

National Children's Commissioner - Youth Justice and Child Wellbeing Reform across Australia

Anglicare Victoria Submission
16th June 2023



INTRODUCTION

When it comes to the youth justice and child protection systems, the problems seem all too familiar.

The child protection report doesn't meet the risk threshold. The mental health support is limited to the crisis at hand. The school excludes as the behaviour is too difficult. The NDIS is out of reach. The justice interventions too late.

Too often, the multiple challenges faced by young people in the justice and child protection systems are responded to in isolation. Services approach the family and young person from an individualistic, episodic, and often crisis driven response. Young people face a revolving door of workers and services weighed down by bureaucracy.

It is only when the behaviour becomes intolerable that the system takes responsibility for the child and invests substantially – but at this point the punitive response only serves to entrench the problems.

We should ask ourselves, given what we know about the family, about the trajectory, about the statistics – how would we design a system that fit for purpose?

If we place a young people at the centre and designed around their needs, our service system would look vastly different to the outdated system we have inherited. Supports would come to the young person and stick with them, respond to them and their family holistically, engage early enough and for long enough to make a real difference.

Our view, informed by the delivery of innovative models such as Rapid Response, Compass Social Impact Bond and international evidence based models like Functional Family Therapy is that an different approach is possible and will lead to far better outcomes for children and young people.

As Victoria's largest provider of child, youth and family services, Anglicare Victoria welcomes the National Children's Commissioners project investigating opportunities for reform in the youth justice and child protection systems.

We would welcome an opportunity to discuss the issues raised in this submission in more detail.

Paul McDonald
Chief Executive Officer

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

The range of factors contributing to children young people's involvement in youth justice systems in Australia include childhood adversity, intergenerational trauma, socioeconomic disadvantage, disability, school disengagement, family violence and experiences of racism and other forms of marginalisation.

Aboriginal young people are overrepresented in both the youth justice and child protection systems, and the ongoing impacts of colonialism, racism, disconnection from culture, country and family continue to this day.

Many factors that lead to involvement in youth justice also contribute to involvement in the child protection system. Experiences of abuse and neglect are widespread amongst the youth justice population.

For instance, the Victorian Youth Justice Parole Board (2023) in their Annual Report identifies the following characteristics of those in custody on 2 June 2022:

- 72% were victims of abuse, trauma or neglect as a child
- 55% have been subject to a child protection order
- 50% had experienced family violence
- 62% have a diagnosed mental illness
- 63% had offended whilst under the influence of alcohol and drugs
- 29% have a diagnosed cognitive difficulty

MULTIPLE AND OFTEN OVERLAPPING FACTORS ARE SEEN IN THE YOUTH JUSTICE POPULATION

FAMILY CIRCUMSTANCES AND DISADVANTAGE ARE KEY FACTORS

Many children in youth justice are involved in multiple systems, such as mental health, disability services, child protection, and family services. These systems remain separate, episodic, and individually focused, despite the interconnected and complex issues faced by young people and their families.

Baidawa & Sheehan (2019) in their study of 'cross-over children' involved in both child protection and youth justice, point to the role played by family circumstances and disadvantage:

“Cross-over children typically come from a background of socio-economic disadvantage, with parents who were challenged in their capacity to protect and support their children. Family violence exposure, alongside household substance abuse, and household mental illness are commonplace, each affecting between 50% and 74% of children, while household criminal justice system involvement was identified for 41% of children.”

Exposure to cumulative harm is a key contributing factor. Baidawi & Sheehan (2019) noted in their sample of cross-over children there was an average of 7.7 notifications and most had experienced multi-type maltreatment.

Anglicare Victoria has noted similar trends amongst our client group with a random sample of 20 families referred to us having had an average of 9 previous reports each over a 6 year period and almost all presenting with multi-type maltreatment and complex issues.

Bromfield (2022) has also found that families involved in child protection often experience a trajectory of accumulating complexity throughout their lives. This trajectory begins with early trauma and can lead to learning difficulties, developmental delays, school disengagement, youth justice involvement, homelessness, mental health challenges, and/or out-of-home care.

Children who have experienced trauma often find themselves excluded from key mainstream settings such as education. It is these settings where young people might otherwise find a protective pathway away from the justice and child protection systems.

Unfortunately, we have seen many schools encountering trauma-based behaviours exclude the young person through suspension or expulsion. The impacts are significant and can include increased educational disengagement, missed learning time, feelings of rejection and the development of a negative mindset towards learning.

A lack of robust early intervention at the point these problems first become apparent is a clear contributing factor to these issues not being resolved.

In particular, the pre-adolescent and early adolescent age group (10-13) is a key time when 'warning bells' are present – such as missing school, suspensions, problematic peer group influences, contact with police or running away from home. If these warning signs are not addressed with effective supports then the risks of these issues escalating in later adolescence are clear.

EDUCATION IS A PROTECTIVE PATHWAY THAT IS OFTEN MISSED

2. 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?

CHANGE THE FACE OF INCARCERATION

Anglicare Victoria believes that a fundamental shift in the way youth detention is approached in Australia will lead to better outcomes for children and the community.

Custody should be regarded as an approach of last resort for any child or young person, and for the shortest time possible, in line with the UN Convention on the Rights of the Child, and that it should not be imposed if any other sanction is appropriate.

The current custodial approach harms children, without evidence that it reduces crime. Further, imprisonment increases the probability of reoffending (Parliament of Victoria, 2017). Prisons are ill-equipped to meet the mental health needs of children and young people, and certain punitive practices including solitary confinement compound trauma and exacerbate symptoms. Youth imprisonment is associated with higher risks of suicide and depression (Royal Commission into the Protection and detention of Children in the Northern Territory, 2017).

Alternative models exist that are safer for young people, provide better opportunities for rehabilitation and are more cost effective. They overall have a focus on treatment and rehabilitation, education and relational safety, and can include the use of secure facilities where required. Two examples, Diagrama (Spain) and the Missouri Model (USA) are discussed in response to Question 3 of this submission.

REDUCE THE UNNECESSARY USE OF REMAND

The use of remand is significantly on the rise in Australia. Unsentenced young people now account for 74% of young people in detention on an average day (AIHW 2023).

Remand contributes to recidivism and makes rehabilitation more difficult. It places young people at risk of harm, exposes them to criminal associations and can sever protective connections with family and community.

In at least two-thirds of cases remand appears to be unnecessary. The Sentencing Advisory Council in Victoria found that 70% of young people on remand were later granted bail and two-thirds were ultimately given non-custodial sentences.

A lack of housing options and services is a key contributor, particular in rural and regional areas. Services, where available lack after hours options or the intensity to give decision makers confidence to provide bail. The operation of bail laws in various jurisdictions, including Victoria, has also led to increasing numbers of young people being placed on remand, rather than supported in the community.

Together, these factors mean that remand is often seen as the only option for young people with complex needs such as mental health issues, trauma and disability, particularly those who lack suitable accommodation.

Detention should be a last resort, not a stop gap when stable accommodation can't be found. Detaining a young person costs on average \$2,720 per day and as much as \$5,051 per day in some jurisdictions (PC 2023). Investing in alternative bail programs is a better and more cost effective option and should be a priority action for governments.

OVERCOME FUNDING SILOES THROUGH WRAPAROUND CARE

Multiple service systems interact with young people involved in the service system and their family members, as previously highlighted. Many initiatives have been trialled that aim to improve coordination – whether through systems navigators, key workers, co-located hubs or priority access guidelines. Some are promising but most have failed as they do not address the fundamental structures of the service system.

A new approach to the way services are funded and organised is needed. Alternate funding models exist and have been proven to work. Anglicare Victoria's experience in delivering the Compass Social Impact Bond for young care leavers has shown what can be achieved when services are free to respond to the real needs of young people in a flexible, long term way.

Blended funding models, such as Wraparound Milwaukee are also an ideal way to respond to the youth justice cohort. Under this model, funding is provided from across mental health, child protection and youth justice. The program receives a flat monthly fee for each client and must pay for all services, including incarceration and residential care. This enables a flexible, coordinated and outcomes focused response to the young person.

Both of these models are further discussed in section 3.

WORK WITH FAMILIES AND COMMUNITIES

Family plays a critical role in the lives of young people involved in youth justice. A third of young people surveyed in a Victorian Youth Justice Review identified family as the main driver for serious or violent offending (Ogloff and Armitage 2017). Research has shown that nearly all children involved in both the youth justice and child protection systems were known to child protection before their first sentenced or diverted offence (SAC 2020).

It follows, then, that working with families is a key factor in delivering lasting outcomes.

As noted by Honour Judge Michael Bourke, Chairperson of the Victorian Youth Parole Board, “the community would strongly support a well-resourced and structured child protection system aimed at removing the now apparent pathway from a deprived, damaging childhood to offending and detention.” (2019). This is a shared responsibility of the youth justice and child protection systems, using evidence-based custodial and noncustodial models, as discussed elsewhere in this submission.

The creation of specialist lists equipped to deal with trauma and abuse and the impact this has on development and behaviour would also help ensure these issues are appropriately managed and is an important and worthwhile reform.

ELIMINATE THE OVER-REPRESENTATION OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE IN JUSTICE AND CHILD PROTECTION

Aboriginal child and young people continue to be grossly over-represented in both the child protection and youth justice systems.

A staggering 43% of children in Out of Home Care in Australia are Aboriginal and Torres Strait Islander according to the Productivity Commission (2023). Aboriginal and Torres Strait Islander young people are also twenty times more likely to be in youth detention than non-indigenous young people (PC 2023).

The continued use of custody to respond to Aboriginal and Torres Strait Islander young people is harmful. It reduces opportunities for rehabilitation, disconnects from family, community and culture and further entrenches disadvantage.

Anglicare Victoria supports calls made by the Victorian Commissioner for Children and Young People to establish cultural youth hubs designed, developed and managed by Aboriginal communities and organisations.

A high priority must be placed on the development of culturally led, community based diversion options to custody as well as the expansion of access to Aboriginal and Torres Strait Islander led justice initiatives such as Koori Court.

RAISE THE AGE OF CRIMINAL RESPONSIBILITY

The current minimum age of criminal responsibility contradicts medical evidence showing that children aged 10 to 14 lack emotional, mental, and intellectual maturity. Moreover, the current minimum age is in breach of international human rights law and deviates from global standards. The median age of criminal responsibility worldwide is 14 years old. The United Nations Committee on the Rights of the Child has consistently advocate for a minimum age of 14 years or older.

In Victoria, the Sentencing Advisory Council found that the younger a child was at first sentence, the more likely that they were known to child protection. “These findings are particularly concerning,” the report notes, given that “when considered alongside the findings of the Council’s 2016 youth reoffending study that the younger children are at their first sentence, the more likely they are to re-offend generally, re-offend violently, and receive a sentence of adult imprisonment before their 22nd birthday” (SAC 2020, p. xxiv).

There is broad community support for raising the minimum age including the Smart Justice for Young People coalition, the Australian Medical Association, the Royal Australian College of Physicians, the Australian Indigenous Doctors' Association, the National Aboriginal and Torres Strait Islander Legal Services, the Lowitja Institute, and Public Guardians and Children's Commissioners nationwide. The age should be lifted to 14 as a matter of priority.

3. Reforms that show evidence of positive outcomes, including reductions in children's and young people's involvement in youth justice and child protection systems

WRAPAROUND MILWAULKEE

MULTI-SYSTEMIC THERAPY (MST)

Anglicare Victoria is committed to the implementation and development of proven models in the Australian context and continues to review national and international evidence to identify promising initiatives.

Several models that have been shown to reduce involvement in the youth justice and child protection systems are discussed in this section. Two successful models operated by Anglicare Victoria are discussed through detailed case studies - FFT-YJ (pages 15-16) and Rapid Response (pages 18-19).

In Australia, there is also a lack of therapeutically focused, relational models that are able to cater to young people of high complexity or persistent recidivism and provide alternates to detention if required. Examples include Diagrama and the Missouri Model which are discussed in page 17.

Wraparound Milwaukee provides coordinated, cross system services in lieu of youth detention or residential placement outside the home. To be eligible the young person must have been involved in in at least two of the mental health, child protection, special education, or youth justice systems and be at risk of psychiatric hospitalization, residential care placement or youth detention. Blended funding across departments enables flexibility to respond to the young person and families needs and a flat monthly fee incentivises community care rather than residential admissions.

Since the creation of Wraparound, the average daily residential treatment population in Milwaukee has dropped by 71 percent, from 375 youth to 110 youth, while the average length of stay in residential treatment has dropped from fourteen months to four months (Kamradt, 2014). Research shows that the recidivism rate for youth remains low at around 14-16% (Kamradt and Goldfarb, 2015).

MST is an intensive family and community-based program that addresses the multiple causes of antisocial and criminal behaviour. The program seeks to improve the real-world functioning of young people by changing their natural settings (home, school, and neighbourhood) in ways that promote prosocial behaviour while decreasing antisocial behaviour.

MST has shown positive mental health outcomes including decreased psychiatric symptomatology, improvements in externalising behaviour and internalising symptoms, reductions in sexual behaviour problems, aggression and oppositional defiant disorder.

Anglicare Victoria provides MST in the Gippsland Region of Victoria and are seeing promising outcomes for families including reductions in the need for child protection and youth justice involvement.

CASE STUDY: FUNCTIONAL FAMILY THERAPY (YOUTH JUSTICE)

DELIVERING MEASURABLE OUTCOMES



Re-offending

60% lower recidivism rate than alternative programs ¹

Significantly better outcomes compared to probation ²



Drug use

Lower rate of reconvictions for drug offenders ⁴

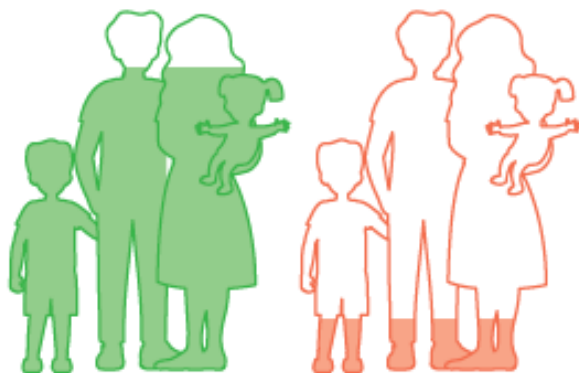
11% of gang-involved youth recharged with drug offences, versus 22% of control group ⁵

Family functioning

Reducing offending in younger siblings ³

Significant improvements in family functioning –

82% versus 14% at two-year follow up ⁷



50% reduction in substance use compared to alternative treatments ⁶



1. Barton et al., 2007, Generalizing treatment effects of Functional Family Therapy: three replications, *American Journal of Family Therapy*, 13(3):16-26.

2. Sexton and Turner, 2010, The effectiveness of functional family therapy for youth with behavioral problems in a community practice setting, *Journal of Family Psychology*, 24(3), 339-348.

3. Klein NC, Alexander JF, Parsons BV. Impact of family systems intervention on recidivism and sibling delinquency: A model of primary prevention and program evaluation. *Journal of Consulting and Clinical Psychology*. 1977;45(3):469-474. [PubMed] [Google Scholar]

4. Celinska et al., 2018, An outcome evaluation of Functional Family Therapy for court-involved youth, *Journal of Family Therapy*.

5. Gottfredson et al., 2018, Scaling-Up Evidence-Based Programs Using a Public Funding Stream: a Randomized Trial of Functional Family Therapy for Court-Involved Youth, Available at: <https://www.ncbi.nlm.nih.gov/pubmed/30056615>

6. Waldron et al (2008). Cost-effectiveness analysis of four interventions for adolescents with a substance use disorder. *Journal of Substance Abuse Treatment* 34, 272-281.

7. Hansson, K et al., 2004, Functional Family Therapy: A method for treating juvenile delinquents. *Socialvetenskaplig tidskrift*, 3, 231-243.

CASE STUDY: FUNCTIONAL FAMILY THERAPY (YOUTH JUSTICE)

PROVEN EFFECTIVENESS – DELIVERING SAVINGS

A recent analysis of FFT-YJ estimated the return on investment in the Victorian context.

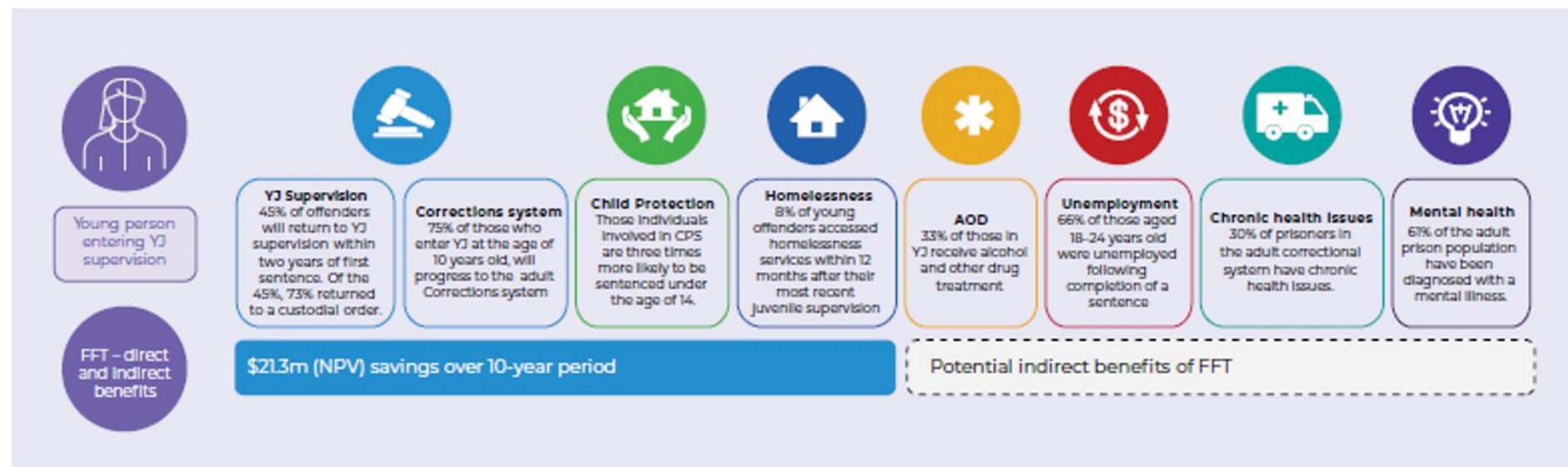
It found that further investment in the program would deliver positive returns for government by delivering savings across a range of domains. **Quantitative analysis shows nominal savings of nearly \$30 million over 10 years.**

Overseas studies show the significant community benefits also provide substantial returns to government and other stakeholders – **as high as \$11.86 for every dollar spent.**¹¹

11. Washington State Institute for Public Policy, 2011, Return on Investment: Evidence-Based Options to Improve Statewide Outcomes, Available at: http://www.wsipp.wa.gov/ReportFile/1089/Wsipp_Return-on-Investment-Evidence-Based-Options-to-Improve-Statewide-Outcomes-July-2011-Update_Report.pdf

60% of clients were involved in both Youth Justice and Child Protection when referred

Of 92 referrals, 66 had younger siblings – who also take part in family sessions⁹



Globally, over 1,600 practitioners from over 330 organisations provide FFT to 50,000 families each year

A strong evidence base, established over 30 years

Effective over a range of domains and settings

Recognised worldwide rated 'Model Plus' by Blueprints for Healthy Youth Development

Rigorous fidelity regime for assured quality in service delivery

DIAGRAMA

Diagrama re-education centres are run by the not-for-profit Fundacion Diagrama who are now responsible for the care of 70% of young people in youth justice in Spain.

The core focus of Diagrama is rehabilitation. Staff are considered educators who teach social skill and most are tertiary educated – including psychologists, social workers and teachers. Security staff are on-site but act only as a last resort in incident management. A full day of education and activities occurs every day in a normal and engaging environment. Family and community are heavily involved.

One example of Diagrama's success is that they employ far fewer staff than usually required in youth justice centres. As a result Diagrama costs significantly less than secure children homes or detention centres.

MISSOURI MODEL

Thirty years ago, Missouri made a statewide, systemwide shift in their approach. They closed down youth prisons, replacing them with smaller, treatment-oriented programs close to young people's local communities.

Like Diagrama, the Missouri Model provides safety through relationships and supervision rather than coercion. Trauma-informed treatment focuses on internalising change rather than behaviour control. Education and life skills are a part of treatment, and family are involved throughout. Four levels of care are offered including day treatment centres, non-secure homes through to secure facilities.

The Missouri model boasts a long-term recidivism rate into the adult system of only 6.6% within 3 years. Evaluation of the model also found it was one-third cheaper than a comparator state and young people were 4.5x less likely to be assaulted under the model.

COMPASS

In 2019 Anglicare Victoria and VincentCare commenced the largest and one of the first social impact bonds in Australia to date through Compass. Compass supported 182 young people to transition from care and targeted reductions in homelessness, justice involvement and the need for acute health services.

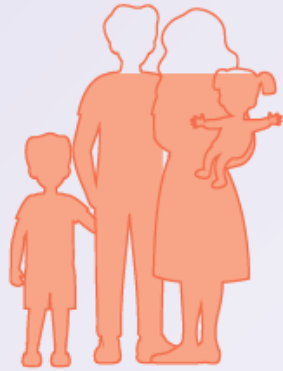
Two year outcomes have been certified and showed that compared to a control group, the young people in Compass had 24% fewer presentations to emergency departments and experienced 46% less homelessness. 73% were engaged in education or employment. Justice outcomes will be measured at the four year mark. Based on current trends, the model will provide a strong return to the Victorian Government and investors.

Leaving care supports, including adequate housing are a critical part of preventing justice involvement. Care leavers have been estimated to be 60 times more likely to be in detention than their peers (Forbes et. al. 2006).

CASE STUDY - RAPID RESPONSE: IMMEDIATE AND INTENSIVE SUPPORT TO PREVENT CARE ENTRY

Rapid Response™ is an intensive placement prevention model that acts as a direct alternative to Child Protection intervention when a decision to remove a child from the home is imminent.

A 2020 Evaluation by Monash University found the program significantly reduced the need for child protection involvement.



During the evaluation, 80.5% of families completed the program:

202 children lived in families that completed the intervention³. Focusing on the completed group of 202 children, the evaluation found that:

97% of children remained in the family home at the completion of a Rapid Response intervention



Six months after finishing a Rapid Response intervention data revealed:

80% of these children remained in the family home and never entered care during this period



These results were contrasted to a comparison group (who were families selected by Child Protection that would have received a Rapid Response intervention but there was no capacity at the time of being referred).

The results of the OoHC placement analysis for the comparison group demonstrated that⁴:

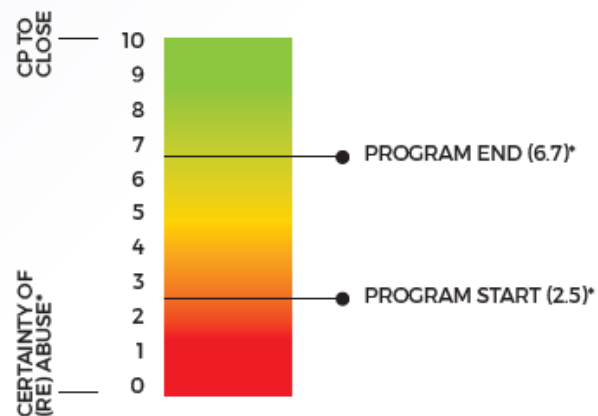
50% of children only remained in the family home



INCREASING SAFETY AND REDUCING RISK

Rapid Response utilises the Signs of Safety® rating of risk that are completed by Child Protection practitioners. The Monash University evaluation 2020 found that the Signs of Safety® rating by the Child Protection practitioner across the 202 children demonstrated an increase from commencement of the intervention (the start-up meeting) to the end of the intervention (the closure meetings):

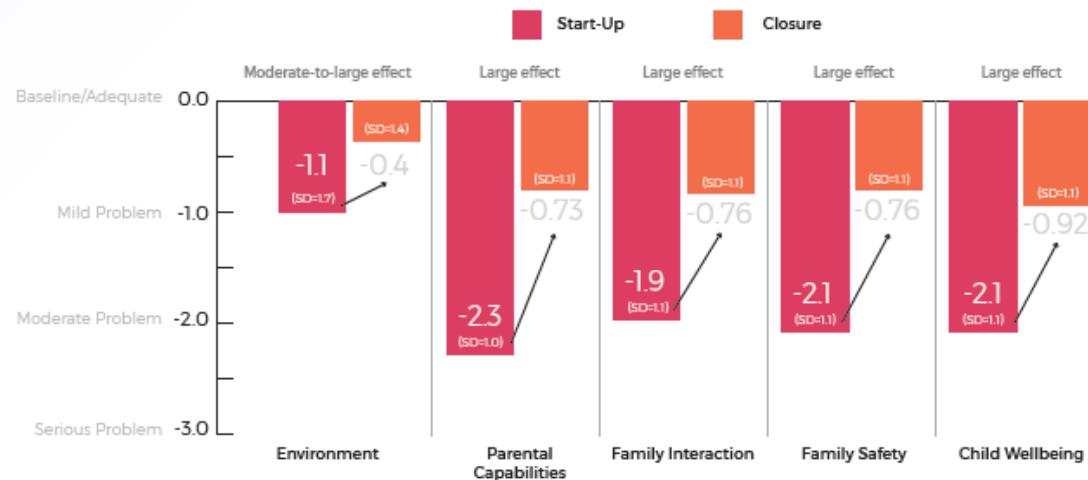
INCREASE IN SIGNS OF SAFETY®



IMPROVED FAMILY FUNCTIONING

In regard to family functioning, utilising the North Carolina Family Assessment Scales (NCFAS) in 5 key domains, we found substantial increases were reported from program start-up to closure:

We can conclude that both family functioning and child safety increases in families which complete Rapid Response.



* These SOS scores are the means rating across all completed cases

4. 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?

Anglicare Victoria supports a national approach to youth justice and child wellbeing reform.

Issues of child wellbeing and safety should have national prominence and be considered a priority for the Commonwealth, States and Territories to work together and urgently address.

A national approach could improve coordination, accountability and create a sense of urgency for reform. The Commonwealth can play an important role here in providing leadership, monitoring of outcomes and promoting accountability for action.

When we are considering what works, we also need to look longitudinally at where the young people have ended up in their adult lives. The ongoing costs in terms of social security, homelessness, and repeated justice, health and child protection involvement accrue across Commonwealth, State and Territories and across portfolio areas. These costs are also often intergenerational.

If we are to reform child protection and youth justice we must overcome the current fragmented and outdated system which is not working for children and young people.

Anglicare Victoria looks forward to working with the Commission and relevant stakeholders to further this important endeavour.

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