First Nations people’s love and care of people, community, land and all life.

Executive summary

Jesuit Social Services welcomes the opportunity to respond to the Legal and Social Issues Committee's *Inquiry into Victoria's Criminal Justice System*. Victoria's prison population has risen dramatically over the past ten years with a key driving factor being a misguided 'tough on crime' approach responding to public opinion in heightened moments. This has led to a trend of reforms to restrict judicial discretion and increase punitive approaches to offending.

High recidivism rates and the common trajectory of young people to the adult justice system points to a systemic failing of Victoria's justice system and a significant disconnect between what works to reduce crime and what the government is implementing. The bi-partisan approach to building more youth justice facilities and prisons in response to a series of high profile incidents has seen unintended consequences for those who have become entrenched in the justice system. Further, it has led to a dramatic increase in government spending and had significant impacts on the environment.

With COVID-19 posing a considerable risk to people in detention, 2020 saw a decline in the rate and number of people imprisoned in Victoria for the first time in a decade, demonstrating that ever-rising prison numbers are not inevitable and reflecting the falling crime rate over this same period. This shows that the use of imprisonment is a policy choice and that an alternative pathway that is more effective and humane is available. Further, the development of initiatives such as the Maribyrnong Community Residential Facility established in response to the COVID-19 pandemic to house men exiting prison, demonstrates that better ways of operating are possible. This Inquiry comes at a critical time during the COVID-19 pandemic where there is an opportunity to build back better rather than return to 'business as usual'.

The recommendations included in this submission provide a framework for reform across both the youth and adult justice systems. They are grounded in the knowledge, expertise and experiences of Jesuit Social Services' program staff and participants, as well as academic research and evidence. More broadly, they are based on over four decades of experience seeking solutions and working with people intersecting with the justice system, as well as their families and communities.

As a starting point, Jesuit Social Services emphasises the need for Victoria's adult and youth justice systems to be premised on a clear vision underpinned by principles of prevention, early intervention and restorative justice. The Government must support and develop place-based approaches in areas of disadvantage centring on community decision-making to address risk factors leading to justice system involvement. This should encompass improved collaboration across key sectors, including housing, health, education and justice. We strongly advocate for coordinated systemic reform and programmatic interventions that increase engagement with education, training and employment, and access to safe, affordable and appropriate housing for children, young people and adults alike.

We are deeply concerned about the ongoing overrepresentation of Aboriginal and Torres Strait Islander people and Culturally and Linguistically Diverse (CALD) people in the Victorian justice system. Strengthening self-determination for Aboriginal and Torres Strait Islander communities is key to addressing overrepresentation and supporting Aboriginal people to thrive in all aspects of life. Aboriginal and Torres Strait Islander and CALD communities are best placed to design and lead services and programs that address key risk factors to justice involvement in a culturally appropriate manner.

We also need to do more to stop violence and anti-social behaviour amongst boys and men from occurring in the first place, and support the growth of respectful and loving relationships. As it stands, the justice system is too often relied on as a blunt tool to address the harm caused by boys and men. Jesuit Social Services strongly believes in primary prevention and early interventions that positively shift beliefs and attitudes surrounding gender norms as critical to addressing the underlying drivers of violence and other harmful behaviours by boys and men.

As a matter of urgency, Jesuit Social Services calls on the Victorian Government to raise the age of criminal responsibility from 10 to 14 years and to fund restorative justice and therapeutic approaches to respond to children under 14 who cause harm. Further, the common trajectory from the out-of-home care system to the youth and adult justice systems must be addressed. Crucial to this is the introduction of restorative and targeted approaches to young people in out-of-home care as well as reforms to ensure the out-of-home care system is relationship-based, trauma-informed and person-centred. More broadly, restorative justice must be expanded across the adult and youth justice systems. Courts and judges have a critical role to play in diverting people from entrenchment in a cycle of offending and reoffending by promoting and practicing restorative justice and cultural safety.

Jesuit Social Services urges the government to ensure imprisonment is only ever used as a last resort. Implementing a solid legislative foundation is critical to safeguarding this. We emphasise the need to wind back regressive legislation that has made it difficult to get bail, removed a series of non-custodial options, introduced functions that erode the dual track system and limited access to parole. Recognising that in some instances imprisonment may be the only option, Jesuit Social Services advocates that its primary goal should be rehabilitation. For this reason, Jesuit Social Services emphasises the need for all Victorian custodial settings to be underpinned by the 'principle of normalcy': that life inside prison should resemble life outside as much as possible. To prevent trajectories from the youth justice to the adult justice system, it is critical that youth justice facilities are small, home-like centres, which are close to family and community and have an overarching emphasis on education and re-socialisation.

The standard and amount of healthcare provided in youth justice facilities and prisons should be equivalent to that provided to the wider community. We highlight the need for a gender-responsive approach to ensure that the underlying circumstances of men, women, and transgender and gender diverse people in contact with the justice system inform the rehabilitative and therapeutic supports they receive. In reducing any harm arising from incarceration, custodial environments must be appropriately resourced with qualified staff and free from the use of isolation, restraint and lockdowns. The implementation of an appropriate accountability framework, including independent inspection and oversight is crucial to reducing the harm of incarceration and ensuring the justice system is fair, effective and humane.

Finally, Jesuit Social Services strongly advocates for better transitions for people exiting custody. The provision of wrap-around, post-release, transitional support programs as well as safe and secure housing specific to the various needs of people leaving custody is critical to enable people to effectively transition back into the community and to break the cycle of offending. With the right leadership, a clear vision and determination, we can enable people and communities to flourish and ensure youth justice facilities and prisons are used as a last resort. Jesuit Social Services would welcome the opportunity to expand further on any of the matters raised in this submission.

Key messages

- **Embed a clear vision with tangible targets** – A whole-of-government vision must be embedded within the adult and youth justice systems, accompanied by tangible targets for reducing the number of people in prison and on remand.
- **Wind back regressive legislation** – Resetting the legislative foundations must be central to realising justice system reform, including by raising the age of criminal responsibility and winding back regressive legislation in relation to dual track, bail and sentencing and parole.
- **Strengthen communities** – Place-based approaches can address the complex and interconnected social determinants of crime, thereby, preventing contact with the justice system.
- **Address the overrepresentation of Aboriginal and Torres Strait Islander people** – Aboriginal Community Controlled Organisations are best placed to design, deliver and control services for Aboriginal and Torres Strait Islander people who are at risk of coming into contact or are already in contact with the justice system.
- **Improve supports for CALD communities** – Commit to long-term investment in education and employment programs and partnerships between mainstream and community-led initiatives for people from CALD communities.
- **Prevent trajectories from youth to adult justice** – Incarceration is, more often than not, a traumatic experience that separates people from families, homes, communities, and the networks of relationship that hold them. It is critical that young people are diverted from justice system involvement at every opportunity.
- **Expand restorative justice** – Restorative justice is more effective than punitive approaches in reducing re-offending and making our communities safer. This must be embedded across the adult and youth justice systems, as well as the out-of-home care system.
- **Ensure imprisonment is only used as a last resort and underpinned by ‘normalcy’** – Imprisonment must only be used as a last resort and, where it is used, a principle governing prisons must be that of ‘normalcy’: that life inside prison resembles life outside.
- **Ensure custodial environments are appropriately staffed** - Invest in training correctional staff to use therapeutic and restorative approaches and introduce a minimum workforce qualification for all custodial youth justice staff.
- **Strengthen healthcare and therapeutic supports** – The therapeutic and health needs of people entering custody must be thoroughly assessed to inform the development of tailored plans to enable their reintegration into the community at the end of their sentence.
- **Ensure transparency of privately owned prisons** - Greater transparency around prison contracts and performance outcomes in private prisons is urgently needed in order to monitor any tension or conflict with the principle of rehabilitation.
- **Implement an appropriate accountability framework** - A fair and human justice system demands the implementation of an appropriate accountability framework, including independent inspection and oversight.
- **Expand transitional support programs** – Ensuring access to transitional support and safe and affordable housing is crucial to help vulnerable people exiting youth detention and prison to get their lives back on track.

Background

Victoria's growing prison population continues to be of great concern to Jesuit Social Services, as does the bi-partisan approach to building more youth justice facilities and prisons rather than investing in alternatives. In Victoria, rates of incarceration have risen dramatically, with the rate of imprisonment increasing by almost 50 per cent and overall prison numbers doubling in the past 10 years.¹ Rates of remand have also increased significantly - in 2011-12, 23 per cent of people in prison were unsentenced (876 of 3,861 people) compared with 58 per cent (2,973 of 5,129 people) in 2019-20.²

The number of children and young people committing crimes is low and declining. Less than one percent of 10 to 17-year-olds in Victoria are sentenced for criminal offences.³ Over the last 10 years, the number of young people aged 10 to 19 committing offences has steadily decreased.⁴ Despite this, there remains 182 children in youth detention on an average night compared to 154 children on an average night in 2010-11.⁵ On average, over half of the children who are currently in youth detention are unsentenced.⁶ We note with concern the number of children who are remanded in custody only to be released when their matters are presented at court.

We have seen populist reactions on the part of governments cultivating a 'tough on crime' image, which has often replaced evidence-based policy. Years of regressive legislative changes have made it harder to get bail, limited access to parole, and removed a series of non-custodial options following a series of high profile incidents. This approach has increased incarceration, and is unsustainable and ultimately will create more victims and harm the community more broadly, including those experiencing the most vulnerability.

There is minimal evidence that tougher sentencing policy improves community safety and rehabilitates people who offend.⁷ In fact, several studies have found that imprisonment increases the likelihood of offending behaviour and has the potential to negatively affect people in prison, particularly younger, lower-risk offenders.⁸ The high rates of recidivism attest to this. In 2019-20, 46 per cent of adults released from prison (in 2017-18) had returned to prison with a new sentence within two years.⁹ Sixty per cent of young people released from youth supervision in Victoria in 2017-18 returned within 12 months.¹⁰

¹ Australian Bureau of Statistics (2019). Prisoners in Australia, 2019 ([Weblink](#))

² Corrections Victoria (2021). Annual prisoner statistical profile 2009-10 to 2019-20 ([Weblink](#))

³ Australia Institute of Health and Welfare (2020). Youth detention population in Australia. Bulletin 148, February 2020. ([Weblink](#))

⁴ Sentencing Advisory Council (2016). Reoffending by Children and Young People in Victoria. Sentencing Advisory Council, Melbourne, December 2016.

⁵ Australia Institute of Health and Welfare (2021). Youth detention population in Australia 2020. ([Weblink](#)); and AIHW (2020). Youth Justice in Australia 2018-19 ([Weblink](#))

⁶ Australia Institute of Health and Welfare (2021). Youth detention population in Australia 2020. ([Weblink](#))

⁷ Wan, W. Y., Moffatt, S., Jones, C., & Weatherburn, D. (2012). The effect of arrest and imprisonment on crime. *Crime and Justice Bulletin*, (158), 1-20. ([Weblink](#))

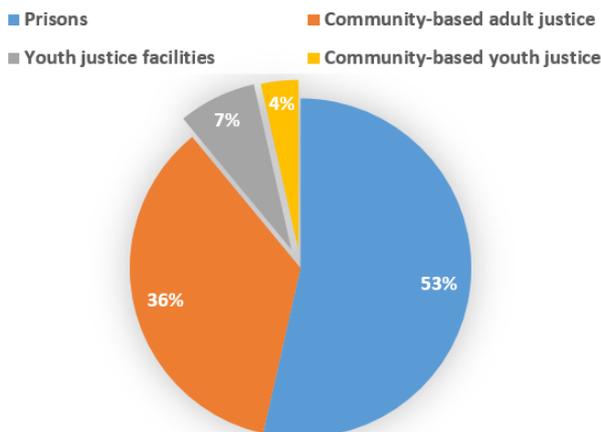
⁸ Nagin, D. S., Cullen, F. T., & Jonson, C. L. (2009). Imprisonment and reoffending. *Crime and justice*, 38(1), 115-200. ([Weblink](#)); Gendreau, P., Cullen, F. T., & Goggin, C. (1999). *The effects of prison sentences on recidivism* (pp. 4-5). Ottawa, Ontario: Solicitor General Canada. ([Weblink](#))

⁹ Productivity Commission (2021). Report on Government Services 2021. ([Weblink](#))

¹⁰ AIHW (2020). Young people returning to sentenced youth justice supervision 2018-19. Table S16. ([Weblink](#))

Undue reliance on incarceration in criminal justice policy is not only unsupported by evidence and harmful to people, families and communities, it also has significant economic and environmental costs. The total budget output for the Corrections portfolio for 2021-22 was \$1.675 billion¹¹, compared to \$639 million in 2010.¹² In 2019-20, Victoria spent \$1.2 billion on prisons (including operating expenditure and capital costs).¹³ This is in contrast to \$797 million spent on community-based adult justice services and adult community corrections.¹⁴ In 2019-20, Victoria spent \$165 million on youth detention services compared to just over \$79 million spent on community-based youth justice services.¹⁵

Figure 1: Victorian Government spending: Incarceration versus community-based supports 2019-20



Source: Productivity Commission (2021). Report on Government Services 2021

The cost of imprisoning an adult per day in Victoria is \$323.45, compared to \$46.84 per day for a Community Corrections Order. The discrepancy between spending on imprisoning people and supporting them in the community is even more dramatic in the youth justice system where the cost of imprisoning a young person per day is \$2,450 compared to \$295 per day for a community-based supervision.¹⁶

The significant environmental toll of building and expanding youth detention facilities and prisons is less discussed. Due to their size, continuous operation and prevailing focus on managing risk and security, prisons are hugely resource-intensive.¹⁷ Prison sites invariably use large tracts of land, often cleared of vegetation, and create significant waste. Further, the impacts of climate change, such as extreme temperatures and increasingly severe and frequent disasters, pose particular health risks to people in prison. These risks may be exacerbated by rising prison populations, prison size and location, overcrowding, punitive practices such as solitary confinement, ageing or otherwise unsuitable infrastructure, and ineffective standards, monitoring and accountability mechanisms. Jesuit Social Services will shortly be releasing a paper, which aims to expand the conversation around the overlapping social and ecological harms of the prison system. We would be happy to provide the Committee with further updates on this research upon request.

The most decisive action we can take is to stop building new youth justice facilities and prisons, reduce the number of people who are incarcerated and invest in keeping people out of custody in the first place. This submission draws on our experience spanning over four decades in seeking alternatives to punitive

¹¹ The Hon. Natalie Hutchins MP, Corrections Portfolio Presentation, Public Accounts and Estimates Committee Inquiry into Budget Estimates 2021-22, 30 June 2021 ([Weblink](#))

¹² The Hon Bob Cameron MP, Corrections Portfolio Transcript, Public Accounts and Estimates Committee Inquiry into Budget Estimates 2010-11, 14 May 2010 ([Weblink](#))

¹³ Productivity Commission (2021). Report on Government Services 2021 – Corrective Services ([Weblink](#))

¹⁴ Ibid.

¹⁵ Productivity Commission (2021). Report on Government Services 2021 – Youth Justice Services ([Weblink](#))

¹⁶ Ibid.

¹⁷ Christoforidis, G. C., Papagiannis, G. K., Brain, M., & Puksec, T. (2014) 'Establishing an assessment framework for energy sustainability in prisons: The E-SEAP project' *14th International Conference on Environment and Electrical Engineering*, 187-192. ([Weblink](#)).

approaches and working with people intersecting with the justice system, as well as their families and communities to offer a series of solutions. We address the first three of the four Terms of Reference as outlined below:

- **Term of Reference 1** – Factors influencing Victoria’s growing remand and prison population.
- **Term of Reference 2** – Strategies to reduce rates of criminal recidivism.
- **Term of Reference 3** – An examination of how to ensure that judges and magistrates have appropriate knowledge and expertise when sentencing and dealing with offenders, including an understanding of recidivism and the causes of crime.
- **Term of Reference 4** - The consideration of judicial appointment processes in other jurisdictions, specifically noting the particular skill-set necessary for judges and magistrates overseeing specialist courts.

Jesuit Social Services believes we must accept the need for justice reform, driven by the power of positive leadership, good will and a shared vision. We hope the *Inquiry into Victoria’s Criminal Justice System* can be part of building that consensus.

Embed a clear vision and reset the legislative foundations

In order to reduce Victoria’s growing remand and prison populations and rates of recidivism, we must accept the need for justice reform, driven by the power of positive leadership, good will and a shared vision across the youth and adult justice systems.

In 2019, senior leaders from Jesuit Social Services embarked on a study trip to New Zealand to learn more about innovative approaches to supporting people who have contact with the criminal justice system.¹⁸ This Justice Solutions tour followed a similar tour in 2017 to Norway, Germany, Spain, the US and the UK.¹⁹ On our Justice Solutions tours, we saw that justice system reform is underpinned by a clear, well-articulated vision, centred on addressing the needs of people and their families. Importantly, a clear vision and framework of principles enables decisions around justice policy not to be driven by politics, but by evidence and best practice. This shared vision binds levels of leadership together and gives confidence in direction. As stated in the [Justice Solutions Tour 2017 report](#):

“Clarity of purpose not only helps ensure consistency within systems, it sets the frame for the attributes and qualifications of the staff required and gives justice personnel a context within which to work, influencing their interactions with people, their understanding of their own role and their motivation to achieve positive outcomes. A clear vision, then, cascades throughout the system.”

Jesuit Social Services has developed key principles for effective and humane justice systems (for a list of the principles please see Appendix A). In summary, our vision is for a justice system that meets the needs and is responsive to everyone, including people who have contact with, or are a risk of contact with, the justice system, as well as staff, victims of crime, families and the broader community. It sees incarceration used only as a last resort and, where it is used, rehabilitation is the priority. Intervening

¹⁸ Jesuit Social Services (2019). #Justice Solutions New Zealand Tour ([Weblink](#))

¹⁹ Jesuit Social Services (2017). #Justice Solutions Tour Expanding the Conversation. ([Weblink](#))

early and diverting children from detention to prevent trajectories to the adult justice system must form a critical part of this vision. Further, the vision must extend across both the youth and adult justice systems to better enable coordination across services and sectors, including health, housing and justice.

Resetting the legislative foundations underpinning the youth and adult justice systems must be central to realising this vision. In Victoria, successive governments have drastically altered bail, parole and sentencing legislation in relation to both youth and adult justice after several high-profile incidents. This has led to a “driftnet justice” effect, where some laws designed for dangerous or serious criminals also disproportionately affect young people and entangle individuals whose offending may have been better dealt with in the community.

We acknowledge the work that is currently being undertaken by the Victorian Government in this area, including the greater emphasis on diverting children from the justice system. However, we hold significant concerns in relation to the move away from approaches that uphold the “best interests of the child”. Further details of the legislative amendments that are needed to reverse the trend in increasing incarceration numbers, including specific recommendations, are outlined in Part Two of our submission.

Recommendation 1: That the Victorian Government commit to a clear vision and framework of principles across the adult and youth justice systems, including by setting tangible targets for reducing the number of people in custody and on remand, and rates of recidivism.

Part One: Prevent crime and intervene early

The information provided in part one of our submission address the following Terms of Reference:

- **Term of Reference 1** – Factors influencing Victoria’s growing remand and prison population.
- **Term of Reference 2** – Strategies to reduce rates of criminal recidivism.

Jesuit Social Services advocates for reforms to Victoria’s criminal justice system to be centred on the principles of prevention and early intervention. We welcome the Victorian Government’s recent [Crime Prevention Strategy](#) to improve outcomes for individuals and communities in Victoria across three interconnected action areas: empowering and investing in communities to deliver effective interventions addressing the causes of offending; enhancing and connecting support to people and communities in need; and building and sharing the evidence-base on what works to prevent crime.²⁰ We hope that the Victorian Government progresses in this direction with stronger and more ambitious commitments, particularly specific to reducing the criminalisation of children and young people in care and raising the age of criminal responsibility, as these are currently omitted from *the Crime Prevention Strategy*.

²⁰ Department of Justice and Community Safety, (2021). Crime Prevention Strategy. State of Victoria. [\(Weblink\)](#)

Build the capacity of communities using place-based approaches

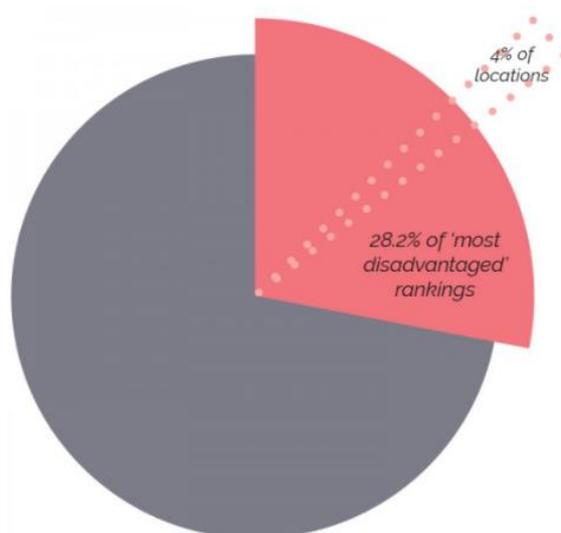
A significant factor that influences whether a person will come into contact with the justice system is where they live. Entrenched geographical disadvantage has been explored in our series of research reports conducted over the past 20 years titled *Dropping off the Edge* (DOTE). The reports have found that communities in particular locations experience a web-like structure of disadvantage, with a number of compounding challenges including unemployment, a lack of safe, secure and affordable housing, low educational attainment, and poor infrastructure and services.

Our DOTE 2015 research revealed that Victorian postcodes where there is entrenched disadvantage are also overrepresented in police and prison statistics, and criminal justice indicators.²¹ In addition, it showed that only six per cent of postcodes accounted for half of all prison admissions highlighting the localised nature of crime and entrenched disadvantage as an underlying cause of offending. The next iteration of DOTE is due to be released in November 2021.

We also know that disadvantaged communities are disproportionately impacted by disasters such as the COVID-19 pandemic, particularly in relation to the use of public health measures such as lockdowns and fines.²² As of May 2020, Victoria had issued the most fines of any Australian jurisdiction, with the most disadvantaged Local Government Areas (LGAs) receiving a proportionately higher number of fines than LGAs with the highest levels of advantage.²³

In order to prevent initial and ongoing contact with the justice system, policy responses and approaches must consider the structural barriers and overlapping social issues specific to geographically defined communities. Jesuit Social Services strongly believes that place-based approaches can address the complex and interconnected social determinants of crime, thereby, preventing contact with the justice system. In discussing place-based responses, it is important to highlight that community development approaches with a focus on local needs and strengths are particularly effective in capturing and amplifying the voice of community.²⁴ To this end, Jesuit Social Services has recently established the [Centre for Just Places](#) to enable and support place-based approaches nationally through research, collaboration, engagement and knowledge exchange. A key focus of the Centre is to build research and advocacy around the need to address the root causes of social, economic and environmental inequality and injustice. As part of the Department of Justice and Community Safety's Common Clients reform, the Centre for Just Places has recently partnered with four Local Site Executive Committees (LSECs) and their

Figure 2: Percentage of postcodes that accounted for prison admissions in 2014-2015



Source: Vinson, T. & Rawsthorne, M. (2015), *DOTE 2015: Persistent Communal Disadvantage in Australia*.

²¹ Vinson, T. & Rawsthorne, M. (2015), *Dropping Off the Edge 2015: Persistent Communal Disadvantage in Australia*. Jesuit Social Services and Catholic Social Services. ([Weblink](#))

²² Law and Justice Foundation of New South Wales. (2018) *Fines: are disadvantaged people at a disadvantage?* ([Weblink](#))

²³ Parliament of Victoria. (2020). *Inquiry into the Victorian Government's response to the COVID-19 pandemic - Interim report*. Public Accounts and Estimates Committee. ([Weblink](#))

²⁴ Craig, G. (2011). *Reflections on community development, community engagement and community capacity building*. *Concept*, 2(2).

local workforces to progress initiatives that incorporate lived experience as a core element of service design and delivery.

Place-based approaches can promote early intervention and prevention initiatives across a broad range of services. They allow earlier and deeper engagement so that the service sector can identify and respond to areas of concern and risk factors such as family violence, insecure housing, and disengagement from education, substance misuse or poor mental health. For example, through our [Connexions](#) program, Jesuit Social Services engages young people experiencing mental health and substance misuse issues in relationships of trust and understanding, providing a professional service of counselling, casework and advocacy. Additionally, we deliver [Navigator](#), which includes case management and intensive outreach for young people to create their own education re-engagement plan (outlined in further detail below).

Place-based approaches require concerted, sustained, collaborative and long-term commitment across the government, community and business sectors to improve access to appropriate housing, education, employment and support services. They must also be community owned and driven, and directed at the individual, community and state levels.²⁵ Further, access to data plays a critical role in informing place-based approaches. However, at present, data are fragmented across the criminal justice system and social service agencies, which limits our ability to have a clearer picture of locational disadvantage and the current effectiveness of the systems that respond to people experiencing vulnerability. There is an urgent need to improve the collection of data relating to disadvantage and conditions that support community strengthening and resilience so that this can inform long-term, co-ordinated whole of government and community led responses.

Recommendation 2: That the Victorian Government continue to support and develop long-term, place-based approaches in areas of disadvantage that centre community decision-making and address the range of factors which can lead to involvement with the justice system.

Recommendation 3: That the Victorian Government work with relevant departments to improve statewide data collection and research to establish indicators of risk as well as community strengths to enable earlier intervention and prevent contact with the justice system.

Strengthen self-determination for Aboriginal and Torres Strait Islander communities

Jesuit Social Services believes that the overrepresentation of Aboriginal and Torres Strait Islander people²⁶ in the adult and youth justice systems in Victoria and nationally is a disgrace. We seek to highlight the historical and structural root causes of this overrepresentation and advocate for a genuine commitment to Aboriginal self-determination as critical to preventing contact with the justice system. We acknowledge the important work of the Victorian Government and First People's Assembly of Victoria in establishing the Truth and Justice Commission. We are also encouraged by recent Budget funding allocations for Aboriginal community-led responses to establish and expand programs and supports to help reduce the overrepresentation of Aboriginal children in the youth justice system.

²⁵ Jesuit Social Services. (2017), *Flourishing Communities: Taking lessons from place-based approaches, justice reinvestment and social cohesion*. Position paper. Jesuit Social Services. ([Weblink](#))

²⁶ Note: Hereafter we use the term 'Aboriginal' to describe the many Aboriginal and Torres Strait Islander people, clans and Traditional Owner groups of this land.

In 1991, the *Royal Commission into Aboriginal Deaths in Custody* found that Aboriginal people were grossly overrepresented in custody. Despite the Royal Commission making a number of recommendations for policy and legislative reform, Aboriginal people remain significantly overrepresented in Victorian prison populations and the criminal justice system more broadly.

Aboriginal people have been the subject of adverse government interventions since early colonisation and continue to experience the ongoing impacts of dispossession, structural racism, intergenerational trauma and disadvantage.²⁷ Whilst this has been widely accepted in the literature and acknowledged as the root cause of overrepresentation in Victorian frameworks (such as *Burra Lotjpa Dunguludja: Aboriginal Justice Agreement 4* and *Youth Justice Strategic Plan 2020–30*), disproportionate over-incarceration, a culture of over-policing and structural racism remain a daily reality for Aboriginal communities.

Structural and systemic racism are key underlying drivers of the rising Aboriginal prison population. PwC's 2017 report *Indigenous incarceration: Unlock the facts* found systemic racism spans across the justice system from policing, legal assistance and courts.²⁸ Additionally, it found that Aboriginal young people are much less likely to receive a police caution compared to non-Aboriginal young people.²⁹ The report also highlighted studies of sentencing outcomes in Magistrates' courts, which showed that imprisonment is a more likely outcome for Aboriginal people who have offended than for non-Aboriginal people.³⁰ These experiences are evident in the data where on an average day in 2019-20, 15 per cent of the children under youth justice supervision in Victoria were Aboriginal despite only making up 1.5 per cent of all children in Victoria.^{31 32} Aboriginal children were also nine times more likely to be in custody than their non-Aboriginal counterparts.³³

The watershed Commission for Children and Young People's (CCYP) inquiry - *Our Youth, Our Way* - examined the lived experiences of Aboriginal children and the various factors that contribute to their overrepresentation and provided a number of key recommendations for reform. Jesuit Social Services supports the full implementation of these recommendations. The inquiry highlighted the systemic causes of challenges faced by Aboriginal children, which influence their involvement with the justice system. Some of these included interrupted engagement with education, mental health and substance misuse concerns, entrenched family disadvantage, involvement with the child protection system and disproportionate youth justice involvement at an earlier age.³⁴

Adult Aboriginal overrepresentation is also evident in Victoria where, as at March 2021, Aboriginal adults were 13.8 times (per 100,000) more likely to be imprisoned than adults in the general population.³⁵

²⁷ Commission for Children and Young People (2021). *Our youth, our way: inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system.* ([Weblink](#))

²⁸ PwC's Indigenous Consulting. (2017). *Indigenous incarceration: Unlock the facts.*

²⁹ Ibid.

³⁰ Ibid.

³¹ Commission for Children and Young People (2021). *Our youth, our way: inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system.* ([Weblink](#))

³² Note: Throughout this submission, the term 'children' is used purposefully to refer to persons under 18 years of age. This is consistent with the definition of the governing legislation, the *Children, Youth and Families Act 2005*.

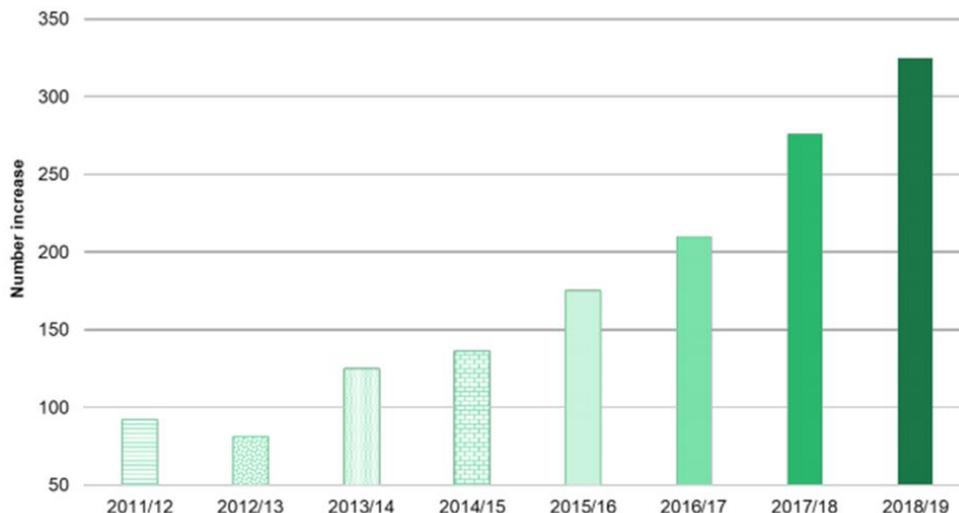
³³ Commission for Children and Young People (2021). *Our youth, our way: inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system.* ([Weblink](#))

³⁴ Ibid.

³⁵ Australian Bureau of Statistics (Australian Government) (2021). *Corrective Services March 2021.* ([Weblink](#))

Jesuit Social Services is particularly concerned that Aboriginal women are the fastest growing prison population in Victoria (see Figure 3). The number of Aboriginal women entering prison in Victoria more than tripled between 2012 and 2019.³⁶

Figure 3: Increase in the number of Aboriginal and Torres Strait Islander women received into prison, 2012-2019



Source: Centre for Innovative Justice (2021). *Leaving custody behind: Foundations for safer communities and gender-informed criminal justice systems.* ([Weblink](#))

Culture plays a central role in the lives of Aboriginal people, particularly for children. It can support healing, protect health and wellbeing, and build identity, resilience and connection to community and Country. As stated in *Our Youth, Our Way*:³⁷

“Connection to culture can be transformative and instrumental in supporting Aboriginal children and young people to avoid contact with the youth justice system.”

A key finding of the inquiry was that services designed, controlled, and delivered by the Aboriginal community resulted in the best outcomes for Aboriginal children involved with youth justice with positive flow on effects for the wider Aboriginal community.³⁸

Jesuit Social Services supports the right of Aboriginal Victorians to self-determination, and notes that in accordance with the *United Nations Declaration on the Rights of Indigenous People*, by virtue of that right they freely determine their economic, social and cultural development. As noted in the Preamble of the *Victorian Charter of Human Rights and Responsibilities Act 2006*, human rights have a special importance for the Aboriginal people of Victoria, as descendants of Australia's first people, with their diverse spiritual, social, cultural and economic relationship with their traditional lands and waters.

³⁶ Australian Bureau of Statistics (Australian Government) (2021). *Corrective Services March 2021.* ([Weblink](#))

³⁷ *Ibid.*

³⁸ Commission for Children and Young People (2021). *Our youth, our way: inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system.* ([Weblink](#)) p.34

We therefore advocate for increased funding to Aboriginal Community Controlled Organisations (ACCOs) to deliver services that ensure Aboriginal children remain connected to community and culture, and have risk factors such as homelessness, mental health issues, substance misuse and child protection involvement addressed.

Recommendation 4: That the Victorian Government resource ACCOs to design, lead and deliver services and programs aimed at early intervention to address the overrepresentation of Aboriginal and Torres Strait Islander people in contact with the justice system.

Recommendation 5: That the Victorian Government support the Uluru Statement from the Heart and its call for a First Nations Voice to Parliament as protected by the Constitution to progress the right of Aboriginal Victorians to have a say in the decisions that affect their lives.

Support culturally and linguistically diverse communities

As acknowledged in the [Youth Justice Strategic Plan 2020–30](#), CALD children are disproportionately overrepresented in the Victorian youth justice system. Almost 40 per cent of children in custody identified as being from CALD communities, mainly Māori, Pacific Islander and South Sudanese.³⁹ The number of children held on remand in Victoria mirrors these findings, where 12 per cent of children on remand are from Sudanese communities and 12 per cent, from New Zealand, Māori and Pasifika communities.⁴⁰ There are many factors leading to the overrepresentation of CALD communities in the justice system, including family breakdown, financial and housing challenges, mental health issues, unemployment and experiences of racism and discrimination.⁴¹

According to a report commissioned by Kensington & Flemington Community Legal Centre, Victoria Police have introduced policies against race-based stops by police, however, they do not have any measures in place to track ongoing racial profiling.⁴² On one of the few instances when data has been made publicly available in Victoria, racial biases in police stopping patterns have been evident.⁴³ There is a critical need to address this as well as racism in the wider community.

The overrepresentation of CALD people in contact with the justice system has been further highlighted by the COVID-19 pandemic. During the 2020 lockdowns in Victoria, people from CALD communities were overrepresented among those fined for COVID-19 related breaches by Victoria Police. Crime Statistics

³⁹ Victorian Government. (2020). Youth Justice Strategic Plan 2020–2030. ([Weblink](#))

⁴⁰ Sentencing Advisory Council. (2020). Children Held on Remand in Victoria: A Report on Sentencing Outcomes. ([Weblink](#))

⁴¹ Shepherd, S., & Masuka, G. (2020). Working With At-Risk Culturally and Linguistically Diverse Young People in Australia: Risk Factors, Programming, and Service Delivery. *Criminal Justice Policy Review* ([Weblink](#)); Wylie, L., Van Meyel, R., Harder, H., & Sukhera, J. (2018). Assessing trauma in a transcultural context: Challenges in mental health care with immigrants and refugees. *Public Health Reviews*, 39(1). ([Weblink](#))

⁴² Hopkins, T. (2017). Monitoring Racial Profiling - Introducing a scheme to prevent unlawful stops and searches by Victoria Police - A report of the Police Stop Data Working Group. Flemington & Kensington Community Legal Centre. ([Weblink](#))

⁴³ In *HaileMichael v Konstantinidis* (a race discrimination claim by a group of African young people against Victoria Police) the Federal Court of Australia requested the release of data. This showed that in the Flemington/North Melbourne, 45.6 per cent of all Victoria Police stops (field contacts) of young people were of African/Middle Eastern youth, and yet African/Middle Eastern youth constituted only 18 per cent of the youth population in this area.

Agency data for April to September 2020 indicate that South Sudanese-born Australians received 65 (or 0.79 per cent) of the 8,161 fines, while they constitute only 0.14 per cent of the Victorian population.⁴⁴

In order to address the overrepresentation of CALD people in Victoria's justice system, there are a number of responses that must be implemented that are designed and led by CALD communities, including:

- Involving communities incorporating extended family and traditional knowledge to develop a sense of community ownership and control, thus contributing to empowerment and self-determination.
- Recruiting police and corrections staff from CALD communities to strengthen positive relationships between community and the police and deliver a coordinated response to incidents (e.g. [Victoria Police Diversity Recruitment Program](#) – see further details below).
- Establishing cultural programs and cultural safety within the justice system, particularly in custody.
- Embedding restorative justice practices, community-based sanctions, and treatment and rehabilitation interventions.
- Creating training, education and employment opportunities for CALD young people (e.g. [Jesuit Community College](#) and [the Ignatius Learning Centre](#) – see further details below).

Jesuit Social Services emphasises the importance of ensuring the Victoria Police workforce is culturally safe and reflects the diversity of the Victorian community. We commend Victoria Police for partnering with Jesuit Social Services, the African Australian Multicultural Employment and Youth Services (AAMEYS), Victoria University Polytechnic, AMES Australia, MatchWorks, and Maurice Blackburn Lawyers to deliver the Victoria Police Diversity Recruitment Program, which seeks to increase the representation of African-Australians from refugee and other backgrounds in Victoria Police. As at December 2020, 51 participants were progressing through the recruitment process or alternative employment pathways, 28 participants had passed the Victoria Police Entrance Exam and five participants have received an offer to join the Victoria Police Academy.

Jesuit Social Services welcomes the announcement of funding in the 2021-22 Victorian Budget for community-led initiatives to provide vulnerable young people from African and Pasifika backgrounds with culturally specific early interventions and increased education and employment opportunities. We are committed to ensuring CALD communities have access to education and employment opportunities. We are dedicated to achieving this by adopting programs and supporting networks that create job opportunities and ensure economic security – such as our Settlement Program, Homework Club, Jobs Victoria Employment Services, the Corporate Diversity Partnerships and Victoria Police Diversity Recruitment Program.⁴⁵

Another example of our commitment to expanding employment opportunities for CALD communities through our African Australian Inclusion Program (AAIP), which Jesuit Social Services runs in partnership with National Australian Bank. Building on this success, we developed the Corporate Diversity Partnerships program to help companies connect with a diverse talent pool of qualified people from refugee and migrant backgrounds. This has included collaboration with Melbourne Water, Victoria University, John Holland, the Australian Taxation Office and Yarra Valley Water. Such programs broaden employment prospects for CALD communities, positively impacting families and communities. They also

⁴⁴ Crime Statistics Agency. (2020). Police-recorded crime trends in Victoria during the COVID-19 pandemic: update to end of September. ([Weblink](#))

⁴⁵ For details, see: [Jesuit Social Services' Education, Training and Employment Programs](#)

benefit the private sector by opening up an untapped labour market of talented workers while also creating a diverse workplace environment.

Recommendation 6: That the Victoria Government invest in community designed and led responses to address the overrepresentation of young people from CALD communities in the justice system.

Recommendation 7: That the Victorian Government commit to long-term investment in education and employment programs and partnerships between mainstream and community-led initiatives for people from CALD communities, particularly children.

Increase engagement in education, training and employment

Engagement with education, training and employment is widely regarded as a key protective factor against involvement in the criminal justice system. However, many people experience significant and ongoing challenges to remaining engaged in education, training and employment. In order to prevent the cycle of involvement with the criminal justice system for children, young people and adults alike, there is a need for preventative and coordinated systemic reform as well as programmatic interventions to increase engagement in education, training and employment.

Maintain engagement with primary and secondary education

In partnership with the Victorian Aboriginal Child Care Agency (VACCA), Jesuit Social Services delivers case management and intensive outreach to disengaged young learners aged 12 to 17 as part of the [Navigator](#) initiative. The program's work includes the development of individualised re-engagement learning plan and cultural plans that express individual goals, address specific barriers, responds to issues underlying non-attendance and works restoratively with children's support networks. Re-engaging children in education, learning and employment pathways gives them the foundational skills and opportunities they need to thrive.

CASE STUDY: Steven*

** Name has been changed to protect privacy*

When Steven, a young Aboriginal boy, engaged with Jesuit Social Services' Navigator program he was experiencing significant challenges. In the year before he engaged with Navigator, Steven only attended three days of school. He has a diagnosed learning disability and was not receiving any extra assistance in the classroom. 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 those around him not understanding his complex needs. Steven's Navigator caseworker was able to gain a deep understanding of his personal challenges, build a sense of trust, and link him in to culturally safe services. 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. Two years later, Steven was attending approximately 80 per cent of his school timetable. His confidence had grown to the point that he had applied for casual work and he was engaged with work experience through his school. Steven's story demonstrates the importance of long-term case management with a focus on health and wellbeing, and the need for culturally sensitive and respectful work.

We strongly believe that a targeted approach to keeping children engaged or supporting them to re-engage with education is a key preventative measure against justice system involvement. Jesuit Social services would like to see a lowering of the eligibility age for Navigator from 12 to 10 years, which can guarantee intervention at the critical transition period from primary to secondary schooling. Key transition points can be particularly challenging for vulnerable children and have consequences for engagement, therefore, interventions should also target the transitions between early childhood to primary, secondary to apprenticeships, TAFE or higher education. Further to this, the Victorian government must ensure that school budgets have equitable distribution of funding that is dedicated to supporting vulnerable children and families as well as additional resources and programs dedicated to keeping children engaged in school.

Address barriers to employment

People with limited educational attainment, people who have been out of the workplace or education for some time, and people who experience poor mental health or who may be involved in the justice system face significant barriers to employment and often require assistance to build their skills and readiness for work. We know from our experience in delivering pre-accredited training that this provides a critical stepping-stone and is a key protective factor against further disadvantage and justice involvement. This means providing long-term funding support for effective education and training programs, particularly, support for key foundational learning pathways, including pre-accredited training⁴⁶ and accredited foundation skills training; programs to assist vulnerable and disengaged learners; and training and educational opportunities for young people engaged in the child protection and youth justice systems.

Jesuit Social Services runs a number of education, training and employment programs for young people. [Jesuit Community College](#) is a Registered Training Organisation, which provides both accredited and pre-accredited training to young people facing barriers to mainstream education. We offer nationally recognised qualifications in general education for adults and short courses that support people to increase their skills, confidence and engagement with workplace training and, ultimately, to support their transition into work. Participants gain the essential foundational learning and personal skills they need to make a successful transition to formal accredited training and employment. For some people, this is their first such opportunity in many years. It is therefore critical for the government to increase and commit to long-term funding for pre-accredited training programs to support often highly vulnerable people to enter or re-enter education and training as a pathway to employment.

Stable and secure employment is a key pathway out of disadvantage and involvement with the criminal justice system. Jesuit Social Services conducts a number of workplace inclusion programs in corporate, community and small business settings⁴⁷. Initiatives such as the Jobs Victoria Employment Service (JVES) have enabled us to work closely with employers to identify job opportunities for people who face significant barriers, including poor mental health or other complex needs. These cohorts require individualised, flexible and long-term support, which can be provided through pre-accredited and foundation skills training, and then through their engagement in JVES programs. JVES is a strong example

⁴⁶ Note: 'Pre-accredited training' refers to "short vocational courses which create pathways into employment or further education and training." Source: Legislative Assembly Economy and Infrastructure Committee (2020) ([Weblink](#)). Parliament of Victoria, pp. 78, 266.

⁴⁷ For more details, see: [Jesuit Social Services Workplace inclusion initiatives](#)

of an employment services scheme that works well when implemented at the local level. Jesuit Social Services has recently received funding to extend its scope to adults who have exited prison as well as young people under 25 years of age.

Recommendation 8: That the Victorian Government lower the age of Navigator to 10 years to support vulnerable children to re-engage with education at the critical transition period from primary to secondary schooling.

Recommendation 9: That the Victorian Government continue to fund initiatives that help people facing barriers to employment, such as Jobs Victoria Employment Services Skills.

Reform the out-of-home care system

It is well established that there are strong links between children’s involvement in the child protection and out-of-home care systems and involvement in the justice system. Aboriginal children are a particularly vulnerable cohort of crossover children⁴⁸ being overrepresented at every level of child protection and youth justice involvement. Aboriginal crossover children are also more likely to be younger – 23 per cent were 10-13 years old at first sentence or diversion, compared to 11 per cent for non-Aboriginal children.⁴⁹

Children in out-of-home care are among some of the most vulnerable having often experienced multiple and overlapping challenges including trauma, mental health concerns, experiences of family violence, substance misuse or entrenched intergenerational disadvantage. The children who are placed in residential care (rather than foster or kinship care placements) often have the highest and most complex needs, and most challenging behaviours, and have experienced significant neglect and trauma. A contributing factor to contact with the youth justice system for some of these highly vulnerable children is being placed in an environment that often exacerbates the underlying challenges they are facing.

The recent Sentencing Advisory Council *Crossover Kids* report found that the majority of crossover children were known to child protection before their first sentence, indicating that there are likely to have been opportunities for child protection and associated support services to intervene earlier.⁵⁰ The report highlighted that more than half of the children in care offended only after being placed in care suggesting that the experience of care itself was a contributing factor behind offending.⁵¹ This finding was reflected in the Commission for Children and Young People’s *Out of Sight* inquiry, which highlighted a clear link between children who were absent from residential care having contact with police and/or the youth justice system.⁵² The report concluded that this was due to an inadequate residential care model in Victoria, which fails to meet children’s fundamental need for human connection.

We believe there is an opportunity to work in a better way with children who find themselves in challenging situations in out-of-home care settings. Currently these children have limited access to a

⁴⁸ Note: The term ‘crossover children’ has been used in research to describe children with involvement in both the criminal justice and the child protection systems.

⁴⁹ Sentencing Advisory Council (2020). [Crossover Kids: Vulnerable Children in the Youth Justice System, Report 2: Children at the Intersection of Child Protection and Youth Justice across Victoria.](#)

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Commission for Children and Young People (2021). *Out of sight: Systemic inquiry into children and young people who are absent or missing from residential care.* ([Weblink](#))

therapeutic, diversionary, restorative based process to work through the issues they face. Jesuit Social Services commends the Victorian Government for demonstrating a significant commitment to address this by developing the [Framework to Reduce Criminalisation of Young People in Residential Care \(the Framework\)](#). However, the out-of-home care system urgently requires additional reforms to meet the immediate needs of children, particularly to reduce reliance on police and stigmatising approaches that are punitive and treat children in care as offenders.

As part of this, we strongly believe that restorative practices such as group conferencing should be expanded and made available to children in out-of-home care placements. Restorative practices have the potential to address behavioural issues for children in out-of-home care and prevent their criminalisation whilst in care. More broadly, Jesuit Social Services supports the Commission for Children and Young People's recommendation for systemic reform to fund and implement a new model of care that "embeds a young person's life aspirations, talents and goals into everyday case management and their time in placement".⁵³

Many of the referrals Jesuit Social Services receives for its supported housing and Individual Support (ISP) programs are for young people turning 18 in residential care who have complex and multiple needs and are exiting the out-of-home care system with no appropriate exit options, particularly in regard to housing. Jesuit Social Services welcome the Victorian Government's recent budget allocation towards specialist homelessness services for young people leaving care. We call for further investment, for young people turning 18 in residential care for an ongoing independent supported housing option with 24/7 support – similar to our *Next Steps* supported housing program for 16–24 year-olds who are involved with the justice system and are experiencing, or are at risk of, homelessness. This would complement the principles outlined in the [Roadmap for Reform](#) and is in line with the recommendations of the Commission for Children and Young People's *Keep Caring* report.⁵⁴

Recommendation 10: That the Victorian Government expand restorative justice conferencing to children and young people in out-of-home care placements who come into contact or are at risk of coming into contact with the justice system to prevent their criminalisation whilst in care.

Recommendation 11: That the Victorian Government introduce an initiative specifically for young people turning 18 in residential care for an ongoing independent supported housing option to prevent them from experiencing homelessness.

Recommendation 12: That the Victorian Government commit to systemic reform of the out-of-home care system to ensure that it is relationship-based, trauma-informed and centred on the needs and goals of children.

Address the use of violence and harmful behaviours by boys and men

The justice system is relied on too heavily as a blunt tool to address violence and anti-social behaviour. We need to do more to stop harm from occurring in the first place and support the growth of respectful

⁵³ Commission for Children and Young People (2020). 'Keep caring': Systemic inquiry into services for young people transitioning from out-of-home care p. 28. [\(Weblink\)](#)

⁵⁴ Ibid.

and loving relationships. The impact of family violence on women, children, families, communities, and society as a whole is profound.

Promote positive change around gender norms and stereotypes

In preventing contact with the justice system, there is a compelling need to address the root causes of violence by supporting boys and men to live respectful, accountable and fulfilling lives, enabling them to develop loving relationships free from violence and contribute to safe and equal communities. Our priority must be to make women and children safe; change structures, norms and practices that regard women as inferior and condone violence against them; ensure that violence is reported and sanctioned; and hold men to account for their actions.

We need to promote positive change around gender norms and stereotypes and what it means to be a healthy and respectful man in the 21st century.⁵⁵ We also need to focus on the contributing factors to male violence like mental health issues, substance misuse and social isolation. To this end, through [The Men's Project](#), Jesuit Social Services has taken steps to better understand and respond to male violence and other harmful behaviours. Through our '[Man Box](#)' research, which surveys men and boys on their beliefs about sex, gender and violence, we found that young Australian men who believe in outdated masculine stereotypes were themselves at higher risk of using violence, online bullying and sexual harassment, engaging in risky drinking and reporting poorer levels of mental health.

Increasingly we are taking a similar approach, in partnership with schools, through our Adolescent Man Box survey. This is the first study that focuses on the attitudes to manhood and the association between these attitudes and the mental health, wellbeing, risk behaviours, and sexist attitudes and behaviours of Australian adolescents aged 11 to 18. One of the key aims of this work is to measure the level of societal messages regarding the Adolescent Man Box rules, as well as the extent to which adolescent boys accept or endorse the rules of the Adolescent Man Box. In partnership with the Islamic Council of Victoria, we are expanding this work to additional schools and will release aggregated results across all schools once our sample is better representative of Australian adolescents (for further details, please see Appendix B).

We believe that role models – both male and female – in places where boys and men live, work, and meet are crucial. We want to support role models who interact with boys and men on a regular basis so they can challenge limiting and harmful stereotypes and promote respect and equality. Our [Modelling Respect and Equality](#) (MoRE) program helps role models such teachers, social and youth workers, and sports coaches, in youth justice facilities, prisons, emergency services, community health services and schools to be agents of change in their communities. MoRE promotes social change across the community by fostering peer leadership and thus addressing the culture that underpins gender inequities and the associated harms experienced by both women and men. Through training workshops and ongoing engagement over a period of three to six months, participants in MoRE are supported to build deeper understanding of key issues, develop greater self-awareness, learn how to model and promote positive change, recognise and challenge problematic attitudes and behaviours, and actively influence and make an impact in their community. With commitment from the Victorian government,

⁵⁵ King, T. L., Shields, M., Milner, A., Vaughan, C., Shakespeare, T., Currier, D., & Kavanagh, A. (2020). Conformity to masculine norms: Differences between men with and without a disability. *Psychology of Men & Masculinities*, 21(3), 380–391. ([Weblink](#))

this program has the potential to support people working in prisons to raise awareness and challenge Man Box norms as part of a broader workforce capacity building and cultural change program.

CASE STUDY: Tao

As a younger man, Tao's life was filled with trauma and insecurities. His world was built on values and attitudes that did not serve as a good foundation for healthy relationships with himself and others. Over time, Tao thought deeply about the impacts that culture has on the psyche of men and the unhealthy outcomes that these belief structures can lead to. By chance, in early 2018, Tao met a Jesuit Social Services staff member and they spoke about unhealthy masculinities and his interest in helping men overcome pressures to conform to rigid gender roles. The staff member suggested he check out Modelling Respect and Equality program (MoRE).

"I couldn't believe how much the program validated many of the things I felt about Man Box ideologies," says Tao.

In late 2019 Tao joined The Men's Project team and, in partnership with Jesuit Social Services' Just Voices program, presented to school students on his experience moving toward healthier masculinities.

"When COVID-19 hit, I put my work as a Thai boxing coach on hold and applied through the Working for Victoria scheme for a six-month role as a facilitator in The Men's Project team. Presenting (to a group) requires me to look back over the difficult times in my life and I'm grateful for the opportunity to engage in such valuable and meaningful work with young men and women across Victoria. I feel a deep sense of purpose sharing this work with so many people."

Unfortunately, responses to young boys heading down a path of trouble often come too late, once they have already disengaged from school. Jesuit Social Services has developed a new program, Before It Starts, with funding raised from philanthropic and donor sources. Before It Starts is based on the successful Navigator model discussed earlier and adapted for a younger cohort. We are currently in the final stages of preparation to pilot the program in two primary schools located in regional and outer metropolitan Melbourne areas.

Before it Starts was developed as an early intervention strategy to respond to boys aged 8 to 12 years from diverse communities to strengthen relationship skills and school engagement, and curb violent behaviour. The program works with boys who are using violence or demonstrating antisocial behaviours at school. Using a combination of socio-emotional group work and tailored one-on-one work, the program seeks to raise awareness and challenge stereotypical masculine norms – a primary driver of violence. The program also works with parents and school staff to promote an understanding of healthy masculinities and build capacity in the application of restorative practice. Designed for sustained capacity building in schools, while delivered as a practical program with a current Grade 5-6 cohort, Before It Starts is building an evidence-based scalable model for adaptation broadly by schools.

Respond to adolescents who use family violence

Unfortunately, rates of family violence have increased since the onset of COVID-19 related restrictions, with the number of family violence incidents in June 2020 being 15 per cent higher than in June 2019. Relevant statistics indicate that family violence is one of the most prevalent types of crime in Australia, and that family violence is “a gendered crime, with women much more likely than men to be the victims of violence ... and to experience a range of associated harms such as homelessness, assault-related injury and death”.⁵⁶

Existing legislation and response systems are geared to adults who use violence and do not meet the complex needs of adolescents who are both victim/survivors of family violence and who also use violence. The Crime Statistics Agency report from 2020, *Adolescent Family Violence in Victoria*, found that 52.5 per cent of primary aggressors were recorded by Victoria Police as a witness or victim-survivor of a family violence incident, or as a protected person on a family violence safety notice or intervention order.⁵⁷ This supports existing literature linking exposure to family violence with later offending behaviour, but it also reveals that the justice system has direct contact with roughly half of adolescent primary aggressors before their behaviour escalates to a police reported family violence incident, representing an opportunity for early intervention.

Jesuit Social Services commends the Victorian Government’s continuing priority on the prevention of family violence since the *Royal Commission into Family Violence* published its recommendations in 2016. However, we are concerned that some recommendations from the Royal Commission require stronger implementation, and that there is a lack of progress in relation to other recommendations (for further details, please see Appendix C).

Current responses to police call-outs to adolescent family violence crisis incidents often result in outcomes where the young person may end up having increased involvement with the criminal justice system. It is critical to adopt restorative approaches to prevent and address violence in young people including resources to support collaboration with existing adolescent family violence services. Through The Men’s Project, we have developed new approaches to responding to adolescent family violence. Our pilot program RESTORE, developed in 2018 in partnership with the Melbourne Children’s Court, consists of restorative justice group conferencing. Developed in response to an identified absence of interventions for adolescents who use family violence in the Family Division of the Children’s Court, the RESTORE program offers a Family Group Conference to help the young person and their family develop practical solutions that will keep people safe and prevent further violence occurring at home. RESTORE intervenes at a later point in the cycle of violence – that is, after an intervention order (IVO) has been lodged in the Family Division of the Children’s Court. By engaging the family in a restorative conferencing intervention at this point, RESTORE aims to reduce the risk of the young person being criminalised for breaching their IVO. The program seeks to address the ensuing harm caused by the violence and prevent future harm from occurring. The University of Melbourne is currently conducting an evaluation of the RESTORE program, which will be completed in 2022. RESTORE has been paused due to COVID-19, but the pilot saw early promising results and has implications for broader application in youth justice.

⁵⁶ Boxall, H., Dowling, C., & Morgan, A. (2020). ‘Female perpetrated domestic violence: Prevalence of self-defensive and retaliatory violence.’ *Trends & issues in crime and criminal justice*, No. 584, January 2020, p. 1. ([Weblink](#))

⁵⁷ Phillips, B., & McGuinness, C. (2020). *Data Snapshot: Police Reported Adolescent Family Violence in Victoria*. Family Violence Database, Crime Statistics Agency, p. 25. ([Weblink](#)).

The Family Assisted Adolescent Response is our new evidenced-informed model for responding to police call-outs to adolescent family violence, focused on family safety. This model works with the individual, families, police and other agencies, intervening early to prevent adolescents becoming entrenched in the criminal justice or homelessness systems. In collaboration with Victoria Police, we have developed a co-response model focussing on improving the crisis and follow-up response to police call-outs to adolescent family violence incidents by embedding additional support from social workers working alongside police at the time of call-out and in the following 72 hours post incident.

Recommendation 13: That the Victorian Government invest in research, workforce capacity building, and the development, piloting and evaluation of early interventions to positively shift cultures and attitudes to address the underlying drivers of violence and other harmful behaviours by boys and men.

Part Two: Promote alternatives to imprisonment

The information provided in part two of our submission address the following Terms of Reference:

- **Term of Reference 1** – Factors influencing Victoria’s growing remand and prison population.
- **Term of Reference 2** – Strategies to reduce rates of criminal recidivism.
- **Term of Reference 3** – An examination of how to ensure that judges and magistrates have appropriate knowledge and expertise when sentencing and dealing with offenders, including an understanding of recidivism and the causes of crime.

Divert children and young people away from the justice system

Supported by Jesuit Social Services’ *Our Way of Working* practice framework, our program delivery is based on the belief that all people are inherently relational, formed in family and part of a wider community (for further details, please see Appendix D). We believe in, and take, a restorative justice approach – in the interventions we offer, we accompany people and communities to foster and regenerate the web of relationships that sustain us all – across people, place and planet. Ultimately, what we are trying to do is restore a person who has engaged in harmful behaviours back to their family, to their community and to themselves, and to divert them from prison and detention wherever possible.

Many of the young people we work with have been excluded from education – often, for years. Some of those caught up the in the criminal justice system need focused, tailored programs to help them get back on a track and fulfil their potential in a school environment that understands their complex lives and the trauma they may have experienced. In early 2021, this led Jesuit Social Services to establish the [Ignatius Learning Centre](#) – a small, specialist secondary school for young people in contact with the justice system and at risk of spending time in prison. The school enrolls approximately 20 boys aged 15-17 years old. A Victorian Certificate of Applied Learning (VCAL) curriculum is provided alongside a wide range of pro-social activities, including art, music, sport, and plentiful access to the natural environment for healing and development. In addition to the classroom learning, students benefit from the supportive environment, ability to maintain routines and social interaction. As highlighted by John Andrew, Principle of the Ignatius Learning Centre:

“Recently, I said to one student that he has attended all five days that week and I wanted to acknowledge it, after not attending school at all last year. At that point, he said, ‘it’s because you guys are engaging, and you have high expectations of me’, which we were blown away by. You can see the trust within the school, the staff and the students and the positive culture we are creating.”

Efforts to divert young people from the justice system and into support services, including education are critical. As noted by the Victorian Government’s [Youth Justice Strategic Plan 2020 – 2030](#), this provides the greatest opportunity to address youth crime.

Recommendation 14: That the Victorian Government further invest in education programs that divert children and young people from the justice system with a specific focus on ensuring children remain engaged or are re-engaged with education.

Recommendation 15: That the Victorian Government fund programs that ensure children remain engaged with or are re-engaged with education.

Resource restorative justice approaches that recognise the harm caused to victims

In Victoria, Jesuit Social Services has delivered the Youth Justice Group Conferencing program since 2003, enabling dialogue between children who have offended, their victims and others impacted by harm caused to the wider community.

The program is grounded in the principles of restorative justice, which emphasise reparation and restoration,⁵⁸ and aims to:

- Raise the young person’s understanding of the impacts of their offending on the victim, their family and/or significant others, and on the community.
- Reduce the frequency and seriousness of re-offending by the young person.
- Improve the young person’s connection to family/significant others and the community.
- Negotiate an outcome plan that sets out what the young person will do to make amends.
- Increase victim satisfaction with the criminal justice process.
- Divert the young person from a more intensive sentence.⁵⁹

Evidence shows that restorative practices are more effective in reducing re-offending and making our communities safer.⁶⁰ The most recent evaluation of Youth Justice Group Conferencing program was undertaken by KPMG in 2010. More funding is needed in order to evaluate the recent outcomes of the

⁵⁸ Larsen, J. (2014). Restorative justice in the Australian criminal justice system. *Research and public policy series, Australian Institute of Criminology, Report 127*. ([Weblink](#))

⁵⁹ Victorian Government (2015). Youth Justice Group Conferencing factsheet, March 2015 ([Weblink](#))

⁶⁰ Jesuit Social Services (2019). #JusticeSolutions New Zealand Tour. Available from: ([Weblink](#)); and Larsen, J. (2014). Restorative justice in the Australian criminal justice system. AIC Reports: Research and Public Policy Series 127, Australian Institute of Criminology, Australian Government. ([Weblink](#))

program. However, the 2010 evaluation found that more than 80 per cent of participants had not reoffended two years later compared to 57 per cent in the comparison group.⁶¹

CASE STUDY: Sam*

"I feel so bad for doing this [...]. In a thousand years, I would never break into someone's house again. I am very sorry for what happened. It's not who I am". He went on to say he "felt ashamed, scared, too scared to go to police. I thought I was a criminal. I was too scared to apologise to the victim". Reflecting more on the victim impact, he stated, "I am here to show them that I am not who they think I am. I am disappointed with myself."

The victim's reaction to this was to state, *"I feel you are very genuine. You have to understand how we feel. You came into our house and took our belongings. You said you were so drunk but you weren't too drunk to come in and take our stuff."* After hearing more of the Sam's life story, the victim's partner added, *"You seem like a decent kid. If you need help, I would be happy to do that. I came angry but I am not now. You don't have a face of a criminal"*.

The victim then concluded by saying, *"You are a good kid. I can see it. Be proud of yourself. Enjoy life."* Sam apologised, saying, *"I am very sorry for what I've done. I feel bad for how I have affected you. You are genuine people. I will pray for you tonight."* When discussing an outcome plan, the victim stated, *"We don't need anything from you other than you are doing well. It's (Group Conference) been a big success, it's good for us and [the Detective] to see the good person in you."* At the conclusion of the Group Conference, the victim stood up and asked to hug Sam and his family. Sam wanted to create a piece of art for the victim as his way of saying sorry.

** Name has been changed to protect privacy*

As outlined in our Justice Solutions New Zealand Tour report, in contrast to Victoria, Family Group Conferencing is used in New Zealand as the default response for young people aged 14 and over. We would like to see Youth Justice Group Conferencing made the default response for children who come into contact with the justice system in Victoria. In addition to proven effective restorative programs like Youth Justice Group Conferencing, we believe many of these children and their families would benefit from targeted, time-limited intensive case management support post-group conference to ensure the young person is linked in to safe and appropriate housing, and ongoing trauma-informed support.⁶² Despite the success of various restorative justice programs, there are currently no restorative justice programs available for adult offenders. We would like to see group conferencing also made available to adults.

Victims of crime

Jesuit Social Services wishes to emphasise the importance of restorative justice programs such as Youth Justice Group Conferencing in enabling engagement with and support for victims of crime. The 2010

⁶¹ KPMG (2010). Review of the youth justice group conferencing program: Final report. Melbourne: State Government of Victoria. ([Weblink](#))

⁶² Jesuit Social Services (2019). Submission to the 2019/20 Victorian State Budget. ([Weblink](#))

KPMG evaluation of Youth Justice Group Conferencing found that participation in conferences increased victim satisfaction by assisting them to resolve unanswered questions, including why the offender targeted them.⁶³ Receiving an apology directly from the young person and helping develop the young person's outcome plan also increased victim satisfaction by enabling a sense of ownership over the resolution.

We believe that greater resources need to be allocated to agencies to increase victim engagement in Group Conferencing. Contact with victims is currently initiated by Victoria Police members, however, is not often prioritised within their busy workloads. We believe that shifting responsibility for this function (contacting victims and encouraging participation in a group conference) along with dedicated funding for the Department of Justice Victims of Crime Agency would support more victims to participate in conferencing and further strengthen this process. More broadly, we would like to see greater engagement and support for victims of crime across the entire justice system.

Recommendation 16: That the Victorian government expand restorative justice throughout the youth justice and adult justice systems, including by legislating for Youth Justice Group Conferencing to be 'opt-out' rather than 'opt-in' to ensure uptake of the successful program, and making group conferencing available to adults.

Recommendation 17: That the Victorian Government shift responsibility of contacting victims and encouraging participation in group conferences away from Victoria Police and provide dedicated funding for the Department of Justice Victims of Crime Agency to engage with and support victims of crime.

Undertake legislative reform

As highlighted above, years of legislative amendments that have made it harder to get bail, limited access to parole, and removed a series of non-custodial options have significantly increased the number of people who are incarcerated. We commend the Victorian Government for taking steps to address this, including by repealing the offence of public drunkenness as recommended by the *Royal Commission into Aboriginal Deaths in Custody* and legislating a spent convictions scheme - a measure that will give people the best chance to move on with their lives. However, Jesuit Social Services calls on the Government to implement a series of additional legislative reforms and to repeal regressive legislation to ensure a reversal of the trend in increasing prison numbers.

Raise the age of criminal responsibility

A small number of vulnerable children enter the criminal justice system at a very young age. We know this group is among the most vulnerable in our community and that children detained between the ages of 10 and 14 are more likely, compared to those at older ages, to have sustained and frequent contact with the criminal justice system throughout their life⁶⁴. Child offending experts, psychologists and other health experts agree that younger children have rarely developed the social, emotional and intellectual maturity necessary for legal responsibility before the age of 14 years, and lack the capacity to properly

⁶³ KPMG (2010). Review of the Youth Justice Group Conferencing Program: Final Report. Melbourne: Department of Human Services, p. 39. ([Weblink](#))

⁶⁴ Jesuit Social Services (2013). Thinking Outside: Alternatives to remand for children ([Weblink](#)); Australian Institute of Health and Welfare (2013). Young people aged 10–14 in the youth justice system 2011–2012 ([Weblink](#));

engage with the justice system. Consequently, procedural fairness cannot be assured and criminal justice proceedings fail to guarantee a just response to children’s behaviour. The current age of criminal responsibility disproportionately impacts children from vulnerable backgrounds, particularly Aboriginal children who are overrepresented in the number of children involved with the justice system under 14 years. In line with international standards embodied in the *United Nations Convention on the Rights of the Child* and enacted in many overseas jurisdictions⁶⁵, we call on the Victorian Government to raise the age of criminal responsibility from 10 to 14 years. Raising the age of criminal responsibility also serves as a critical prevention measure by diverting children from contact with the criminal justice system.

Table 1: Age of criminal responsibility: international comparison

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

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

Our paper, [Raising the Age of Criminal Responsibility: There is a Better Way](#), shows that this is clearly better for the children in question and for society as a whole. The paper also sets out the most effective approach to prevent these children’s trajectories into the justice system, which is to intervene early and support families at the first signs of struggle. Funding for restorative justice, family-centred and therapeutic approaches to respond to children under 14 who come into contact with police is also required. We need responses that take account of their broader family and social circumstances, work with the child to help them to understand the impact of their behaviour and equip them with the tools to take a different path and prevent contact with the justice system.

Recognising that cases of very serious violent behaviour are rare, they should not dictate what happens to the rest of the cohort of children under 14. In this circumstance, wrap-around support may be needed with appropriate levels of supervision, for example, a small-scale, secure, four to six bed facility with trauma-informed, well-trained multi-disciplinary staff and access to education, allowing children to be supervised in an intensely therapeutic environment. However, this supervision should be entirely oriented toward working with the child in a therapeutic way, with all efforts geared towards their rehabilitation and eventual return to the community. Children would undergo thorough assessment to ascertain their specific needs. This intervention would be reserved for rare cases where no other options are suitable or available, and would be determined by a panel of experts (i.e. in the mode of Children’s Hearings).

Recommendation 18: That the Victorian Government amend section 344 of the *Children, Youth and Families Act 2005* to raise the age of criminal responsibility to at least 14 years old.

Recommendation 19: That the Victorian Government fund restorative justice and therapeutic approaches to respond to children under 14 with specific education focussed support for this cohort.

⁶⁵ Child Rights International Network (2016) Minimum ages of criminal responsibility around the world. [\(Weblink\)](#)

Commit to a legislative protection of the ‘rights of the child’

While Jesuit Social Services has advocated for youth justice to remain under the current *Children Youth and Families Act 2005* (the CYFA), we accept that a standalone youth justice act is underway, and see this as an opportunity to create a youth justice system that supports children to rehabilitate and flourish. In the proposed youth justice Act, we welcome:

- Underpinning legislation with an operational philosophy, principles, and entitlements for young people, which reflect the diversity of the cohorts in youth justice and address the needs of overrepresented groups such as Aboriginal and Torres Strait Islander young people;
- Banning practices amounting to solitary confinement and heavily restricting the often traumatising practice of unclothed searches, and the introduction of further reporting requirements for instances where force is used; and
- The exploration of measures like Group Conferencing as a pathway for children and young people.

Reviews from the Commissioner for Children and Young People and the Victorian Ombudsman have exposed practices that could amount to mistreatment, or in some cases, human rights violations in youth justice. It is positive to see components of their recommendations enacted in these proposals. However, we remain concerned about the notable shift away from a rights-based approach.

As a signatory to the *United Nations Convention on the Rights of the Child (1989)*, Australia has obligations to protect the best interests of the child as a primary consideration (Article 3); and to protect, respect and fulfil the rights to non-discrimination (Article 2), education (Article 28), a safe place to live (Article 27), the highest attainable standard of health (Article 24), protection from violence, abuse and neglect (Article 19), life, survival and development (Article 6), and participation in all decisions that affect them (Article 12). This right-based framing and a commitment to legislative protection of these rights is currently absent from the proposed youth justice act.

Recommendation 20: That the Victorian Government commit to a rights-based framing and legislative protection of the “best interests of the child” in the proposed standalone youth justice act.

Extend the age of dual track and develop tailored approaches for young adults

There is significant research into brain development that indicates brain function and cognitive development continues to mature well past the age of 20, depending on the individual’s gender, genes and environment.⁶⁶ The parts of the brain that are still developing include the prefrontal cortex that helps to control impulsivity, judgement, planning for the future, foresight of consequences, and other characteristics that form moral culpability. Research indicates that the development and maturation of the prefrontal cortex occurs primarily during adolescence and is roughly accomplished at the age of 25 years, which is very important to complex behavioural performance.⁶⁷ This research is important in formulating a justice policy that deals appropriately with young adults in prison, and which works to

⁶⁶ Johnson, S., Blum., R., & Giedd, J. (2009). Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health policy. *Journal of Adolescent Health, 45(3)*: 216-221. ([Weblink](#)); Lebel, C. & Beaulieu, C. (2011). Longitudinal Development of Human Brain Wiring Continues from Childhood into Adulthood. *Journal of Neuroscience, 31(30)*: 10937-10947. ([Weblink](#))

⁶⁷ Arain, M., Hague, M., Johal, L., Mathur, P., Nel, W., Rais, A., Sandhu, R., & Sharma, S. (2013). Maturation of the adolescent brain. *Neuropsychiatric Disease and Treatment, 9*: 449-461 ([Weblink](#))

ensure that, where possible, impulse crime does not develop into a lifetime pattern.⁶⁸ As a parliamentary inquiry into young adults in the justice system in the United Kingdom noted:⁶⁹

“Dealing effectively with young adults while the brain is still developing is crucial for them in making successful transitions to a crime-free adulthood. They typically commit a high volume of crimes and have high rates of re-offending and breach, yet they are the most likely age group to stop offending as they ‘grow out of crime’. Flawed interventions that do not recognise young adults’ maturity can slow desistance and extend the period of involvement in the system.”

In recognition of the brain development and maturation processes of young adults, Victoria previously had a unique and strong ‘dual track’ system for the sentencing of young offenders that allowed mainstream adult courts to sentence those under 21 to a youth justice centre rather than an adult prison. The court had to be convinced that the young person had reasonable prospects of rehabilitation, or that they were particularly impressionable, immature, or likely to be subjected to undesirable influences in an adult prison. This innovative approach prevented the most vulnerable young people from entering the adult system at an early age.⁷⁰

While the dual track system continues, the passing of the Victorian Government’s *Children and Justice Legislation (Youth Justice Reform) Act 2017* contains functions that significantly erode it. The legislation provides for the presumption that young people aged 18 to 20 convicted of particular offences will be sentenced to adult prison unless exceptional circumstances apply. It is also concerning to see the dual track system potentially further eroded in the proposed youth justice Act. This is despite evidence that young people who spend time in adult prison are more likely to re-offend on their return to the community than young people exiting youth detention are.⁷¹

All statutory minimum prison sentences have been substantially tightened, so that impairment due to alcohol or drugs can no longer be used as an excuse, psychosocial immaturity will be removed as a special reason, and the court must give significantly less weight to the life circumstances of the person who has offended.⁷² Jesuit Social Services believes that these erosions are counter-productive and will have negative long-term effects on community safety. As stated in our [All Alone: Young adults in the Victorian justice system report](#), we believe the Victorian Government should reverse recent legislative erosions to the dual track system. Dual track should be extended to the age of 25, based on the research highlighted above regarding brain development and the specific needs of young people.

⁶⁸ Johnson, S., Blum., R., & Giedd, J. (2009). ‘Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health policy.’ *Journal of Adolescent Health*, 45(3): 216-221. ([Weblink](#))

⁶⁹ Commons Select Committee – Justice (UK). (2016). Parliamentary Inquiry into the Treatment of Young Adults in the Criminal Justice System. ([Weblink](#))

⁷⁰ Victorian Ombudsman (2015). Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria. ([Weblink](#))

⁷¹ Schiraldi, V., & Zeidenberg, J. (1997). The Risks Juveniles Face When They Are Incarcerated With Adults, Youth Justice Policy Institute ([Weblink](#)); and Sullivan, J. M. (2014). From Monkey Bars to Behind Bars: Problems Associated with Placing Youth's in Adult Prisons. ([Weblink](#))

⁷² Premier of Victoria (2018). New Laws To Crack Down On Emergency Worker Attacks ([Weblink](#)); BryanHancock, C. & Casey, S. (2011). Young People and the Justice System: Consideration of Maturity in Criminal Responsibility. *Psychiatry, Psychology and Law* 18:1 ([Weblink](#))

Further, we call more broadly for a different approach to those aged 18-25 years that recognises this cohort's unique needs. Young adults have distinct needs that can make them more likely to reoffend than children and older adults.⁷³ At the same time, few research-based interventions are targeted specifically for young adults at moderate and high risk of reoffending, or have been tested for this population. The high rates of reoffending on release from prison indicate that the current justice system is failing too many young adults. The current situation represents both a problem and an opportunity and we urge the Victorian Government to reassess current approaches to young adults in prison in the light of this.

Recommendation 21: That the Victorian Government repeal the sections of the *Children and Justice Legislation Amendment (Youth Justice Reform) Act 2017*, which introduced a presumption against the dual track system,

Recommendation 22: That the Victorian Government extend the age of dual track to 25 years based on research regarding brain development and the specific needs of young people.

Recommendation 23: That the Victorian Government implement a tailored, evidence-based approach to those aged 18-25 who are involved in the justice system that recognises the brain development and maturation process of young adults and the vulnerability commonly experienced by this cohort.

Reduce Victoria's growing remand population

Jesuit Social Services is deeply concerned about the unprecedented growth in the use of remand and the extent to which it falls disproportionately on people experiencing vulnerability. Changes to bail legislation introduced in recent years have led to a growing number of people in our prisons and youth detention facilities who are unsentenced. Following the Bourke Street tragedy in 2017, Justice Paul Coghlan's report on Victoria's bail laws made recommendations for legislative changes to Victoria's complex bail system.⁷⁴ In response, the Andrews Government enacted the *Bail Amendment (Stage One) Act 2017* and the *Bail Amendment (Stage Two) Act 2018*. These acts streamlined our bail system. However, our prisons and youth detention facilities now have an alarming number of people on remand.

In 2011-12, 23 per cent of adults in prison were unsentenced (876 of 3,861 people) compared with 58 per cent (2,973 of 5,129 people) in 2019-20. Since 2010, the number of women on remand has increased by a staggering 152 per cent.⁷⁵ As at July 2021, there were more women in prison who were unsentenced (54 per cent) compared with women who had received sentences in Victorian prisons.⁷⁶

The upward trend in the use of remand and the disproportionate impacts on vulnerable individuals is echoed in the youth justice system where in 2011–12, 22 per cent of children in custody on an average day were unsentenced (37 of 172 children), that proportion had more than doubled to 47 per cent (90

⁷³ Council of State Governments Justice Centre. (2015). Reducing Recidivism and Improving Other Outcomes for Young Adults in the Juvenile and Adult Criminal Justice Systems. Retrieved from [\(Weblink\)](#)

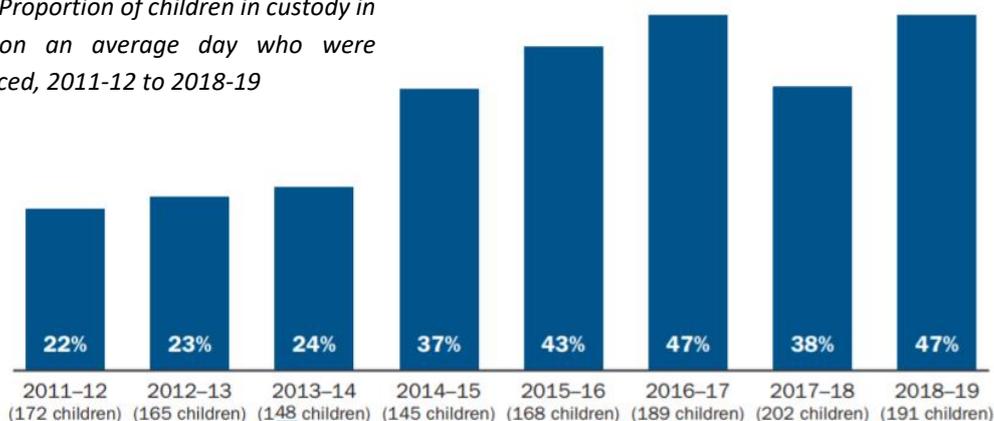
⁷⁴ Coghlan, P. (2017) The Bail Review. [\(Weblink\)](#)

⁷⁵ Corrections Victoria (2021). Profile of women in prison. [\(Weblink\)](#)

⁷⁶ Corrections Victoria (2021). Monthly time series prisoner and offender data. [\(Weblink\)](#)

of 191 children) in 2019.⁷⁷ Children who are remanded on the weekend are more likely to experience a short remand of one to three days compared with children who are remanded on a weekday.⁷⁸ This raises a question as to whether these children are remanded not due to the seriousness of their offending but because they did not have access to appropriate supports at the time of the decision.

Figure 4: Proportion of children in custody in Victoria on an average day who were unsentenced, 2011-12 to 2018-19



Source: Sentencing Advisory Council (2020). Children Held on Remand in Victoria: A Report on Sentencing Outcomes

This means that far too many vulnerable children have been exposed to a detention setting which can result in disengagement from school, family and community, and an increased likelihood of further contact with the youth justice system. Through Jesuit Social Services’ experience and research, particularly our [Thinking Outside: Alternatives to Remand for Children](#), we know that opportunities are being missed to intervene and divert vulnerable children from the criminal justice system. This report was the result of twelve months of research and considers alternative legislation, policy and practice approaches from across Australia and overseas and outlines recommendations for reform.

The report identifies that in addition to reducing legislative shortcomings, to reduce the number of people on remand, while keeping Victorians safe from people at high-risk of reoffending, we must seriously invest in supported bail options. Addressing dynamic risk factors for individuals who can be appropriately bailed into the community by, for example, investing in diverse housing options, reserves remand for cases where no other option is viable. Otherwise, some vulnerable people may be scooped up further into the justice system - either because they are remanded due to factors beyond their control or because they are at higher risk of committing bail-related offences, thus exposing them to the possibility of custody due to punitive and narrow sentencing options. This is a set of circumstances that all-too-frequently and disproportionately affects vulnerable people in our community, particularly children.

⁷⁷ Sentencing Advisory Council (2020). Children Held on Remand in Victoria: A Report on Sentencing Outcomes ([Weblink](#))

⁷⁸ Sentencing Advisory Council (2020). Children Held on Remand in Victoria: A Report on Sentencing Outcomes ([Weblink](#))

Recommendation 24: That the Victorian Government repeal changes introduced under the *Bail Amendment (Stage One) Act 2017* and the *Bail Amendment (Stage Two) Act 2018* to reduce the number of people placed on remand.

Recommendation 25: That the Victorian Government invest in supported bail options, such as diverse housing options, to prevent people experiencing vulnerability from being further disadvantaged by their circumstances.

Prioritise alternative sentencing options

In order to significantly reduce the number of people in prison, promote rehabilitation and reserve prison as a last resort, alternative sentencing options must be considered. These include orders such as home detention and suspended sentences. These create a graduated sentencing hierarchy, reserving prison for the most serious, violent offences, and ensuring that legislation matches evidence on what works to prevent reoffending. Certain conditions around these orders provide safeguards to ensure their effectiveness. For instance, certain individuals would be better candidates for non-custodial sentences, such as those with non-violent offending histories who are at low-risk of reoffending. Research into monitoring of individuals in the community has consistently shown that non-custodial orders, such as electronic monitoring, are successful only when serious, intensive and appropriate support is provided. Without this support, breaches of order conditions are more common.⁷⁹

Consider a presumption against short-term prison sentences

Short-term prison sentences, variously defined as being anywhere from less than three months up to two years, have gained more attention as an area for penal reform over the past decade. Most recently, Scotland has acted against sentences of 12 months or less by imposing a presumption against them.⁸⁰

Of 7,668 people in prison in Victoria in 2020, 21 per cent had sentences of less than one year.⁸¹ In 2019–20, 59 per cent of people in prison who were sentenced received a sentence of less than six months. This was an increase from 45 per cent in 2009–10 (with a decrease in proportions of people in prison receiving longer sentences).⁸² The number of people in prison who had not previously served a prison sentence almost doubled in the ten years to 2020, representing just under half of the prison population, and over 60 per cent of women in prison.⁸³ Of a total of 677 sentenced Aboriginal people in prison in 2020, 27 per cent had effective sentences of less than one year.⁸⁴

Victoria currently does not have a law either banning or limiting prison sentences of any length. However, Victoria, like other Australian jurisdictions, does have a presumption against imprisonment in general. That is, imprisonment is a penalty of last resort.⁸⁵

⁷⁹ Graham, H., & McGivov, G. (2017). Electronic monitoring in the criminal justice system. Available at: <https://www.iriss.org.uk/resources/insights/electronic-monitoring-criminal-justice-system>; and Black, M., & Smith, R. G. (2003). Electronic monitoring in the criminal justice system. ([Weblink](#))

⁸⁰ See: <https://www.iprt.ie/latest-news/scotland-impact-of-presumption-against-short-sentences-pass/>

⁸¹ Corrections Victoria (2019). *Annual Prisoner Statistical Profile 2006-07 to 2017-18* (Report, January 2019), Table 1.3.

⁸² *Ibid.*, Table 2.8.

⁸³ *Ibid.*, Table 1.7.

⁸⁴ *Ibid.*, Table 1.4.

⁸⁵ *Sentencing Act 1991* (Vic) s 5(4).

For many people in prison, short-term sentences do not promote rehabilitation. In fact, the downstream consequences to a person's life can be devastating, and disproportionate to the point of being an unjust sentence. Weaknesses of short-term sentences include that:

- They provide limited opportunity for corrective services to work with an individual while in prison.
- They cause a significant disruption in employment, and family and support relationships, including the loss of public housing, without providing any significant degree of community protection or any opportunity for rehabilitative programs.
- They expose first time or minor offenders to undesirable influences that can set them on the path of further offending.
- They contribute to prison overcrowding — which is particularly bad in Victoria — by incarcerating individuals who have non-violent offending history and/or are low-risk.
- They contribute to the high costs of the justice system.
- Research in other jurisdictions suggests that those given short prison sentences are more likely to reoffend than both those given community-based sentences and those with longer prison sentences.⁸⁶

If the Government were to introduce legislation to limit short-term prison sentences, it must accompany such reform with robust, viable state-wide availability of alternatives to custody, which includes supports for offenders to address the underlying circumstances influencing their offending that are uniformly available in regional and remote areas.

On our 2019 Justice Solutions tour throughout Europe and the United States, Jesuit Social Services learnt of Norway's approach towards short sentences and custodial alternatives. Those with a sentence of two years or less in Norway are sent to a low security prison. They could walk out of such a facility, the doors to their rooms (not 'cells') aren't locked, they have unsupervised visits, take responsibility for various aspects of their lives (e.g. getting themselves up on time), and have varying degrees of opportunity to move outside the prison for particular purposes (sometimes with staff, sometimes without).

Despite their ineffectiveness in some instances, directly targeting short prison sentences with legislation may not be the best path of reform. Working to develop community-based sentencing options, rather than considering a presumption against short prison sentences, would be a more effective first step in tackling the overarching issues (and would naturally reduce the need for short prison sentences in the process). On the other hand, prison overcrowding and growing costs of incarceration *are* an urgent problem in Victoria. Noting its limitations, a presumption against short prison sentences directly may better address this urgency while encouraging the development of appropriate community-based sentences. If presumption against short prison sentences is considered, this cannot effectively be pursued as a standalone policy. To be effective, such a policy must be accompanied by community-based sentencing options and statewide wrap-around supports. The former cannot function without the latter.

Recommendation 26: That the Victorian Government consider legislating for a presumption against short-term prison sentences (12 months or less) to reduce prison overcrowding and the growing costs of incarceration.

⁸⁶ Ministry of Justice, UK (2013). Compendium of Re-Offending Statistics and Analysis. *Statistics Bulletin*, 11 July 2013, 14–19. ([Weblink](#))

Empower courts to order that a custodial sentence be served by way of home detention

Home detention was abolished on 16 January 2012 when the *Sentencing Legislation Amendment (Abolition of Home Detention) Act 2011 (Vic)* came into effect. From that date, it was no longer available as a sentence or as a post-sentence order. To reduce the strain on the system, staff and infrastructure, alternatives like home detention limit the number of people housed in prison when it is safe and viable for them to be elsewhere. A home detention order requires an individual who is sentenced to a term of imprisonment to instead remain at home or another approved residence throughout the period of that order and not to leave at any time except for specific reasons that are agreed to or directed by the home detention officer.

Conditions may be attached to any home detention order, in conjunction with targeted and intensive support mechanisms that assist in rehabilitation. Home detention requires careful assessment and screening for appropriate candidates but is a strong option for some cohorts, such as people with drug-related charges and non-violent offending histories who do not pose a risk to community safety. Home detention must be met with increased funding for Community Corrections to support working with people in the community. Further, it must be implemented in a way that does not draw more people into the justice system.

Recommendation 27: That the Victorian Government reintroduce home detention into the *Sentencing Act 1991* to empower a court that imposes a sentence to a term of imprisonment to order that the term be served by way of home detention.

Reintroduce suspended sentences

Suspended sentences once sat near the top of the sentencing hierarchy, sitting below an immediate term of imprisonment. The abolition of suspended sentences in Victoria occurred in three stages from 2011 to 2014.⁸⁷ This completed the phasing out of suspended sentences as an option for future offending in Victoria, putting added pressure on prison capacity. Without wholly suspended sentences, there are fewer sentencing options available, with only very low-end orders such as fines or adjourned undertakings, then Community Correction Orders (CCOs), and then imprisonment. Given that each sentence serves its own particular purpose, the removal of one of those sentences equates to the rescinding of the particular purpose for which it was imposed. In the case of the wholly suspended sentence, it is no longer available for the purpose of deterrence and denunciation in situations of serious offending with low-risk of reoffending. When an individual on a CCO either breaches the order or commits a new offence, there are limited options available to judges and magistrates. If the offending continues then the next step in the sentencing hierarchy is imprisonment, as no other alternatives are available in between.

Recommendation 28: That the Victorian Government reintroduce Suspended Sentences into the *Sentencing Act 1991* to empower Victorian courts to fully or partially suspend a state sentence of imprisonment, for a specified period.

⁸⁷ They were abolished: in 2011 in the higher courts for serious and significant offences committed on or after 1 May 2011 (*Sentencing Amendment Act 2010 (Vic)*); in 2013 in the higher courts for all offences committed on or after 1 September 2013 (*Sentencing Amendment (Abolition of Suspended Sentences & Other Matters) Act 2013 (Vic)*); and In 2014 in the Magistrates' Court for all offences committed on or after 1 September 2014 (*Sentencing Amendment (Abolition of Suspended Sentences & Other Matters) Act 2013 (Vic)*).

Repeal mandatory sentencing for offences relating to emergency workers

It is important to protect the safety and security of emergency workers in our community. However, amendments to the *Sentencing Act 1991*, which have created increasingly harsh penalties, are not a panacea for violence or harm. Limiting access to CCOs and the introduction of mandatory prison sentences means that more people will be drawn into the justice system, even when more suitable, community-based sentences may have sufficed to prevent reoffending. This is explored further below, in the section on CCOs.

Moreover, the restriction of ‘special reasons’, designed to ensure that individual circumstances are considered, exposes vulnerable people to sentencing inequity. Instead, mandatory sentencing offers a blunt instrument to deal with potentially complex situations. Where mental health, immaturity, or other vulnerability is evident, courts and judges should be enabled to adequately address the causes of offending. Prison sentences, in most circumstances, cannot do this.

Recommendation 29: That the Victorian Government amend section 3(1) of the *Sentencing Act 1991* and remove the clauses that make injuring an emergency worker a category 1 offence, and which require the Supreme and County Courts to have regard to the statutory minimum sentences that would have applied to an adult, when sentencing a young person aged 16 or 17 at the time of offending.

Repeal the introduction of intimidation offences

Under the *Justice Legislation Amendment (Police and Other Matters) Act 2019* (Part 2 Clause 3), a new Section 31D of the *Crimes Act (1958)* introduces an offence of intimidation of a police officer, public safety officer (PSO), police custody officer, custodial officer, youth justice custodial officer or a family member, carrying a maximum of 10 years imprisonment. These amendments are unnecessary. Pre-existing laws already covered serious conduct, including reckless conduct endangering life, reckless conduct endangering serious injury, and assault of an emergency worker on duty (which includes police officers and PSOs and assault generally). The assault or threats to assault of an emergency worker, a youth justice custodial officer, a custodial officer or a protective services officer were already listed under section 31 of the *Crimes Act (1958)*.

This new legislation has serious implications for young people, including increasing the already high numbers of young people on remand, disproportionately impacting Aboriginal children and ignoring the developmental needs of children, particularly those exposed to trauma, who experience delayed brain development and who are more likely to act impulsively. This new offence is resulting in vulnerable children and young people being further entrenched in both our youth and adult justice systems. Such legislation does not address the root causes of crime, nor does it address the current factors that are leading to incidents in our youth justice centres.

Recommendation 30: That the Victorian Government immediately repeal the sections of the *Justice Legislation Amendment (Police and Other Matters) Act 2019* pertaining to intimidation offences.

Ensure court process and judges promote restorative justice and cultural safety

On our Justice Solutions tours, we witnessed the way in which a clear vision centred on restorative justice and cultural safety cascades through to court processes, and the mindset and skillset of judges. Key to the strengths of the restorative justice approach adopted by courts and judges in New Zealand has been the importance of Māori voice and alignment with Māori concepts of “land, ancestors, community, morality and justice”. Roughly 10 per cent of New Zealand’s judges are Māori and, in 2019, the first Māori judge was elected to the Supreme Court.⁸⁸ At the same time, it must be acknowledged that Māori face considerable ongoing social and economic disadvantage across multiple domains,⁸⁹ and experience more contact with the justice system than their non-Māori counterparts, evidenced by both imprisonment and victims of crime rates.⁹⁰ The use of Māori language and the inclusion of Māori culture in justice processes is an important component of promoting cultural safety and addressing the overrepresentation of Māori people in New Zealand’s criminal justice system. We know that connection to culture, language and community are critical for promoting cultural safety within the justice system and Aboriginal people have long advocated for this.

In addition to a focus on culture and language, judges at the courts we visited on our Justice Solutions tour placed considerable emphasis on restoring relationships with family, community and self. Jesuit Social Services staff sat in on a case being heard in a Pasifika Court in Auckland. Elders from diverse Pacific Island communities are active participants in the Court. In the case we heard, the Judge highlighted the impact of the offending behaviour on the victim, yet the hearing remained conversational. There was a noticeably lighter tone, which, rather than detracting from the seriousness of the proceedings, helped the young person engage in the discussion.

Figure 5: Pasifika Court in Auckland



Source: Jesuit Social Services (2019). Justice Solutions Tour New Zealand. ([Weblink](#))

Reflecting on what he witnessed at the hearing, Daniel Clements, General Manager of Justice Programs at Jesuit Social Services, wrote:

“As the case concluded in the Pasifika Court, the Judge spoke clearly to the young person about what she was taking into account in her considerations about him: the risk to community balanced with the positive steps he was taking to change his life, not least of which was working full time and providing additional financial support for the family. But central to Judge Malosi’s summation were the key points of identity and family. ‘Lift up your eyes and see what is possible,’ she urged him.”

⁸⁸ McLachlan, L. (2019, May 7). First Māori Supreme Court judge wants a focus on his culture. *Scoop*, ([Weblink](#))

⁸⁹ New Zealand Ministry of Health. (2018, August 2). Socioeconomic indicators. ([Weblink](#))

⁹⁰ Office of the Prime Minister’s Chief Science Advisor. (2018). Using evidence to build a better justice system: The challenge of rising prison costs, pp. 18-19. ([Weblink](#))

Evaluations of Koori courts in Australia have been criticised for taking a limited scope.⁹¹ Some have argued that focusing on blunt measures of recidivism fails to take into account the multitude of other goals that sit at the heart of Koori sentencing courts, and that Aboriginal and Torres Strait Islander voice and knowledge are often sidelined in evaluation methodology.⁹² For this reason, it would be inappropriate to directly compare the effectiveness of the two models in terms of traditional measures such as reoffending.

What we can learn from both Koori courts and from Rangatahi and Pasifika Courts is that culturally informed and person-centred approaches are restorative and benefit individuals, families and communities. We saw in New Zealand the immense value of embedded cultural practice for the Māori and non-Māori community alike in placing people at the centre and restoring relationships and connection with culture and community. Jesuit Social Services calls for greater resources to further strengthen Koori courts as well as to expand their operation in regional areas. This will enable greater access to a culturally safe and appropriate court process for Aboriginal people across Victoria.

Recommendation 31: That judges and court processes implement restorative approaches, including person-centred and culturally responsive practice, to reduce reoffending and enhance community safety.

Recommendation 32: That the Victorian Government commit additional resources to strengthen Koori courts as well as to expand their operation in regional areas.

Expand access to and improve community-based supervision

Since the introduction of Community Correction Orders (CCOs) in 2012, legislation has been introduced that, in effect, limits access to them based on the nature of the offence. Some of these restrictions ensure that CCOs are not available as a sentencing option for serious, violent offences - for example, an individual cannot be sentenced to a CCO for murder. Some restrictions, however, have meant that individuals who would otherwise be a candidate for community-based supervision cannot access this option, and may face imprisonment. These include:

- Intentionally causing serious injury to an emergency worker, custodial officer or youth custodial officer.
- Recklessly causing serious injury to an emergency worker, custodial officer or youth custodial officer
- Intentionally or recklessly causing injury to an emergency worker, custodial officer or youth justice custodial worker.
- Home invasion and aggravated home invasion.
- Carjacking and aggravated carjacking.

While these offences cause harm and demand serious responses, restrictions on CCOs means that prison becomes the only option in a wider array of cases, even where community-based supervision may have been the more appropriate response. In this way, restrictions on CCOs limit judiciary discretion and the capacity to achieve the purpose of CCOs, as stated in the *Sentencing Act 1991* (Vic), “to provide a community based sentence that may be used for a wide range of offending behaviours while having

⁹¹ Marchetti, M. (2017). Nothing Works? A Meta-Review of Indigenous Sentencing Court Evaluations. *Current Issues in Criminal Justice*, 28(3), 257–276. ([Weblink](#))

⁹² Ibid.

regard to and addressing the circumstances of the offender” [emphasis added]. Elsewhere in Australia, such as in NSW and Tasmania, CCO equivalents do not have exceptions attached, and instead are permitted to be used where considered appropriate by the Court.

In addition to broadening access to CCOs, it is critical to ensure the corrections system enables the rehabilitative goals of CCOs. At present, Victoria has the lowest CCO completion rate in Australia – just 56.4 per cent of orders are successfully completed.⁹³ Individually targeted, therapeutic and meaningful programs and opportunities must be made available to people on CCOs.⁹⁴ This must include support to engage in education, training and employment, which has been identified as a key area of unmet need.⁹⁵ Community corrections staff also have an important role to play in modelling respectful and positive relationships to enhance the rehabilitative potential of CCOs.⁹⁶

Recommendation 33: That the Victorian Government repeal legislation that limits access to community correction orders based on the offence.

Recommendation 34: That the Victorian Government significantly increase funding for community corrections to support work with people in the community.

Promote community understanding and acceptance

There is an ongoing challenge in managing public sentiment towards sentencing, and we commend the work of the Sentencing Advisory Council, the Supreme Court of Victoria and other bodies in raising understanding and improving transparency. On our 2019 Justice Solutions tour, we saw that New Zealand faced many of the same problems as we do here in Victoria – namely, a prison system under strain and entrenched disadvantage funnelling individuals into contact with the justice system. However, rather than doubling-down on a ‘tough on crime’ narrative, whereby excessively punitive sentencing regimes are touted to quell public anxiety, successive governments (including conservative) have acknowledged that the system needs reform. In 2011, former New Zealand Prime Minister (and then Minister for Finance) Bill English referred to prisons in his country as a ‘moral and fiscal failure’.

“Prisons are a moral and fiscal failure.”

The Ardern Government has maintained publicly that to reduce an overcrowded system and ensure community safety, legislative reform is needed. Justice Minister Andrew Little publicly states that New Zealand does not want ‘United States-style’, ‘supermax’ prisons. A countrywide consultation has been undertaken and an expert advisory panel established to understand what viable alternatives are available. As we comment in our report on our New Zealand Justice Solutions tour:

⁹³ Productivity Commission. (2020). Report on Government Services 2020. ([Weblink](#))

⁹⁴ Green, R., Hopkins, D., & Roach, G. (2020). Exploring the lived experiences of people on community correction orders in Victoria, Australia: Is the opportunity for rehabilitation being realised? *Australian & New Zealand Journal of Criminology*, 53(4), 585-605. ([Weblink](#))

⁹⁵ Ibid.

⁹⁶ Green, R., Hopkins, D., & Roach, G. (2020). Exploring the lived experiences of people on community correction orders in Victoria, Australia: Is the opportunity for rehabilitation being realised?. *Australian & New Zealand Journal of Criminology*, 53(4), 585-605. ([Weblink](#))

“New Zealand has reminded us that...change requires strong leadership and a political will that begins at the top of the political hierarchy and extends through Cabinet, Caucus, and the public and community sectors. This is how change will be achieved. We also need bipartisanship. If we are to stop this “race to the bottom” in being “tough on crime”, we need the Government and the Opposition to look at the evidence, learn lessons from what’s not working, and have the courage to back effective and humane policies and legislation.”

We commend the Victorian Government for taking steps towards addressing the challenges facing our justice system, including by conducting consultations on a new legislative framework for youth justice in Victoria and commencing implementation of the [Youth Justice Strategic Plan 2020-30](#) and the recently announced [Crime Prevention Strategy](#). We know from New Zealand’s approach that public approval can be earned when governments acknowledge a problem, including its causes, as long as they also offer positive alternatives, drawing on community expertise to build these responses.

Jesuit Social Services’ [Worth a Second Chance](#) campaign aims to increase community understanding and empathy towards children who have contact with the justice system. As a part of our market research, we hosted focus groups in which we found strong support for prevention, early intervention and a focus on rehabilitation, as long as individuals were also being held appropriately accountable for their behaviour. One aim of the campaign is to provide a platform for supporters to engage with the campaign content and to provide them with material for conversations with their own peer networks. A second aim is to engage Victorians who have a low awareness or understanding of the complex nature of youth justice but who are open to learning more.

As a part of this, we facilitated guided ‘kitchen table’ conversations with members of the public. These conversations were designed to help people arrive at the issue of youth justice by first thinking about challenges they had faced in their lives and what supports they had in place to turn to. By first reflecting on this, people are able to understand and contextualise the challenges young people in contact with the justice system face and what sort of support they may need to help get their lives back on track.

Case study: In his own words, Harry told his story to #WorthaSecondChance

I didn't have a home from around the age [of] 14. My relationship with my family wasn't that good. I went to the custody centre and then to MAP (Melbourne Assessment Prison) way too young. There was like people like 30, 40, 50 (years old)... it was pretty scary because I didn't know what was going to happen. The friends I used to hang out with basically all of them are locked up because, probably, they didn't get the support they needed. If you're homeless you're just going to steal shit... young people need support and housing. I feel good about getting a second chance. I've grown as a person, I'm going back to school. I'm doing Year 12 VCAL... My independence to me is, like, when you can do things on your own and you kind of learn that a lot when you're homeless, as well 'cause no one's going to feed you. I learned how to cook a bit at the housing I was in. At home I have my own kitchen, that's where I cook. I cook spaghetti, stir-fry, and burgers. Having my own place means I can start focusing on whatever's next in life. My goals for the future are to... get a house, mortgage, full-time job, family, improve myself and prove that's not the person that I am. One day I want to give back to the community and be a youth worker, and help out people.

Through our Worth a Second Chance campaign, we found that once people had a deeper understanding of the context of a young person's offending and their background, they were more inclined to agree with less punitive sentences that had a stronger focus on rehabilitation while still holding people accountable. This is consistent with other research, such as the Victorian Jury Sentencing Study, that indicates community attitudes towards justice, including sentencing, shift when awareness and understanding is increased.

Recommendation 35: That a bi-partisan, evidence-based approach is taken to reducing the number of people who are incarcerated and keeping people out of custody in the first place.

Part Three: Reduce harm arising from justice system involvement

The information provided in part three of our submission address **Term of Reference 2** – Strategies to reduce rates of criminal recidivism.

Embed the 'principle of normalcy'

Imprisonment should only ever be used as a last resort. This is consistent with the *Sentencing Act 1991* (Vic). The primary goal of any effective justice system should be rehabilitation, encompassing skilled therapeutic interventions for both children and adults that repair and address underlying trauma. This is particularly critical for children in youth justice facilities. Unfortunately, the system is clearly not delivering these outcomes given more than 44 per cent of adults who exit the prison system return within two years and 60 per cent of young people released from youth supervision in Victoria return within 12 months.⁹⁷

As highlighted throughout this submission, on our Justice Solution tours of the US, the UK, parts of Europe and New Zealand, we saw alternative ways of doing justice that are more effective at supporting

⁹⁷ AIHW (2020). Young people returning to sentenced youth justice supervision 2018-19. Table S16. ([Weblink](#)); Productivity Commission. (2020). Report on Government Services 2020. ([Weblink](#))

people to desist from re-offending while building healthier, safer communities. Of particular note was the ‘principle of normalcy’ underpinning the Norwegian system:

Jurisdictional Example: Norway

Jesuit Social Services undertook study tours of justice systems overseas in 2017 and in 2019. In Norway, we found that a principle governing prisons was that of ‘normalcy’: that life inside prison should resemble life outside as much as possible, ensuring that the rights of people in prison are met. The principle holds that:

- The punishment is the restriction of liberty; no other rights have been removed by the sentencing court. Therefore, the sentenced person has all the same rights as all others who live in Norway.
- No-one shall serve their sentence under stricter circumstances than necessary for the security of the community. Therefore, people shall be placed in the lowest possible security regime.
- During the serving of a sentence, life inside will resemble life outside as much as possible.

The ‘principle of normalcy’ echoes the *United Nations Standard Minimum Rules for the Treatment of Prisoners*, also known as the Nelson Mandela Rules, which cover a range of matters pertinent to ensuring safe and healthy living conditions for people in prison, including in regard to temperature, lighting and ventilation. Importantly, the rules make clear that incarceration alone is the person’s punishment, and not the circumstances of their confinement.⁹⁸

Cherry Creek Youth Justice Centre

On our Justice Solutions tours, we visited a number of youth justice facilities that were small, home-like centres, close to family and community, with an overarching emphasis on education and re-socialisation are critical to preventing trajectories from the youth justice to the adult justice system.

Figure 6: Herb garden at Missouri moderate care facility, South East Region, Missouri.



Source: Jesuit Social Services (2017). *Justice Solutions Tour: Expanding the conversation*

Figure 7: Te Maioha o Parekarangi Youth Justice Residence in Rotorua



Source: Jesuit Social Services (2019). *Justice Solutions Tour New Zealand*.

⁹⁸ United Nations Office for Project Services (UNOPS) (2016). *Technical Guidance for Prison Planning* ([Weblink](#))

Jesuit Social Services has consistently advocated that it is unnecessary to build the Cherry Creek facility. Having said that, we have welcomed the Victorian Government's announcement to reduce the capacity of the new youth detention facility in Cherry Creek from more than 200 beds to 140 beds, and to retain the Parkville site. We call on the Victorian Government to transform the Cherry Creek youth justice facility to a place of small, home-like units designed to re-socialise young people and support their successful integration back into the community.

Recommendation 36: That the Victorian Government develop the Cherry Creek youth justice facility to a place of small, home-like units designed to re-socialise young people and support their successful integration back into the community.

Strengthen and tailor healthcare and therapeutic responses

From the moment an individual enters custody, the process of assessment must start. This should include intensive multidisciplinary assessment by doctors, dentists, psychiatrists, and alcohol and drug specialists, as well as individualised plans tailored to their offending behaviour, that ensure they can re-integrate with family and community at the end of their sentence. This is particularly important for children entering youth detention. Ensuring comprehensive assessments upon a person's entry to prison is critical given that the physical and mental health of the prison population is considerably worse than the health of the rest of the community. Data collected in 2018 by the Australian Institute of Health and Welfare (AIHW) found that people in prison experienced higher rates of mental health conditions, chronic physical disease, communicable disease, tobacco smoking, high-risk alcohol consumption and problematic substance use than the general population.⁹⁹

More specifically:

- 40 per cent of prison entrants and 37 per cent of prison discharges reported a previous diagnosis of a mental health condition
- 21 per cent of prison entrants reported a history of self-harm
- 75 per cent of prison entrants were current smokers
- 65 per cent of prison entrants reported using illicit drugs in the previous 12 months
- 30 per cent of prison entrants had a chronic physical health condition
- 25 per cent of prison deaths between 2013-14 and 2014-15 were due to suicide or self-inflicted causes.¹⁰⁰

Aboriginal people who come into contact with the justice system are more likely to have worse physical and mental health than their non-Indigenous counterparts, including cognitive disability and learning difficulties, hearing loss, and specific health problems including hepatitis B.¹⁰¹

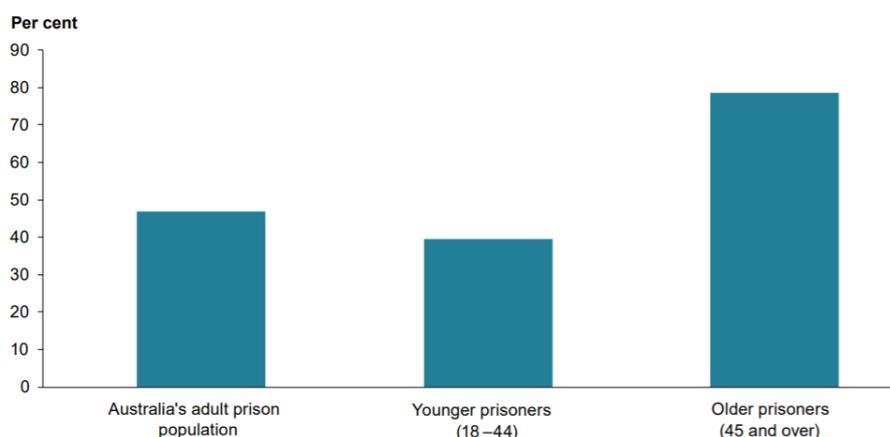
⁹⁹ Australian Institute of Health and Welfare (2019). The Health of Prisoners 2018. [\(Weblink\)](#)

¹⁰⁰ Ibid.

¹⁰¹ National Indigenous Australians Agency. Health performance framework: Contact with the criminal justice system. [\(Weblink\)](#)

The cohort of older people in prison, which has additional health and welfare needs and considerations, has increased by almost 80 per cent since 2008.¹⁰² Greater consideration must also be given to their healthcare needs.¹⁰³

Figure 8: Percentage change from 2009-2019 in Australia’s adult population, by age group



Source: AIHW (2020). *Health and ageing of Australia’s prisoners 2018*

Prison health services are required to meet the widely recognised 1982 UN resolution that the standard and amount of healthcare provided in prisons should be equivalent to that provided to the wider community.¹⁰⁴ Ensuring that the prison health system provides appropriate and cost-effective healthcare requires accurate information on the amount spent, what services it is being spent on, and the benefits achieved in both the correction system and post-prison.

As the type, amount and quality of healthcare provided in prison has important implications for those in the justice system and society more widely, who provides the healthcare is also important. The UN *Standard Minimum Rules for the Treatment of Prisoners* Rule 24 states that prison healthcare services should be governed through the general public health system to ensure continuity of treatment and care.¹⁰⁵ This means that prison health services in Australia should be under the relevant State or Territory health department rather than the department responsible for prisons. In Victoria, Justice Health, a unit of the Department of Justice and Community Safety, currently oversees prison health. Justice Health utilises a range of private health suppliers to provide the bulk of health services in prisons.¹⁰⁶ A major supplier is Correct Care Australasia, which provides services in all public prisons and the Judy Lazarus Transition Centre. An independent investigation into Victoria’s private prisons found that the provision of health services was highly fragmented, lacked continuity, and that ‘the number of health providers

¹⁰² AIHW (2020). *Health and ageing of Australia’s prisoners 2019*. [\(Weblink\)](#)

¹⁰³ Note: A prisoner is commonly considered ‘older’ around the age of 45, compared with the age of 55 for people in the community due to accelerated ageing.

¹⁰⁴ United Nations General Assembly, 1982, resolution 37/194. Principle of medical ethics: ‘those charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained’

¹⁰⁵ Public Health Association of Australia (2017). *Prisoner health background paper*. [\(Weblink\)](#)

¹⁰⁶ Note: In Victoria, health services are contracted out to the following health services providers: Correct Care Australasia; Forensicare; G4S through St. Vincent’s Correctional Health Services; GEO Group Australia; and Caraniche. [\(Weblink\)](#)

adversely affects the development of a strong critical mass of expertise, leaves gaps in service provision, and leads to higher costs of pharmaceuticals'.¹⁰⁷

Equivalence of healthcare and the responsibility of the public health system to provide adequate care also raises the issue of the role of the Medicare Benefits Schedule (MBS) and other national health schemes in prison healthcare. The National Disability Insurance Scheme (NDIS), MBS and the Pharmaceutical Benefits Scheme (PBS) currently do not cover people in prisons across Australia. Ensuring access to these health schemes would open the way to supplementing the range of health services available to people in prison and would enable continuity of care for people entering and exiting custody. It has been argued that the cost of these exemptions would be very small in the context of the overall cost of MBS.¹⁰⁸ The prevalence of disabilities among people in the prison system highlights the need for NDIS support to be available to people incarcerated.

Recommendation 37: That the Department of Justice and Community Safety strengthen processes to better enable individual needs to be thoroughly assessed upon entry to youth detention or prison, with discharge planning occurring from admission.

Recommendation 38: That the Department of Justice and Community Safety develop consistent and transparent reporting of healthcare expenditure and make publicly available data on the quality and range of all healthcare provided to ensure the justice system provides appropriate and cost-effective healthcare.

Recommendation 39: That the Department of Justice and Community Safety draw on organisations already providing healthcare to the wider population for the provision of healthcare in youth detention facilities and prisons to prevent the development of a separate private healthcare system.

Recommendation 40: That the Australian Government enable people in custody to access MBS and NDIS services to supplement the range of health services available and enable continuity of care.

People with Acquired Brain Injury (ABI) and cognitive impairment

Far too many Victorians with an acquired brain injury (ABI) are caught up in the criminal justice system. It is estimated that nearly half of all adult men in prison and more than one third of adult women in prison in Victoria have an ABI, compared with about two per cent of the general population.¹⁰⁹ While data is limited, it is likely that untreated ABIs contribute to recidivism. The extraordinary overrepresentation of people with ABI in prisons reflects a broader failure of the criminal justice system to recognise and respond to the needs of people with ABI. In fact, ABI is not well recognised within the justice system, and the basic supports accepted as essential for people with other kinds of disability in other contexts are lacking – leaving people with ABI to fend for themselves in a system that most people

¹⁰⁷ Kirby, P, Roche, V & Greaves, B. (2000). Independent investigation into the management and operations of Victoria's private prisons. ([Weblink](#))

¹⁰⁸ Plueckhahn, T. M., Kinner, S. A., Sutherland, G., & Butler, T. G. (2015). Are some more equal than others? Challenging the basis for prisoners' exclusion from Medicare. *Medical Journal of Australia*, 203(9), 359-361. ([Weblink](#))

¹⁰⁹ Jesuit Social Services and RMIT University Centre for Innovative Justice (2017). Recognition, Respect and Support: Enabling Justice for People with an Acquired Brain Injury. ([Weblink](#))

find overwhelming. As explained by a person with an ABI and experience of the criminal justice system:¹¹⁰

“I just wanted to get [the court process] over and done with. Every time. I just wanted to get it over and done with. I never really listened to them that much, I think because they were talking words I wasn’t understanding or relating to. A lot of the time it used to be words that went past me, that’s why I think I didn’t really listen because they weren’t talking to me and knowing that I was understanding?”

Listening to people impacted by the criminal justice system, and identifying and responding to their needs is critical to developing effective responses. In 2017, Jesuit Social Services, together with RMIT University’s Centre for Innovative Justice, published a report entitled *Recognition, Respect and Support: Enabling Justice for People with an Acquired Brain Injury* (Enabling Justice).¹¹¹ We interviewed 21 people affected by ABI who had been in contact with the justice system in order to better understand how they experienced the system and to identify ‘missed opportunities’ where alternative responses may have led to more positive outcomes. The project developed a series of recommendations designed to reduce the involvement of people with ABI in the justice system and to support more positive outcomes. The project partners, participants and members of the Justice User Group developed 35 recommendations. The foci of these recommendations are:

- A system that listens to the voices of people with ABI.
- A system that operates more according to a person’s support needs, and less on risk, providing holistic support.
- The need to provide people with ABI access to stable and affordable housing, with attached support where required.
- The need for improved linkages and cooperative approaches between justice and health services.
- A justice system that is less adversarial, and more respectful and restorative.

In this submission, we highlight the two Enabling Justice report recommendations for the Committee’s consideration.

Additionally, Jesuit Social Services is deeply concerned by the detention of people with cognitive impairment who are found unfit to plead. The Senate Inquiry report on the *Indefinite detention of people with cognitive and psychiatric impairment in Australia* found that more than 100 people are detained around Australia without conviction due to a cognitive or psychiatric impairment.¹¹² The failure to provide adequate accommodation and support services for them and, subsequently, the effectively arbitrary nature of their detention constitutes an abuse of human rights. We support the Australian Human Rights Commission’s arguments in *Equal before the law: Towards Disability Justice Strategies*, as

¹¹⁰ Ibid.

¹¹¹ Jesuit Social Services and RMIT University Centre for Innovative Justice (2017). *Recognition, Respect and Support: Enabling Justice for People with an Acquired Brain Injury*. ([Weblink](#))

¹¹² The Senate Community Affairs References Committee (2016). *Indefinite detention of people with cognitive and psychiatric impairment in Australia*. Canberra: Australian Government: ([Weblink](#))

well as the recommendations highlighted in the Senate’s Inquiry report.¹¹³

Responses to offending by young people and adults with cognitive impairment should identify the underlying causes driving their behaviour and provide a therapeutic response that meets their needs and effectively prevents reoffending. People found unfit to plead due to cognitive impairment should be placed in therapeutic, community-based environments with intensive support to prevent further contact with the justice system, including appropriate supervision if required. Effective responses to people with cognitive impairment in the youth and adult justice systems include:

- Better intervention and support services.
- Expanded community visitors’ schemes.
- Improved witness support services to people with disabilities.
- Creation of an assessment protocol that assists police, courts and correctional institutions in identifying people with disabilities.
- Transparent, effective and culturally appropriate complaints handling procedures.
- Training for police, lawyers and others in the justice system regarding the needs of people with disability.
- A range of appropriate supported accommodation options across metropolitan and regional locations for people with cognitive impairments funded by state and territory governments.

Recommendation 41: That the Victorian Government skill specific teams within the corrections workforce to assess and recognise people with an ABI and respond appropriately.

Recommendation 42: That the Victorian Government establish a working group of representatives of criminal justice system organisations and justice users with a range of disabilities to develop an appropriate system to record and share information on the needs, diagnoses and support received by people in the prison system to improve treatment in and post-prison.

Recommendation 43: That the Victorian Government adopt the holistic disability justice principles and strategies advocated by the Australian Human Rights Commission in *Equal before the law: Towards Disability Justice Strategies (2014)*.

People with mental health and substance use issues

We know that poor mental health – compounded by alcohol and drug misuse – is often a contributing factor to involvement in the criminal justice system. Sixty-one per cent of adults in prison in Victoria have or have had a diagnosis of a mental health disorder.¹¹⁴ Children in the justice system in Victoria are some of our state’s most vulnerable. In the Victorian Youth Parole Board annual survey of 173 children involved with youth justice in 2019-20:

- 68 per cent presented with mental health issues
- 28 per cent had a history of self-harm or suicidal ideation

¹¹³ Australian Human Rights Commission (2014). KA, KB, KC and KD v Commonwealth of Australia, [2014] AusHRC 80. Canberra: Australian Human Rights Commission, ([Weblink](#)) ; and Australian Human Rights Commission (2014). Equal before the law: Towards Disability Justice Strategies. Canberra: Australian Human Rights Commission, ([Weblink](#))

¹¹⁴ AIHW (2019). The health of Australia’s prisoners 2018. ([Weblink](#))

- 71 per cent were victims of abuse, trauma or neglect
- 42 per cent presented with cognitive difficulties that affect their daily functioning
- 68 per cent had previously been suspended or expelled from school
- 11 per cent were registered with Disability Services
- 56 per cent had a history of both alcohol and drug misuse.¹¹⁵

As discussed in further detail below, we are aware of the impact that imprisonment, isolation and restraint have on individuals' mental health – particularly when they are young. The relationship between mental health and the justice system is therefore of great concern, especially considering the long-term ramifications on the individual, their family and community, and the broader impacts this has on society. However, there is evidence that program delivery in youth justice facilities and prisons is disjointed and insufficient.¹¹⁶ The history of severe trauma that many people in prison have is typically not well understood or treated within the prison system.¹¹⁷ Incarceration can be a critical opportunity to provide people with mental health support and access to appropriate drug and alcohol treatment at a time when individuals have greater stability.

We are encouraged by the Victorian Government's public commitment to implementing all the recommendations from the *Royal Commission into Victoria's Mental Health System*, handed down in February 2021 and we welcome the substantial investment in mental health facilities and programs under the Victoria's 2021-22 Budget.

Recommendation 44: That The Victorian Government recognise the particular vulnerabilities of people involved in the justice system and increase prison-based mental health supports (including additional staff both in the prison and embedded in transitional support teams).

The risk of COVID-19

Certain groups and individuals have been at heightened risk during the COVID-19 crisis, including people in detention and prison. The Australian Government's health advice recognises that people in detention are among those most at risk of contracting this virus.¹¹⁸ In 2020 during Victoria's second wave of the virus, six Victorian prisons went into lockdown, after a staff member tested positive to COVID-19. Thankfully the spread was contained, with a number of people in the affected prisons transferred to the [Maribyrnong Community Residential Facility](#) (for further details of the facility, please see Part Four of this submission). At the time of writing, there are multiple cases of COVID-19 within prisons in NSW.¹¹⁹

We continue to call on the Victorian Government to release low-risk offenders, people on remand, Aboriginal and Torres Strait Islander people, and people with chronic health conditions. Acting swiftly to release vulnerable groups will protect the health and well-being of all people connected with the justice system, as well as the broader community. It may literally be lifesaving.

¹¹⁵ Victorian Youth Parole Board (2020). Annual report 2019-20 ([Weblink](#))

¹¹⁶ State of Victoria, Royal Commission into Victoria's Mental Health System, Final Report, Volume 1: A new approach to mental health and wellbeing in Victoria, Parl Paper No. 202, Session 2018–21 ([Weblink](#))

¹¹⁷ Mental Health Legal Centre (2019). Submission to the Royal Commission into Victoria's Mental Health System. ([Weblink](#))

¹¹⁸ Department of Health (Australian Government) (2021). What you need to know about coronavirus (COVID-19) ([Weblink](#))

¹¹⁹ See <https://www.hrw.org/news/2021/08/19/australia-protect-risk-communities-covid-19>

Further, we note that although people in prison have been included as a priority cohort in Australia's COVID-19 vaccine rollout, there is little data available on the number of people in prison who have been vaccinated. We urge the government to make this data publicly available.

Recommendation 45: That the Victorian Government proactively address the serious health risks of COVID-19 by urgently releasing low-risk offenders, people on remand, Aboriginal and Torres Strait Islander people, and people with chronic health conditions.

Take a gender-responsive approach

It is critical that the needs of women, men, and transgender and gender diverse people in contact with the justice system inform the rehabilitative and therapeutic supports they receive while in prison and while transitioning out of the justice system.

Jesuit Social Services is deeply concerned about the soaring rate of women in Victorian prisons. From 2010-19, the number of women in Victorian prisons increased by a staggering 44 per cent.¹²⁰ The unique profile and vulnerability of women in prisons is internationally recognised: women in prison have disproportionately experienced physical or sexual abuse and family violence prior to imprisonment, disproportionately experience mental health problems and disability, alcohol and other drug misuse problems, and often have caring responsibilities for children and families.¹²¹ This is reflected in the Australian context. The Ombudsman's report in 2017 on *Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre (DPFC)* identified these same characteristics among women in the facility on the day of inspection. It also indicated that women at DPFC were more likely to come from backgrounds of disadvantage, less likely to have completed secondary school, and more likely to have been unemployed before imprisonment.¹²²

Within custody, these histories of trauma, disadvantage and comorbidity demand therapeutic environments and interventions. The significant challenges and heightened risk of family violence faced by women in prison must also be acknowledged.¹²³ Jesuit Social Services calls for increased social support, appropriate health services and access to safe and affordable housing to prevent violence against women who have been to prison. Specific approaches are also required for girls and young women who make up a small percentage of young people who offend but have complex needs and significant histories of trauma, including family violence, abuse, self-harm and higher rates of mental illness.¹²⁴ Aboriginal girls and young women experience even higher levels of vulnerability and disadvantage.

Tailored approaches are also required for men in contact with the justice system. At present, 94 per cent of people in prison in Victoria are male. However, prisons are largely ineffective at addressing the

¹²⁰ Corrections Victoria. (2021). Monthly prisoner and Offender Statistics. ([Weblink](#))

¹²¹ 8 United Nations Office on Drugs And Crime. (2008). Handbook for Prison Managers and Policymakers on Women and Imprisonment. Criminal Justice Handbook Series. New York: United Nations. Retrieved from ([Weblink](#))

¹²² Victorian Ombudsman. (2017). Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre. ([Weblink](#))

¹²³ Willoughby, M., Tibble, H, Spittal, M. J., Borschmann, R. & Kinner, S. (2020). Women released from prison are at much greater risk of violence. *The Conversation*. ([Weblink](#))

¹²⁴ Victorian Government. (2021). Youth Justice Strategic Plan 2020-30. ([Weblink](#))

attitudes and beliefs that often underlie the harmful and violent behaviours perpetrated by men.¹²⁵ Our [‘Man Box’ research](#) found that men who endorsed rigid and narrow ideas of masculinity (such as acting tough, always sorting out problems on their own and supporting the use of violence to get respect) were 14 times more likely to have used physical violence in the past month.¹²⁶ These men were also more likely to have had thoughts of suicide in the last two weeks (twice as likely as those outside the ‘Man Box’) and reported feeling down, depressed and hopeless. Based on this research we recommend a gender-responsive approach to men in prison, especially in relation to addressing underlying attitudes and behaviours, mental health problems and suicide ideation among men who have perpetrated violence, including violent crimes against women.

Transgender and gender diverse people in prison face increased risk of discrimination, mental distress, and physical and sexual violence.¹²⁷ Research into corrective services policies in Australia has illuminated problematic practices around housing transgender people in prison, hormone provision, and name and pronoun use.¹²⁸ In 2017, the Victorian Ombudsman highlighted the experience of transgender and gender diverse people in *Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre*. The Ombudsman highlighted that “transgender, intersex and gender diverse people are often more at risk within custodial environments” and maintained that, “prisons need to take account of these vulnerabilities when planning action to prevent cruel, inhuman and degrading treatment.” For instance, the report found that while “overall, the prison appeared to be attempting to meet the needs of transgender, gender diverse and intersex [people in prison]” there was a lack of training in the needs of LGBTQIA+ people amongst staff.¹²⁹ Awareness of the unique needs of transgender and gender diverse people is paramount in ensuring that mistreatment and abuse of human rights is prevented. Understanding and responding to the needs of LGBTQIA+ children and young people, and their families is also required to ensure all diverse young people feel safe and appropriately supported.

Recommendation 46: That the Department of Justice and Community Safety ensure assessments and corresponding supports account for the unique needs of men, women, and transgender and gender diverse people involved in the justice system.

Ensure custodial environments are appropriately resourced with qualified staff

Staff in our prisons and youth justice facilities are central to the goal of rehabilitation and, with the right skills and resources, can be positive agents of change. It is essential to recognise that the needs of young people in detention vary greatly from adults. Therefore, staff in youth detention facilities must be trained in youth specific practice frameworks and frequently update their skills. In their 2017 review of Victoria’s Youth Justice System, Armytage and Ogloff identified a number of areas for improvement after comparing the custodial workforce in Victoria against best practice models.¹³⁰ We welcome the focus on

¹²⁵ Corrections Victoria. (2021). Monthly prisoner and Offender Statistics. ([Weblink](#))

¹²⁶ The Men’s Project & Flood, M, (2018) *The Man Box: A Study on Being a Young Man in Australia*. Jesuit Social Services: Melbourne. ([Weblink](#))

¹²⁷ United Nations Office on Drugs And Crime. (2009). *Handbook on Prisoners with special needs*. Criminal Justice Handbook Series. New York: United Nations. ([Weblink](#))

¹²⁸ Rodgers, J., Asquith, N. L., Dwyer, A. (2017). *Cisnormativity, criminalisation, vulnerability: Transgender people in prisons*. Tasmanian Institute of Law Enforcement Studies Briefing Paper, vol. 12. Retrieved from ([Weblink](#))

¹²⁹ Victorian Ombudsman. (2017). *Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre*. ([Weblink](#))

¹³⁰ Armytage, P. & Ogloff, J. (2017). *Youth Justice Review and Strategy*. ([Weblink](#))

youth justice workers as key drivers of change in the Victorian Government's [Youth Justice Strategic Plan 2020-2030](#).

Principles of a youth specific framework must include training around trauma-informed care, child brain development, impulsive adolescent behaviours, alcohol and other drug issues, and the impact of family violence on young people. We can turn to international jurisdictions to see examples of best practice:

- In Norway, correctional staff are required to undertake a minimum of two years training. Entrants are screened for life experience and positive, humanistic attitudes and paid to undertake the training, with a major focus of the prison officer training described as equipping new staff with capacity to focus on engagement and building relationships with people.
- In Missouri, staff are youth specialists (not corrections officers) and there is a high ratio of staff to young people, with experienced group leaders supervising teams.¹³¹
- In the Netherlands, staff require a minimum three-year bachelor degree to work in youth prisons.¹³²
- In Spain's youth detention 'Re-education Centres' run by Diagrama, front-line staff (named 'educators') are expected to have a professional qualification.¹³³

Figure 9: The door to a staffroom at a youth detention facility in New Zealand



Source: Jesuit Social Services (2019). Justice Solutions Tour New Zealand. [\(Weblink\)](#)

As Julie Edwards, Chief Executive Officer of Jesuit Social Services reflected on Norway's Ullersmo Youth Unit:¹³⁴

“Half the staff are social workers, half prison officers – and the latter are well qualified with two years training in areas including ethics, human rights, multicultural competence, psychology, sociology, criminology, law, social work, moral philosophy, re-integration, security. Another principle is ‘importing’ staff from the broader community to deliver as many functions as possible such as teaching and health. This reinforces the notion that prisoners are citizens with the same rights as others in the community, and therefore the same institutions that deliver education and health services in the community come to the prison to deliver those services there.”

¹³¹ Jesuit Social Services (2017). #Justice Solutions Tour Expanding the Conversation. [\(Weblink\)](#)

¹³² Robinson, M. (2015). To examine trauma-informed models of youth detention - USA, Norway, Netherlands. Canberra: Winston Churchill Memorial Trust. [\(Weblink\)](#)

¹³³ Hart, D. (2015). Correction or care? The use of custody for children in trouble. United Kingdom: Prisoners' Education Trust. [\(Weblink\)](#)

¹³⁴ Edwards, J. (2017, June 21) Justice Solutions tour blog – Ullersmo Youth Unit, Norway [blog post]. [\(Weblink\)](#)

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

Overcrowding in prisons has resulted in inadequate staffing levels that have had a significant impact on both the treatment and rehabilitation of people in prison, and staff safety.¹³⁵ The European Committee for the Prevention of Torture noted that low staff numbers presents a potentially dangerous situation for vulnerable people in prison, as well as dangers for staff.¹³⁶ Overstretched staff risk stress-related health conditions and burnout, while mistreatment of people in prison also becomes more likely.¹³⁷ In June 2021, a report released by the Independent Broad-based Anti-corruption Commission revealed a string of serious systemic issues within the Victorian prison system.¹³⁸ The report investigated allegations of prison staff covering the lens of their body worn cameras while treating people in prison with force and assaulting them, including a person with an intellectual disability, as well as systemic issues relating to strip searches. Incidences such as these compound experiences of trauma that are common amongst people in contact with the justice system.

Recommendation 47: That the Victorian Government introduce a minimum workforce qualification for all custodial youth justice staff to reflect the challenges of the role and the impact appropriate staffing can have on rehabilitation and community safety.

Recommendation 48: That the Victorian Government invest in training all correctional staff to use therapeutic and restorative approaches when working with children in youth detention and adults in prison.

Address the use of isolation, restraint and lockdowns

One response to dealing with safety and stress issues arising from overcrowding has been the use of isolation and restraint – practices of significant concern to Jesuit Social Services.¹³⁹ Our report – [All alone: Young adults in the Victorian justice system](#) – raises a number of concerns regarding the welfare and treatment of young adults in Victorian prisons, including the use of isolation and restraint.¹⁴⁰

A number of practices used in Australian prisons amount to what is commonly termed “solitary confinement” involving more than 22 hours a day spent alone in a cell, without access to meaningful human contact. Terms such as isolation, segregation, separation, seclusion or involvement in a management regime can all be used to describe this practice, but the result is the same: the denial of human contact and a severe and oppressive environment, often with limited ventilation and light. This has significant impact on physical and mental health and future outcomes for people in prison and the community. The *Royal Commission into Aboriginal Deaths in Custody* found the use of isolation has a

¹³⁵ Jesuit Social Services (2019). Submission to the 2019/20 Victorian State Budget. ([Weblink](#))

¹³⁶ Council of Europe (2016). Yearbook of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. ([Weblink](#))

¹³⁷ Ibid.

¹³⁸ Independent Broad-based Anti-corruption Commission (2021). Special Report on corrections. ([Weblink](#))

¹³⁹ Jesuit Social Services. (2018). Submission to the National Children’s Commissioner on Australia’s implementation of the United Nations Convention on the Rights of the Child. ([Weblink](#)).

¹⁴⁰ Jesuit Social Services. (2018). All alone: Young adults in the Victorian justice system. ([Weblink](#))

particularly devastating impact on Aboriginal people, stating that “it is undesirable in the highest degree that an Aboriginal prisoner should be placed in segregation or isolated detention.”¹⁴¹

Isolation is currently used for various reasons, including as punishment, containment of violent people in prison, as a result of staff shortages or for a person’s own protection. There is very little transparency in relation to data about how frequently isolation and restraint is imposed in our prisons, but from discussions with participants in our justice programs, our staff have gathered that it is an accepted tool of behaviour control, and happens often enough to cause concern and suggest underlying factors leading to its use must be addressed. The lack of transparency also means there is no access to data around the types of people in prison who are subjected to isolation regimes. However, we can form an understanding based on information shared by our staff, participants, and observations from other jurisdictions. Certainly young adults, who we know to be both a vulnerable cohort, appear to be disproportionately subject to these practices in Victoria.

CASE STUDY: James*

James is an Aboriginal man who was transferred to an adult prison in Victoria from a youth justice centre at the age of 16. James was released from an intermediate regime placement (22 hours in cell, two hours out of cell with a small group of people) at the age of 19. Following this transfer, he struggled to manage his transition back into the community. While James secured a transitional property, he found this too challenging to live in, and made his bathroom into a cell. He slept in the bath and prepared his food in the bathroom. James brought a number of items, including a radio, a kettle and a toaster, into his bathroom to replicate the cell he had in prison. James returned to custody shortly following his release and his struggles in the community were the source of much concern to his family, who were not immediately aware of his transfer to an adult prison at the age of 16.

** Name has been changed to protect privacy*

Jesuit Social Services welcomes the Victorian Ombudsman’s investigation into the isolation of young people in closed environments in Victoria, carrying out inspections according to the standards of the United Nations’ *Optional Protocol to the Convention against Torture* (OPCAT). As noted by the Ombudsman:

“Unlike in the adult system, there is no requirement under the Children Youth and Families Act 2005 (Vic) for consideration to be given to a person’s medical and psychiatric conditions before authorising isolation [...]. The inspection was concerned by this, particularly in cases such as [...] where a young person with an intellectual disability and anxiety was isolated after becoming agitated because of lockdowns, despite staff being advised that ‘being alone and the sound of silence’ could trigger his anxiety and that he had a tendency to self-harm when isolated.”

¹⁴¹ Royal Commission into Aboriginal Deaths in Custody (1991) ([Weblink](#))

Jesuit Social Services believes there must be strict limits on the use of isolation and restraint practices in relation to young adults, including prohibitions on prolonged confinement. Punitive isolation (i.e. for the sole purpose of punishment) should never be permitted. Jesuit Social Services accepts that there may be limited circumstances where separation is necessary for the protection of the young adult or others. Such separation should only be used in a situation where a person might reasonably be expected to cause serious physical harm to themselves or others, and where other de-escalation interventions have not been effective. In de-escalating situations where, physical harm to self or others is not a concern, staff should not rely on separation as a solution and instead be adequately trained in and employ restorative interventions. Separation should be for the minimum amount of time necessary, and subject to daily review. The person affected should also be informed of the reasons for the separation and the expected length of time it will be used. Prison operators should record the use of separation and the relevant data must be made public to ensure accountability and adherence to guidelines.

The use of isolation and lockdowns as a way of ‘managing’ the health risks of COVID-19 in prisons is also very troubling. This is not a humane way to treat anybody, let alone people who are already marginalised and, in many cases, dealing with trauma or pre-existing health concerns.

Recommendation 49: That the Victorian Government increase levels of staffing to minimise the need to use punitive practices such as isolation and restraint.

Recommendation 50: That the Victorian Government ban the use of isolation for children in youth detention facilities to prevent adverse outcomes.

Recommendation 51: That the Victorian Government Legislate for a presumption against the use of isolation in adult prisons, with isolation only permissible in rare cases where immediate safety to persons is a concern, and then only for the briefest possible period.

Ensure transparency of privately owned detention facilities

When a State takes the serious step of removing a person’s liberty, certain standards must be met to ensure the human rights of those incarcerated, to rehabilitate detainees and to reduce re-offending. Jesuit Social Services’ report, [Outsourcing Community Safety: Can private prisons work for public good?](#), raises an important question as to whether for-profit prison providers are well placed to meet these requirements. As highlighted in our report:

“The question is whether the supposed benefits of privatisation are compatible with the goals of prisons. A number of jurisdictions around the world have concluded that they are not.”

Almost 40 per cent of Victoria’s adult prison population is held in privately owned and operated facilities – the highest by far across Australia and more than almost anywhere else in the world.

Jesuit Social Services is concerned that in introducing a profit motive to the operation of prisons there may be tension, or even conflict, with what we have identified as principles of imprisonment: rehabilitation and reducing recidivism, while respecting human rights. The need to drive down costs is a legitimate concern of any business, but in the case of prisons, cost-saving measures – such as fewer or less qualified staff – can undermine the wellbeing of a person in prison and their prospects of rehabilitation. Recent research adds to this concern in outlining how significant investments in private providers have failed to deliver the justice sector outcomes desired in Australia.¹⁴² A further concern about private prisons is that operators have the potential to become influential actors in the formation of public policy. The best, evidence-based policies are designed to keep people out of prison; but to a big private prison provider, this is bad for business. Finally, the existence of private prisons may encourage governments to try to shift responsibility for what goes on inside these facilities.

For these reasons, we are very concerned about Victoria’s move to more private prisons, particularly when a number of jurisdictions are moving in the opposite direction (see for example, Queensland).¹⁴³ However, we are not able to say whether private prisons in Australia are doing a better or worse job than public prisons. This is because there is a serious lack of transparency when it comes to prison performance in this country, both public and private. Greater transparency around prison contracts and performance outcomes in private prisons is urgently needed in order to have a clear sense of whether for-profit prison providers are well placed to meet the needs of people in prison.

Recommendation 52: That the Victorian Government provide data on private prison contracts and performance outcomes for greater transparency so that the merits or otherwise of privatization can be assessed.

Figure 10: Proportion of people in private prisons - 2017



Source: Jesuit Social Services (2017). *Outsourcing Community Safety: Can private prisons work for public good?* ([Weblink](#))

¹⁴² Battams, S., Delany-Crowe, T., Fisher, M., Wright, L., McGreevy, M., McDermott, D., & Baum, F. (2021). Reducing Incarceration Rates in Australia Through Primary, Secondary, and Tertiary Crime Prevention. *Criminal Justice Policy Review*, 32(6), 618-645. ([Weblink](#))

¹⁴³ See for example: <https://www.themandarin.com.au/162239-all-queensland-prisons-now-run-by-state-government/>

Enhance independent oversight and accountability

A fair, effective and humane justice system demands the implementation of an appropriate accountability framework, including financially independent inspection and oversight.¹⁴⁴ Implementing independent oversight mechanisms across the youth justice system is particularly important to promote the safety and wellbeing of children. However, Jesuit Social Services has long held concerns about the lack of accountability and transparency within Victoria's youth and adult justice systems.¹⁴⁵ We therefore strongly support the Australian Government's decision to ratify OPCAT, noting the widespread recognition that effective implementation of OPCAT can help prevent mistreatment in detention, improve oversight and accountability, and enable better detention practices.

Ratified by the Australian Government in December 2017, implementation of OPCAT requires the Commonwealth and each state and territory government to designate and establish National Preventative Mechanisms (NPM) to undertake monitoring and allowing for inspections by a UN committee. The NPMs must ensure a focus is maintained on the needs of certain cohorts made particularly vulnerable in prison. As outline in Jesuit Social Services' [submission to the Australian Human Rights Commission's OPCAT in Australia consultation](#), the NPMS must protect the rights of, and ensure supports are in place for, vulnerable cohorts in places of detention, including Aboriginal people, individuals with ABI and cognitive impairment, young adults, transgender and gender diverse people, and children. NPMs must also prioritise the prevention of the use of isolation and other methods of physical and chemical restraints in prisons and youth justice facilities.

To date, Australia's progress on implementing OPCAT has been slow, with Western Australia the only state or territory to formally nominate its inspection body; the Western Australia Ombudsman (for mental health and other secure facilities) and the Office of the Inspector of Custodial Services (WA) (for justice-related facilities including police lock ups).^{146 147}

As Lachsz and Hurley (2021) have recently noted, full implementation of OPCAT alone cannot address the failures of our criminal justice system, "characterised by prisons which are overcrowded, unhygienic, have substandard health care and [are] subjecting people to restrictive and harmful practices, like solitary confinement."¹⁴⁸ As noted throughout this submission, more transformative change is needed that keeps people out of prison and removes the imperative for new or expanded prisons.

Recommendation 53: That the Victorian Government urgently designate and/or establish National Preventive Mechanisms to oversee conditions of detention and treatment of people in detention.

¹⁴⁴ Aizpurua, E., & Rogan, M. (2021). Correctional oversight bodies' resources and protections across the European Union: Are their hands tied?. *Criminology & Criminal Justice* ([Weblink](#))

¹⁴⁵ Jesuit Social Services. (2017). Outsourcing Community Safety: Can private prisons work for public good? ([Weblink](#))

¹⁴⁶ See <https://www.ombudsman.gov.au/what-we-do/monitoring-places-of-detention-opcat>

¹⁴⁷ Note: At the time of writing, the Northern Territory has nominated the Office of the Ombudsman NT as an interim coordinating NPM. Tasmania is proposing amendments to the Custodial Inspector Act 2016 that will nominate the Custodial Inspector to fulfil the role of the NPM. South Australia is intending to introduce the OPCAT Implementation Bill 2021 that will nominate three NPMs for training centres, mental health facilities and custodial police stations.

¹⁴⁸ Lachsz, Andreea & Hurley, Monique (2021) 'Why practices that could be torture or cruel, inhuman and degrading treatment should never have formed part of the public health response to the COVID-19 pandemic in prisons,' *Current Issues in Criminal Justice*, ([Weblink](#)).

Part Four: Enable better transitions from the justice system to the community

The information provided in part four of our submission address **Term of Reference 2** – Strategies to reduce rates of criminal recidivism.

Expand transitional support programs

People exiting prison are some of the most vulnerable and disadvantaged members of the Victorian community, yet the limited support available to them means they often cycle through the justice system again and again. The Victorian Ombudsman's *Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria* completed in 2015 reported that only 700 of the approximately 6,600 people who leave prison each year (i.e. less than 11 per cent) receive between 3 and 22 contact hours of support.¹⁴⁹ The limited nature of support means people exiting prison do not have the opportunity to adequately address the problems they face, including their offending behaviour, and this, in turn, exacerbates their likelihood of reoffending.

Many people in prison and detention have multiple and complex needs, including cognitive disability, mental illness, socioeconomic disadvantage, and a history of trauma. People leaving custody often experience homelessness, poor mental health, and high rates of illicit drug use¹⁵⁰ thus recidivism and premature death are significant risks in the months following release from prison.¹⁵¹ Expanding transitional support programs aims to enable offenders' successful reintegration into the community, thereby reducing recidivism and its costs.¹⁵²

Our Young and First Time Offenders Program and Out for Good Program support young people between the ages of 17 to 26 who have come into contact or are at risk of coming into contact with the justice system. We work in conjunction with partner employers, who are asked to pledge jobs to young people system who may not otherwise be given the opportunity for employment. The programs are run by employment mentors with vast experience in working in partnership with the Department of Justice and Community Services, Corrections Officers, Proactive Police Units and participants. The mentors advocate for the flexibility and understanding required to allow participants to pursue employment pathways thus reducing the likelihood of recidivism. Once placed into employment, the participants and employers are offered an additional six months of support to assist with troubleshooting any issues that may arise in the workplace, provide any upskilling or training required to increase the likelihood of long-term employment, and to provide financial support for employment requirements such as initial transport costs.

¹⁴⁹ Victorian Ombudsman (2015). *Investigation into the rehabilitation and reintegration of prisoners in Victoria, September 2015*. Melbourne: Victorian Ombudsman. ([Weblink](#))

¹⁵⁰ AIHW (2019). *The Health of Prisoners 2018*. ([Weblink](#)); Jesuit Social Services (2018). *All Alone: Young adults in the Victorian justice system*. ([Weblink](#)); Victorian Ombudsman (2015). *Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria*. ([Weblink](#)).

¹⁵¹ Hobbs, M., Krazlan, K., Ridout, S., Mai, Q., Knuiman, M., & Chapman, R., (2006). Mortality and morbidity in prisoners after release from prison in Western Australia 1995-2003. *Trends & issues in crime and criminal justice, No. 320*. ([Weblink](#)).

¹⁵² Office of the Inspector of Custodial Services (2014). *Recidivism rates and the impact of treatment programs*. ([Weblink](#))

CASE STUDY – Sally*

Sally is a 25 year old woman who has had prior contact with the justice system. Out for Good program staff first engaged with Sally while she was serving a sentence at Dame Phyllis Frost Centre. She displayed a strong willingness to make a positive change in her life and did not want to return to prison. Sally received employment assistance through the Out for Good program once she returned to the community. Despite the unforeseen employment setbacks of COVID-19, Sally remained resolved in her commitment to finding work. During this period, she actively engaged with Out for Good program staff as they supported her to increase her employability and job readiness, while putting her towards suitable employment vacancies. Sally was successful in gaining employment as a traffic controller. Since obtaining employment, she has grown to become more socially and economic independently. Recently, she regained her licence and purchased a new car so she can travel to work independently. Sally's employer has also now issued her with a company vehicle to travel to the worksite.

**Name has been changed for privacy reasons*

Another positive example of a transitional support program is our ReConnect program, which is delivered across Melbourne's north and western regions, as part of the Corrections Victoria Reintegration Pathway. ReConnect supports high risk and high profile adult men and women, which includes young people aged 18 years and above, to transition from prison to the community by providing case management support across critical domains.

Feedback from ReConnect Participants

"They helped me with the practical things that I needed in order to live my life and move forward."

"Self-esteem. Just leading me the way – I've never had a social worker or anything like that and so the encouragement and support was really important."

"My personal wellbeing – basically a secure place over my head and helping me getting back in touch with friends, and better mental health."

A number of health needs should be addressed in such programs, including physical health, mental health, social disadvantage (e.g. programs that assist young adults to access accommodation, employment and social services), and substance use. For these programs to be most effective, they should commence before release and continue post-release. Further, links between in-prison and community-based health and mental health services need to be strengthened to ensure continuity of supports.

Recommendation 54: That the Victorian Government further invest in the provision of more intensive transition services for highly vulnerable people exiting prison.

Meet the housing needs of people leaving custody

Having stable and affordable housing can make a significant difference in the life of a person leaving prison and whether they reoffend, yet almost one-third of people exit the justice system into homelessness.¹⁵³ Post-release support, including transitional facilities, are critical to ensuring that individuals do not exit prison into homelessness or unsuitable housing.¹⁵⁴

“People discharged from prison need housing and employment for successful re-entry into the community and to reduce the likelihood of returning to prison. Dischargees without housing often cycle from prison into homelessness and back into prison, with prison dischargees who experience homelessness almost twice as likely to return to prison within nine months of release”

For many years, Jesuit Social Services has provided supported housing for justice system-involved young people through our Perry House, Next Steps, and Link Youth Justice Housing programs. Perry House provides a residential-based living skills program for justice system-involved young people with an intellectual disability who are at risk of, or are experiencing, homelessness and require support. Next Steps, which was recognised by the 2017 Victorian Homelessness Achievement Awards, is a supported housing program for 16–24 year-olds who are involved with the justice system and are experiencing, or are at risk of, homelessness. Link Youth Justice Housing Program (Link) is an innovative pilot program, launched in 2018, that supports young people (aged 16–22 years) exiting the justice system who are experiencing homelessness or at risk of homelessness. The Program secures and sustains access to stable living arrangements by head leasing through partner agency VincentCare (for further details of these programs please see Appendix F).

More recently, we have partnered with the Victorian Government to launch the new Maribyrnong Community Residential Facility aimed at men exiting prison. Several residents at Maribyrnong have already demonstrated that with the right supports in place they are able to settle into community life, look for work and plan a better future. Feedback from participants during the first 12 months of the program’s operation has been extremely positive. Participant Christian (not his real name) says the support of staff at the facility has been crucial in helping him to turn his life around:

“They have not only provided me the environment to recover, but also enabled me to accelerate my ability and hope to return to a normal life and a career”

¹⁵³ AIHW (2019). The Health of Prisoners 2018. ([Weblink](#))

¹⁵⁴ AIHW (2019). Specialist Homelessness Services annual report 2018-19. ([Weblink](#))

We commend the Victorian Government on its commitment to ensuring this innovative program can continue until June 2022. Many people, however, continue to exit prison into homelessness. We therefore call for investment to enable Jesuit Social Services to implement a dedicated transitional, supported housing model. This would involve working in partnership with other agencies to provide more intensive ‘wrap around’ responses and draw on our strong working relationships with Youth Justice, Corrections Victoria, prison staff, Community Corrections, specialist government and community sector providers, and Aboriginal and culture specific services across housing, education and employment, alcohol and other drugs, health and mental health services.

Figure 11: Jesuit Social Services’ proposed model of supported, transitional housing



In particular, we propose a dedicated response for the following cohorts –

- **Young people (16-21) on a Youth Justice Order/parole, without access to housing and/or as part of bail or parole conditions** – Young people leaving custody need access to appropriate transitional, step-down housing, and often require tailored supports. The Youth Parole Board continues to make it clear that the availability of stable accommodation for young people remains one of the most crucial considerations for granting parole to a young person, and is critical for their successful transition to the community. *Note – subject to suitability and careful screening we could offer access to young men in the adult jurisdiction engaged with youth justice.* **Estimated cost: \$1.2m per year.**
- **Young men (18-24)** – Post-release and transitional support can help young men transition more effectively into the community. There is a need for greater resourcing of a through-care model which offers housing along with ongoing, coordinated and age-appropriate responses. A number of health needs should be addressed, including physical health, mental health, substance misuse and social disadvantage (for example, programs that assist young men to access employment and vocational opportunities). **Estimated cost: \$1.2m per year.**
- **Adult men, aged 25+** – A small number of men in prison can access 25 beds at the Judy Lazarus Transitional Centre, which has been found to reduce recidivism and better prepare people for transition back to the community. We propose to expand/adapt the Judy Lazarus Transition Centre model, incorporating design elements from international best practice, where we identify and respond to the learning, employment and psycho-social needs of adult men aged 25 and over exiting adult prisons through a structured independent living skills program. This housing and support model will enable a greater number of adult men who are leaving prison to access intensive transitional support, with a focus on connection to family and community. **Estimated cost: \$1.2m per year.**
- **Women with intellectual disability and cognitive impairment, aged 18-30, forensic disability group** – Jesuit Social Services works with women incarcerated at Dame Phyllis Frost Centre, many of whom have a diagnosed intellectual disability or cognitive impairment. These women are highly vulnerable

and require specialist housing along with gender specific, therapeutic and independent living support. **Estimated cost: \$1.2m per year.**

With the provision of safe and stable housing as a foundation, we will tackle the issues contributing to a person's offending behaviour, developing solid skills that put people on a more positive pathway, and monitoring their progress – daily where necessary – to deliver sustainable and lasting change.

Jesuit Social Services has developed a detailed proposal for this model and would welcome the opportunity to provide the Committee with further details upon request.

Recommendation 55: That the Victorian Government provide funding to Jesuit Social Services to deliver a model of supported, transitional housing.

Conclusion

With the right leadership, a clear vision and determination we can reduce the number of children in youth detention and adults in prison. This is a highly attainable goal. The evidence is clear about what needs to happen. We need to set specific targets to reduce offending, recidivism and incarceration. We need to re-introduce alternative sentencing options such as suspended sentences, especially for those on short sentences or convicted of non-violent crimes. We need to invest in local communities, harness their strengths, and work with them to prevent crime.

We have an opportunity to return Victoria to its previous position as leading the country in humane, effective and evidence-based approaches to people in trouble in a way that holds them truly accountable for their actions, gives them hope to transform their lives, stops children progressing to a life of adult crime and reduces the number of future victims. We stand ready to support the Victorian Government in making this a reality.

We appreciate the Legislative Council's Legal and Social Issues Committee receiving our views as a part of the *Inquiry into Victoria's Criminal Justice System*. Jesuit Social Services would welcome the opportunity to expand further on any of the matters raised in this submission.

Appendices

Appendix A - Key principles for effective and humane justice systems

Jesuit Social Services calls on Governments and key stakeholders across Australia to adopt and put into action the following key principles for effective and humane justice systems:

- Incarceration as a last resort
- Focus on early intervention and diversion
- Listening to the voices of people and their families
- Developmentally appropriate approaches to children
- Recognising the importance of culture and country for Aboriginal and Torres Strait Islander people
- Connection to families, communities and culture
- Thorough assessment and planning
- Addressing offending behaviour
- Addressing mental health, substance abuse and other health and wellbeing needs
- Strong framework of support and accountability
- Restorative justice approaches
- Education focus that builds practical and social skills for re-socialisation.

When people are incarcerated, we must:

- Adopt a relationship-based model across every aspect of operations
- 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 reintegration 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.

And to achieve all this we need:

- Strong leadership
- Shared commitment across sectors
- Agreed, embedded values and respect for culture and community
- Evidence-based and best practice interventions
- Investment in alternatives to detention
- Qualified and experienced staff
- Targets to reduce youth offending, incarceration and recidivism, with specific targets for Aboriginal children.

Appendix B - The Men's Project partnership with the Islamic Council of Victoria (ICV)

Since early 2020, The Men's Project has been working in partnership with the ICV and a range of stakeholders across the education and family violence sectors to support young people to go beyond gender stereotypes and prevent men's violence against women. This work encompasses two projects: one that is expanding on our Adolescent Man Box research with Roxburgh College students looking at

attitudes to masculinity, and the second working with community leaders and Imams on issues of family violence and masculinity.

Co-design and delivery are central to the partnership and working groups have been established for both projects. Good progress has been made on each project, despite 2020 having been an extremely challenging year.

After meeting and presenting to the leadership and all school staff at Roxburgh College, more in-depth conversations were held with the Year Level Coordinators before administering the Adolescent Man Box Survey online to all 1,273 students in Years 7 to 12. The data was then analysed and presented to the Reference Advisory Group that oversees the two projects. (See here for feedback from Aynur, one of the key stakeholders.) Additional analysis will be completed, as well as mapping of existing initiatives at Roxburgh College, and focus groups will be held, all of which will guide the programmatic work that we intend to deliver in Term 2, 2021.

Four focus groups were held with community leaders and Imams: two all-female and two all-male, with participants selected by working group members. The content addressed:

- Understanding what constitutes family violence, and family violence and other behaviours as they relate to masculinity
- Seeking input on how vulnerability and emotional intelligence is currently modelled in the community
- Seeking knowledge of existing resources and referral pathways/support seeking that community members currently use/engage with
- Exploring the tools and resources that would be most helpful to the community for future development
- Seeking to understand who is best placed in the community to lead conversations on the topics of family violence and healthy masculinities
- Gaining an understanding of what would be helpful to increase confidence of leaders/influencers when having conversations related to gender equality and gendered violence
- Sharing any learnings from the COVID-19 experience and capturing findings related to family violence and mental health.

The findings from these focus groups were presented to the Reference Advisory Group in early February 2021, and further work is currently underway to identify relevant resources and training required.

[Appendix C - Update on the Royal Commission into Family Violence recommendations](#)

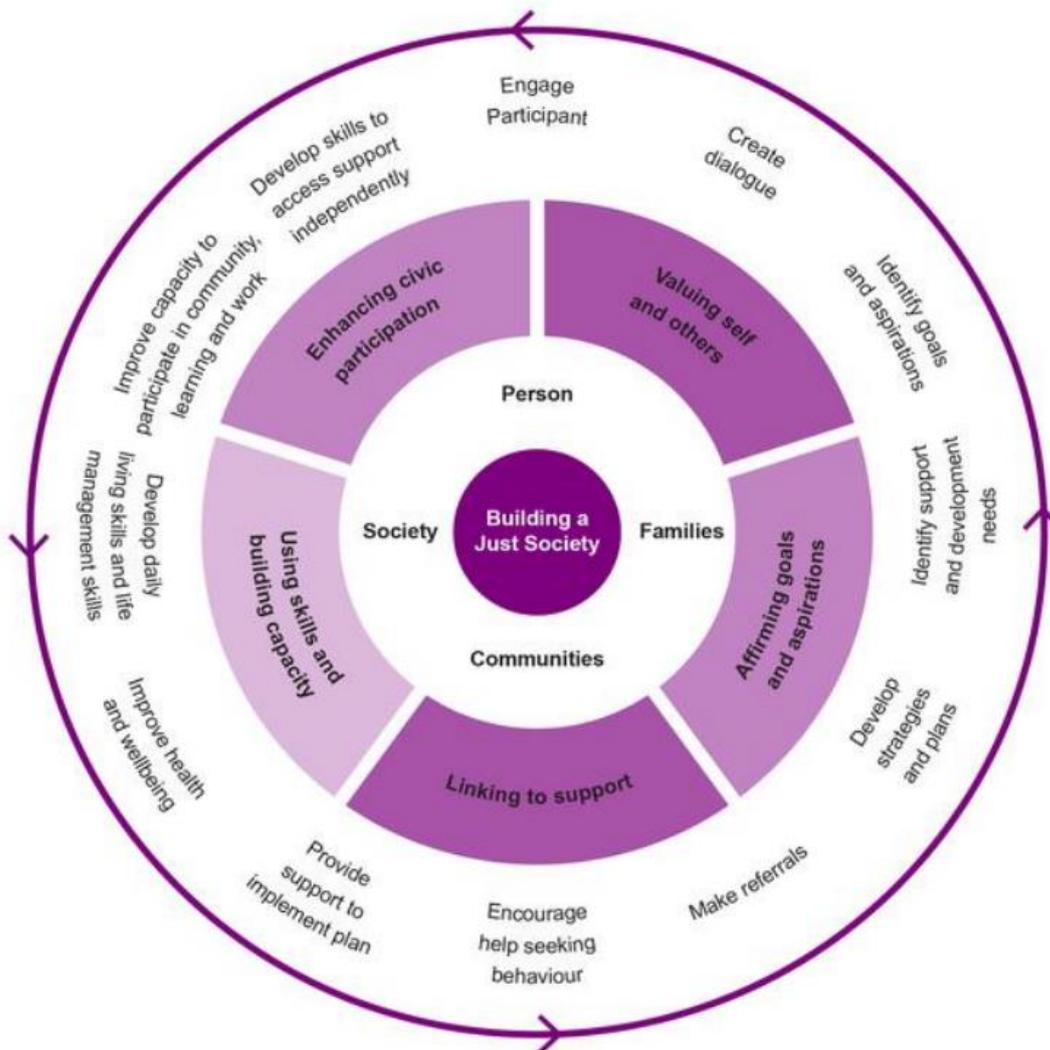
Specifically, we are concerned that insufficient progress has been made in relation to Recommendation 123, which extends the Adolescent Family Violence Program across Victoria, subject to evaluation; and Recommendation 124, which calls for additional accommodation options for adolescents who use violence at home.

Jesuit Social Services is disappointed by the slow progress regarding the establishment of family violence applicant and respondent worker positions in the Melbourne Children's Court, as per Recommendation 126. We suggest that further steps need to be taken to fully integrate the two positions into the broader service system response to ensure that Recommendation 126 is effectively implemented.

Jesuit Social Services believes implementation of Recommendation 128, regarding the trial of a new model to link Youth Justice Group Conferencing with an Adolescent Family Violence Program, requires further strengthening. Work to date in this area has been impacted by problems with coordination and management, which impeded the efficacy of the trial and the ability to test the benefits associated with this type of approach.

In addition, there is a need for further progress on the recommendations relating to Aboriginal Victoria, CALD communities, and people with disabilities.

Appendix D - Our Way of Working framework



Source: Armytage, P. & Ogloff, J. (2017) Youth Justice Review and Strategy: Meeting needs and reducing offending Part 2. [\(Weblink\)](#)

Appendix E - Details of transitional and supported housing programs delivered by Jesuit Social Services

Perry House

Perry House is a supported housing program delivered by Jesuit Social Services for justice system-involved young people who are at risk of, or are experiencing, homelessness. Perry House provides a

residential-based living skills program for young people with an intellectual disability who are involved with youth justice and correctional services and require support. Up to four participants at a time reside at the house for up to 12 months, and a further four months supported in an outreach capacity once they have left the house, while they are assisted to develop independent living skills and engage with activities.

Next Steps

Jesuit Social Services' Next Steps program was recognised by the 2017 Victorian Homelessness Achievement Awards, winning the Excellence in ending homelessness among young people category. Next Steps was established in 2012 and is funded under the Victorian Homelessness Action Plan.

Next Steps is a housing program for young people (aged 16–24 years) who are involved with the justice system and are experiencing, or are at risk of, homelessness. The program delivers intensive case management support and supported accommodation through Jesuit Social Services' Dillon House property, which is a key component of the program. At Dillon House, young people are supported to develop daily living skills, including cooking, meal planning, shopping, budgeting and banking. The focus is on building trusting relationships that are meaningful to each young person, and the program offers a therapeutic approach through a Family Practitioner that acknowledges the trauma that most of the young people have experienced.

Link Youth Justice Housing Program

The Link Youth Justice Housing Program (Link) is an innovative pilot program launched in 2018 that supports young people (aged 16–22 years) exiting the criminal justice system who are experiencing homelessness or at risk of homelessness. The program facilitates access to stable housing, and works to secure and sustain ongoing and stable living arrangements. It also provides a crucial after-hours support service to engage participants during the highest risk time for reoffending (outside business hours and on weekends) when they are also most likely to experience crisis and breakdown in their relationships and tenancies.