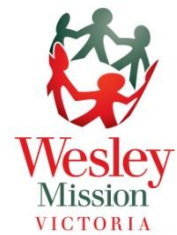




**MacKillop
Family Services**



SUBMISSION

**Australian Human Rights Commission
National Inquiry into Children in Immigration Detention 2014
30 May 2014**

Introduction

[Wesley Mission Victoria](#), [Jesuit Social Services](#), [MacKillop Family Services](#) and [Catholic Care Melbourne](#) welcome the opportunity to make a submission to the National Inquiry into Children in Immigration Detention 2014. Based on our experiences as community detention providers working with children exiting closed detention, we have borne witness to the impact of closed detention, and to the contrasting experience of children in community detention. Although we recognise that community detention is out of scope for this Inquiry, we have included some reflections on it here to highlight the contrast.

Our organisations

Wesley Mission Victoria's Community Detention Program works in partnership with local community organisations to provide people seeking asylum (both unaccompanied young people and families) with accommodation, case management, transition planning, living skills programs, education and cultural support services whilst they await a decision on their visa status. Wesley's program has a significant focus on providing a culturally-sensitive and responsive service tailored to the specific needs of this vulnerable group with the aim of supporting them through the transition to independence in the community.

Jesuit Social Services, MacKillop Family Services and Catholic Care work as a consortium to provide accommodation and case management support to people placed in community detention while their immigration status is being determined. Support is provided to unaccompanied young people (under 18), vulnerable adults and families in need of a safe and caring living environment. The consortium aims to provide a holistic therapeutic approach, mindful of the fact that many people it works with have experienced trauma and find the prolonged wait for a final visa outcome challenging. The aim is to enable people to improve their physical and mental health, wellbeing, reduce isolation and grow capacity to transition into living independently in the community.

We also commend the submissions of Catholic Social Services Australia and Jesuit Refugee Service to the Commission and support their additional observations and recommendations.

Experiences of children in community detention

Our organisations submit that community detention, or community release with appropriate supports, are systems far better able to fulfil Australia's obligations to children (young people under 18) under the Convention on the Rights of the Child (CRC) than our system of closed detention. Community systems provide far more opportunities for young people to recover from trauma and prepare for life in the community, should they be accepted as refugees. Community detention options also leave them far less damaged and better able to adjust and cope in the eventuality that they are found not to be refugees and need to return to their countries of origin or a third country.

The CRC, which Australia ratified in 1990, stipulates that children should not be detained unlawfully or arbitrarily (Article 37(b)) and should only be detained as a measure of last resort,

and for the shortest appropriate period of time (Article 37(b)). This is clearly not the case under Australia's mandatory immigration detention system, which the Commission found in 2004 was fundamentally inconsistent with Australia's obligations under the CRC. The section below, "Experiences of children in closed detention", outlines some of the ill-effects of detention on children.

In contrast to closed detention, young people released into community detention have been observed by our organisations to have far better outcomes than their detained counterparts. We notice that young people's mental health improve, their social isolation decreases and their living skills increase. Some have even been found to flourish. As the CRC states, all children have the right to education, and to play and engage in recreational activities (Arts 28(1) and 31). Young people in our community detention programs report valuing the opportunity to attend mainstream education, including English language schools. They also enjoy the opportunities to catch public transport, walk to school, attend school excursions and camps and generally have "normal" life experiences. These especially include making new friends.

In addition, young people report that they have appreciated the opportunities for social and recreational engagement in community detention that were not available in closed detention. These opportunities include dance classes, swimming classes, participation in soccer, basketball and cricket amongst other sports, cooking activities as well as attendance at cultural and religious festivals and ceremonies such as attending the mosque. Community detention also offers 'outdoor adventures' for young people and families who may have spent years inside: one 13 year old girl, who had spent nine months in closed detention, stated that the only time she had previously been 'outside' in Australia was when she was allowed to look out the window of her school. Exposure to such activities is a crucial part of the trauma recovery model, as they encourage children to be children.

The CRC also states that children have a right to remain with their parents (unless contrary to their best interests), and to have their family protected from arbitrary or unlawful interference (Arts 9(1) and 16(1)). Closed detention clearly does not protect these rights. Families in community detention, by contrast, have stated that their relationships, and parents' ability to parent, are greatly enhanced. Parents who were in closed detention report that it was very difficult to have so little control over what their children ate, when they ate, who they had contact with and so on. They have indicated that it has made a real and significant difference for them, in community detention, to see their children play in the back garden with friends from school and be able to cook them all a meal.

Children who are without their family have a right to special protection and assistance (Article 20 (1)). Young people in community detention, especially unaccompanied young people, are able to access different levels of care, tailored to their needs, within social work, community development work, youth work and other frameworks. This is especially important for young people who present with 'behavioural issues'. In almost all cases, the number of reportable incidents has reduced when young people are transferred into community detention, as opposed to closed detention, as the young person's sense of self agency and hope increases.

Young people are also assisted to build their independent living skills in community detention, which prepares them for independence once a visa determination has been made. There is a focus in the houses on young people managing their own meals and shopping: they have

successfully utilised staff support, and negotiated use of the kitchen and shared meals with other young people.

Young people in closed detention do not have the opportunity to build links within their community or any support network to assist them upon release onto an alternative visa type. Community detention clients, by contrast, have been able to build ethnic, religious and other support networks that will allow them to live independently once they are granted some form of protection visa, or a Bridging Visa. This in turn reduces reliance on government or non-government funded relief networks as clients are able to rely on their own communities and friends to assist in sourcing housing, furniture, employment and other support.

Even those young people who are unsuccessful in their claim for protection develop greater resilience and strength in community detention and thus are more amenable to returning to their country of origin and rebuilding their life than someone who has spent lengthy periods of time within closed detention and suffered a severe deterioration of mental health.

Finally, all children have the right to health and to access healthcare services (Article 24) and children seeking asylum have a right to appropriate protection and humanitarian assistance, including support to recover from past torture or trauma 'in an environment which fosters the health, self-respect and dignity of the child' (Articles 22 and 39). This assistance, and environment, is far more possible in community detention, or the community, than in closed detention.

Experiences of children in closed detention

The Australian Human Rights Commission's public hearings bring a welcome focus on the state of children in closed detention. The children's drawings that have emerged from detention centres provide a disturbing insight into the ongoing trauma children are experiencing and their profound lack of well being; the impression given by the children's images is further corroborated by the reports of children manifesting behaviours consistent with extreme childhood distress, including biting, bedwetting, head-banging and other episodes of self-harming.

Extensive research demonstrates conclusively that detaining children and families who seek asylum is harmful, with the impacts worsening the longer their detention continues. People seeking asylum have often already suffered trauma prior to their arrival into Australia, and detention makes their mental health worse. The government policy of using offshore detention also increases isolation for children and their families, which is detrimental to their wellbeing. It is very difficult for a closed detention environment to fulfill every child's "right to life, to survival and development" (CRC, Article 6).

As the group Chilout recently stated after visiting some closed detention facilities:

Independent doctors who accompanied ChilOut into detention facilities saw mothers disconnected from their babies, children engaged in empty-play, behavioural issues, parents stripped of decision making - family units broken...ChilOut believes that the vast majority of teenagers detained are on one or several prescribed medications for

issues such as anxiety, depression, sleep disorders. Most entered the detention system healthy; traumatised but healthy."

(Chilout Press release: 'Systemic child abuse: Australia's asylum seeker policy', 25 March 2014).

For parents, the inability to influence their environment or progress their asylum claims in closed detention, combined with their own emerging mental health issues, are factors in a number exhibiting an impaired, withdrawn or ineffectual style of parenting when entering community detention. On occasion, children have become the primary source of care and support to their own parent(s).

Our organisations have also received several accounts of denial of adequate and timely medical attention in closed detention: some young people have spoken of there being a daily quota of how many people could see the medical staff in the detention centre and that on frequent occasions they were required to wait until the following day. Young people have also suffered from inadequate or no access to education, with the delivery of schooling in closed detention being spasmodic and random and not targeted to the child or young person's educational level.

Many of the young people with whom we have worked in community detention report witnessing serious acts of violence in closed detention, either between fellow detainees or between detention centre staff and detainees. They also witnessed serious acts of self harm and attempted or actual suicides by other detainees. These incidents became etched in their minds and, for several people, have persisted as nightmares or daytime intrusive visions that require therapeutic intervention.

A significant number of our clients from closed detention have also exhibited a pattern of learnt behaviour predicated on their view that the only way to influence decision makers is to engage in threatened or actual self harm. This is evident in verbal threats made during their period of time in community detention: that if they were refused a protection visa, they would cut themselves, kill themselves or set themselves on fire in front of the Immigration Department building. Many of the young people referred to our community detention programs from closed detention have impaired negotiation skills, and behaviour that quickly escalates in the face of perceived unfair treatment and delay in responding to their requests.

Our organisations have found a strong correlation between the length of time it takes to process a refugee claim and the escalation of a young person's sense of hopelessness and frustration. Delay has resulted in self harm episodes, threatened suicide and actual suicide attempts. Clients who see others receiving refugee visas, whilst they seemed to wait for protracted periods of time, soon became despondent.

The constant threat by the Department of Immigration and Border Protection to revoke the community detention of young people in response to reported incidents (such as failure to abide by curfew and other minor infractions) has resulted in young people living in constant and debilitating fear of being re-detained. In many cases, the objectionable behaviours would be considered 'normal' or 'routine' for Australian adolescents living in the community.

In the experience of our organizations, people who spend a short period of time in closed detention prior to placement in community detention have much better outcomes, including fewer mental health issues and faster adjustment to living in the community. Those who spent

protracted periods of time in closed detention frequently present as institutionalized, unable to make decisions, lacking in independent living skills, more traumatized, hyper aroused and anxious, and engaging in frequent episodes of self-harm.

Conclusion

As organisations with a commitment to social justice and upholding the human dignity of every person, we share serious concerns about the impact of both major political parties' policies on the rights, inherent dignity and wellbeing of people seeking asylum in Australia. We are particularly concerned about the treatment of the 1000 plus children in closed detention. How we treat children reflects a nation's character and soul. As the Bible, human rights instruments and almost every other ethical framework remind us, children deserve our special protection and care. To imprison children in detention centres offends every principle of decency and humanity we have.

The CRC states that "the best interests of the child should be a primary consideration in all actions concerning children" (Article 3.1). Looking after children's best interests mean allowing them to learn, play and develop in a safe and caring environment. Community detention, or community release with appropriate support, offers a much better chance of this for children seeking asylum than closed detention ever will.

As experienced community detention providers, we call upon our Government to:

- Stop the indefinite, mandatory detention of children
- Stop children's offshore detention and 'resettlement' in PNG or Nauru or other countries
- Release all children from detention into community detention, or the community with appropriate supports
- Recognise the relative economic savings of community detention when compared to the far more expensive system of closed detention
- End the policy of making an example of vulnerable children, their families and adults as a means of seeking to deter future boat arrivals
- Process all asylum claims quickly and reinstate Immigration Advice and Application Assistance Scheme funding to ensure asylum seekers are assisted to adequately present their claims for refugee status
- Ensure families are reunited as soon as possible, with a particular focus on reuniting unaccompanied young people with family members through their resettlement to Australia
- Appoint an independent guardian for unaccompanied young people seeking asylum in Australia
- Give refugees ongoing opportunities to integrate into the community
- Set aside a proportion of offshore intake places for unaccompanied young people in order to ensure that this vulnerable cohort still has an opportunity to seek asylum for resettlement to Australia.