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Submission: Youth Justice and Child Wellbeing Reform across Australia

1. Professional background and context

1.i. I have been engaged with youth justice and child wellbeing research, theory, policy and practice for over forty years.

1.ii. I am a professionally qualified social worker and during the 11-year period 1982-1993 I was employed in practice and operational management in the Probation Service, an NGO and two Local Authority Social Services Departments providing services for socially and economically disadvantaged children and young people, including those in conflict with the law.

1.iii. I first joined the academic staff at the University of Liverpool, UK, in 1993. In 2006 I was appointed to a Personal Chair in Criminology and Social Policy and, in 2009, I was appointed to the endowed Charles Booth Chair of Social Science. In 2016 I was designated an 'Accomplished Professor' by the University and in 2020 the titles 'Professor Emeritus' and 'Honorary Professor' were conferred.

1.iv. In addition to my position at the University of Liverpool, I am also Honorary Professor and a member of the Centre for Crime, Law and Justice at the Faculty of Law and Justice (School of Law, Society and Criminology), University of New South Wales, Sydney; Adjunct Professor at the School of Justice, QUT, Brisbane; and Honorary Professor at Liverpool Hope University. I am a member of the Scientific Advisory Board of the Crime and Society Research Centre at the Faculty of Law and Criminology at Vrije Universiteit Brussel (VUB, Free University of Brussels).

1.v. Throughout my academic career my research interests have been, and remain, situated at the inter-disciplinary interface(s) of criminal justice, criminology, law, social/public policy, history, sociology and socio-legal studies. More specifically, I am perhaps best known for my work in the fields of youth criminology and youth/juvenile justice studies within which I have earned significant visibility and international standing.

1.vi. I have researched and published extensively and my most recent books include: *Youth Crime and Justice,* 2nd edition (Sage, 2015); *Justice and Penal Reform: Re-shaping the penal landscape* (Routledge, 2016) *Juvenile Justice in Europe: Past, Present and Future* (Routledge, 2019) and *Youth Justice and Penality in Comparative Context* (Routledge, 2021). I am currently working on a further book project - *Re-imagining Juvenile Justice* – that is also contracted to Routledge.

1.vii. I have a keen interest in research-policy-practice relations and, over many years, I have provided expert evidence to a range of parliamentary committees, independent inquiries and international studies.

1.viii. I have a particular expertise in international and comparative youth justice and child welfare regimes.

1.ix. Between 2010 and 2017 I was an appointed member of the Panel of European Youth Researchers (PEYR), an expert group established by the European Commission and the Council of Europe to advise on European youth policy and research.

1.x. In 2017 I was conferred Fellow (Academician) of the Academy of Social Sciences in the UK.

1.xi. In 2018 I was awarded a 'Juvenile Justice Without Borders International Award' by the International Juvenile Justice Observatory (IJJO) based in Brussels, Belgium.

1.xii. I was a member of the Expert Advisory Board that guided and supported the United Nations Global Study on Children Deprived of Liberty. A summary report of the Study was presented to the United Nations General Assembly in New York in October 2019 and the full report was launched in Geneva in November 2019.

1.xiii. Currently I am the Chair/Convenor of both the British Society of Criminology 'Youth Criminology/Youth Justice Network' (YC/YJN) and the European Society of Criminology 'Thematic Working Group on Juvenile Justice' (TWGJJ).

1.xiv. The above provides a resumé of my professional background and comprises the context from which I make this submission.

1.xv. I confirm that I am happy to have my submission made public and If I might assist further, I can be contacted by email at: [redacted]

2. Focus of submission

2.i. I address each of the four core questions raised by the Office of the Children's Commissioner, Australia. Given the imposed confines, I draw largely (but not exclusively) on my own published research (authored either individually or collaboratively).

Additionally, each cited output includes extensive referencing to the wider corpora of published international research.

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

2.ii. Youth justice systems comprise organizational and institutional mechanisms for the governance of identifiable groups of children, normally drawn from the most damaged, distressed and disadvantaged families, neighborhoods and communities in their respective jurisdictions (see, for example: Goldson, 2000a; Goldson *et al*, 2021).

2.iii. Not all, and not only, multiply disadvantaged young people 'offend' but, wherever and whenever we might care to look in the world, the children who are typically found in police stations, court houses, community-based offence-focused programmes and custodial institutions – the 'usual suspects' (McAra and McVie, 2005) - are the very young people who are systematically marginalized, excluded, isolated and violated in the infrastructure of everyday life.

2.iv. Particular groups of children and young people are especially (and disproportionately) prone to criminalization and youth justice involvement including: Aboriginal and Torres Strait Islander and black and minority ethnic children and young people; girls and young women; children and young people known to social welfare and child protection agencies; children and young people with mental health disorders and/or cognitive/neuro-disabilities, and; children and young people living at the most acute ends of social and economic adversity and exclusion (see, for example: Goldson, 2000a; Baldry *et al*, 2018; Goldson *et al*, 2021). Further, there is increasing awareness of the ways in which children's sexuality can also negatively shape their involvement in, and experiences of, youth justice systems (see, for example: Ball *et al* 2016; Dwyer, 2011).

2.v. Paradoxically, the very children and young people in greatest need of the protections and benefits conferred by international human rights standards, are often those who are most readily criminalized and whose human rights are most severely compromised, if not violated (see, for example: Cunneen *et al*, 2016; Cunneen *et al*, 2018).

2.vi. Disproportionate forms of criminalization and youth justice involvement (most especially custodial detention) typically impose profoundly deleterious and long-lasting effects on such children and young people who are typically cycled and recycled through the same systems on multiple/repeat occasions (see, for example: Goldson, 2005; Goldson, 2015).

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?

2.vii. 'Diversion', 'decimalisation' and 'decarceration' comprise the three defining elements of what has been termed 'principled youth justice' (Goldson and Muncie, 2006)

and 'youth justice with integrity' (Goldson and Muncie, 2007); approaches that not only promise to best protect the rights and wellbeing of children and young people but also to serve the wider public interest (see, for example: Goldson, 2019a).

2.viii. The most effective form of diversion is obtained by raising the minimum age of criminal responsibility. The low minimum age of criminal responsibility in Australia (and in other identifiable jurisdictions) is deeply problematic. It not only fails to observe international law and human rights standards (see, for example: United Nations Committee on the Rights of the Child, 1989; United Nations Committee on the Rights of the Child, 2019), it also exposes children from the age of ten years to processes of criminalization that invariably impose long-lasting negative effects (see 2.vi. above).

2.ix. Longitudinal research repeatedly reveals the harms and counter-productive tendencies that ensue following premature and over-zealous exposure to youth justice systems. In this sense the concept of 'early intervention' is fundamentally flawed (see, for example: Goldson, 2000b, Gatti *et al*, 2009; Smith, 2018; McAra and McVie, 2019).

2.x. There is a compelling evidence-based case to support significantly raising the minimum age of criminal responsibility in Australia and elsewhere where similarly low ages obtain (see, for example: Cipriani, 2009; Goldson, 2013; Crofts and Loughnan, 2015; Goldson, 2019a; UNSW Centre for Crime, Law and Justice, 2021).

2.xi. If diversionary strategies (including raising the minimum age or criminal responsibility) best ensure that the rights and wellbeing of children and young people are most effectively met at the 'front end' of youth justice systems, decarcerative strategies and substantially down-sizing penal detention provides similar outcomes at the 'back-end' of the same systems.

2.xii. The international evidence reveals unequivocally, as it has done for almost two hundred years, that placing children and young people in locked institutions is extraordinarily expensive, invariably imposes corrosive effects (in some cases fatal effects) and is spectacularly ineffective in preventing and/or reducing youth crime (see, for example: Goldson, 2005; Goldson and Coles, 2005; Goldson, 2015; Royal Commission 2017; Goldson, 2019a; Nowak, 2019; Goldson *et al*, 2021).

2.xiii. Diverting children and young people from formal youth justice interventions, significantly raising the minimum age of criminal responsibility and substantially reducing – if not completely replacing – practices of penal detention, will best ensure that youth justice systems protect the rights and wellbeing of children and young people and effectively serve the wider public interest. The same approaches are not only compliant with international law and human rights standards but they also resonate strongly with the international knowledge/evidence base (see, for example: Goldson, 2019a; Goldson *et al*, 2021).

2.xiv. The principal barriers to incorporating such approaches within the policy and practice spheres are largely political as distinct from penological. Youth justice is

frequently politicised in such ways that short-term calculations, populist imperatives and 'electoral anxieties' carry more weight than scientific evidence, accumulated knowledge and the lessons that derive from practice experience/wisdom (see, for example: Pitts, 2000, Goldson, 2010).

2.xv. Overcoming the barriers that serve to obstruct rational policy-making and undermine the delivery of effective practice ultimately requires the depoliticization of youth crime and youth justice and the faithful and unconditional application of knowledge/evidence (see, for example: Goldson, 2010; Goldson *et al*, 2021).

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?

2.xvi. Internationally, youth justice systems that best apply the principles and practices of diversion, decriminalisation and decarceration produce the most positive outcomes (2.vii-2.xiii above. Also, see Goldson, 2019b; Goldson *et al*, 2021 for more detailed analyses).

2. xvii. In Australia there are examples of best innovative practice to be found at sub-State and/or Territory levels within what have been termed 'Indigenous domains' (Goldson *et al*, 2021). Such innovations comprise important counterpoints to dominant settler colonial approaches to youth justice and lay foundations for the realisation of Aboriginal and Torres Strait Islander self-determination and redress. In particular, and by drawing selectively from specified research sites, the Koori Children's Court in Victoria, the Yiriman Project in the Kimberley region of Western Australia and the Maranguka Justice Reinvestment Project in Bourke, New South Wales are exemplars of best practice (Goldson *et al*, 2021).

2.xviii. In England and Wales, an extended programme of detailed qualitative and quantitative research focused on how youth justice (and related agency) managers and practitioners - within distinctive areas - construct and operationalise local penal cultures that give rise to positive outcomes. A combination of: charismatic, value-led, knowledge-grounded, credible and outward-facing leadership; a philosophical commitment to welfare-oriented and community-based service delivery; an informed and determined embrace of diversionary and decarcerative principles and practices; greater awareness and wider engagement with knowledge-based approaches and a recognisably developed human rights consciousness are empirically shown to produce the most positive outcomes (Goldson and Briggs, 2021).

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?

2.xix. Whatever benefits might accrue from taking a *national* approach to youth justice and child wellbeing in Australia and/or elsewhere, comparative research has revealed that *sub-national/sub-state* and/or *local* sites remain vitally important. In other words, in reality youth justice and penality is shaped and formed through complex vertical and horizontal

relations whereby top-down *national* policies are necessarily mediated and filtered from below (vertical relations). In this way, the translation of *national* policy to *local* practice is also determined through multiple inter-personal and inter-agency interactions and organisational processes (horizontal relations) (see for example: Goldson, 2019c; Goldson *et al*, 2021; Goldson and Briggs 2021).

2.xx. What is absolutely imperative in Australia is a nationally co-ordinated strategic response to address the persistent injustices that prevail within youth justice and child wellbeing systems and processes within *every* State and Territory.

2.xxi. As stated above (see 2.ii-2.vi), multiple forms of injustice bear down on particular groups of children in Australia including: Aboriginal and Torres Strait Islander children and young people; girls and young women; children and young people known to social welfare and child protection agencies; children and young people with mental health disorders and/or cognitive/neuro-disabilities, and; children and young people living at the acute ends of social and economic adversity and exclusion (see, for example: Goldson *et al*, 2021).

2.xxii. In particular, at the sharpest end of Australian youth justice systems – custodial detention – racialised injustice is shocking. Aboriginal and Torres Strait Islander children and young people are over-represented in penal detention in *every* State and Territory but in *some* discrete States and Territories such disproportionality assumes exceptionally striking forms. In Queensland, for example, Aboriginal and Torres Strait Islander children are locked-up at 32 times the rate of non-Indigenous young people, in South Australia 36 times and in Western Australia 38 times (Goldson *et al*, 2021).

2.xxiii. Furthermore, at a sub-State and/or sub-Territory level the child's precise domiciliary/familial location is critical. Aboriginal and Torres Strait Islander children are significantly more likely than non-Indigenous young people to live in 'outer regional', 'remote' or 'very remote' areas where the prospects of being remanded and/or sentenced to penal detention are especially high (Goldson *et al*, 2021).

2.xxiv. A sharply-focused and uncompromising national strategy is needed to address such persistent and ubiquitous injustices and human rights violations.

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