



16 June 2023

Anne Hollonds
National Children's Commissioner
Australian Human Rights Commission
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Dear Ms Hollonds

Submission re Youth Justice and Child Wellbeing Reform across Australia

The Brotherhood of St. Laurence (BSL) has a long history of working with children and young people (and their families and communities) who are experiencing poverty and disadvantage, including those at risk of becoming or already involved in the justice and child protection systems.

What factors contribute to children's and young people's involvement in youth justice systems in Australia?

Early offending and problematic behaviour cannot be considered in isolation from broader life experiences. Our society has failed many of the children and young people¹ who get caught up in our youth justice system. The overwhelming majority of these children have left school early, are living with disability and/or mental illness, have been known to child protection, have lived in out-of-home care or have been homeless. Many have experienced neglect, trauma, poverty, racism and marginalisation which can limit their capacity to build a positive future.

Systemic failures, including racial profiling and lack of needed support services, have led to the criminalisation and overrepresentation in the justice system of Aboriginal children, children with disability, children with experience of the child protection system and children from culturally and linguistically diverse backgrounds.

State and federal laws that criminalise children as young as ten years of age result in unnecessary involvement of children in the justice system, and to consequent harm. These laws are out of step with Australia's human rights obligations and international standards.

What needs to be changed so that youth justice and related systems protect the rights and wellbeing of children and young people? What are the barriers to change, and how can these be overcome?

The rights and wellbeing of children are best protected by laws, policies and programs focused on prevention and early intervention instead of punishment. For too long, responses have been focused on deficits instead of the best interests of the child and issues have been left to the punitive justice system to

¹ The term 'children' throughout this submission refers to children and young people aged 18 years and under.

manage. Criminal justice system responses, from arrest through to detention, are harmful to children and young people. Funding currently directed towards the youth justice system should be reinvested in community-based supports, including supports designed and led by Aboriginal Community Controlled Organisations.

At BSL, our program delivery and advocacy focus has primarily been on key protective factors, including supporting improved family functioning, greater capability and agency, early childhood learning and development, connection to culture and country, educational engagement, employment, housing, access to adequate social security and listening to and acting on the voices and solutions of children. By investing in children to develop a positive asset base of skills, resources and opportunities, and strengthening their families' capacity to provide positive support, we can enable children to gain a sense of purpose and belonging, which is critical to both preventing and breaking cycles of problematic behaviour.

Investment in strengthening the capacity of families experiencing vulnerability to build protective factors and support their children's wellbeing, development and aspirations will drive better outcomes.

Our system also needs to prioritise Aboriginal-led reforms in justice and child protection, such as those proposed by [Change the Record](#) and [Family Matters](#).

Can you identify reforms that show evidence of positive outcomes, including reductions in children's and young people's involvement in youth justice and child protection systems, either in Australia or internationally?

Many children and young people known to the criminal justice system experience early disengagement from education, a history of school suspension and expulsion, and poor educational attainment. Conversely, engagement in education helps to prevent early offending and minimise the risk of further offending.

BSL led the development and design of the [Education First Youth Foyer model](#). There is strong evidence that Youth Foyers reduce involvement in the justice system and help to break the cycle of disadvantage. A recent [report](#) from Accenture commissioned by The Foyer Foundation estimated that justice system involvement was 60 per cent lower among the young people engaged in foyers than it would otherwise have been.

[Evidence](#) clearly shows that the earlier children have contact with the criminal justice system, the higher the rates of recidivism. In countries where the age of criminal responsibility is higher, rates of offending among older young people [are lower](#). Raising the age of criminal responsibility to at least 14 years of age in every Australian jurisdiction is highly likely to reduce future justice system involvement and achieve progress in addressing the overrepresentation of Aboriginal children.

From your perspective, are there benefits in taking a national approach to youth justice and child wellbeing reform in Australia? If so, what are the next steps?

The welfare sector in Australia has typically focused on identifying problems and developing responses to manage these problems through siloed portfolio areas or government departments. Currently, too many services for people experiencing disadvantage start with what the person is not, focusing on negative behaviour or labelling them as the problem. Change is needed in the whole approach to working with people experiencing disadvantage, including a transformation of the language we use and the objectives that services seek to implement. Greater attention needs to be paid to moving people out of disadvantage

through positive interventions that build the strengths, skills and capabilities required for them to contribute to, and benefit from, wider society.

The level of complexity within and around systems for children highlights the need for child-centred policy reform that is joined-up across service systems. There is currently a plethora of strategies in development across government that impact children and need to consider their best interests. The Australian Government could begin to streamline systems in the interests of children by appointing a cabinet-level Minister for Children, increasing investment in the role of the National Children's Commissioner and appointing a National Aboriginal Children's Commissioner.

BSL believes there are significant benefits in taking a national approach, as present responses in states and territories are inconsistent. However, a national approach should not delay or get in the way of positive reforms within jurisdictions. This is a significant risk, as evident in the work led by the Meeting of Attorneys-General around raising the age of criminal responsibility, which has dragged on and created excuses for local inaction.

Please contact us if clarification or discussion of the points raised in this submission would assist. We would welcome the opportunity to provide further information about the programs that we deliver to improve outcomes for children, young people and their families.

Yours sincerely

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