

16 June 2023

Dear Ms. Anne Hollonds,

Re: Submission to Youth Justice and Child Wellbeing Reform across Australia.

Thank you kindly for this opportunity to contribute to the call for submissions to the project on Youth Justice and Child Wellbeing Reform across Australia.

Local Time is a research collaboration that examines the design of youth justice detention facilities, and the impact of a facility's physical environment. While by no means the sole factor, the physical environment of a facility greatly impacts upon the procedures within a youth justice detention environment, the relationships between staff and young people, and ultimately a young person's wellbeing and prospects of rehabilitation and community safety.

While we trust that the commission will seek to understand ways to reduce the number of people involved in the youth justice system and youth justice detention, in addition, our submission seeks to highlight the importance of what occurs within youth justice detention.

In the last-resort event that a young person is remanded or sentenced to detention, it is important that they find themselves within a safe and therapeutic environment, conducive to their health, wellbeing, as well as contributing to building pathways to a life without crime. Our body of work aims to understand and explain what this looks like in concrete terms to inform evidence-based practice and policy.

Below we consider each of the questions posed by the commission. We have also attached our previous published work as referenced in our submission. We ask that one of these attachments is kept confidential (Oostermeijer et al 2023) as this concerns a manuscript currently under double-blind peer review.

If we can offer any further help, please feel free to get in contact.

Kind regards,

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Ph.D, MSc, BSc

Matthew Dwyer
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Local Time.

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

Adolescent health and wellbeing and involvement in the juvenile justice system are deeply intertwined. It is well-known that adolescent offending behaviors are rooted in the relationships and interactions between their environment of family, peers, school and community, as well as the broader societal, cultural and political systems they find themselves in. Incarcerated young people typically have had adverse childhood experiences, come from socially disadvantaged backgrounds, are victims of crime and experience a range of mental and physical health problems.

A period of incarceration interferes with factors generally thought to promote desistance from offending including links with community, family ties, employment, education and housing. Many young people released from juvenile justice detention, as a result, have poorer general health and are ill-equipped to form stable interpersonal relationships, learn resilient coping strategies, avoid antisocial peer influences and engage in training and education essential for economically independent and law-abiding pathways.

Juvenile justice detention is often referred to as doing more harm than good and is considered a criminogenic risk factor in and of itself, further entrenching young people into disadvantage. This finding deserves pause and reflection.

As Matt describes in his recent Churchill Fellowship report (Dwyer 2023: page 4):

“Australia’s Youth Justice facilities are certainly broken, but they would be more accurately described as backward. They are designed around outdated ideas that have been thoroughly shown to be counterproductive and harmful, to justice-involved young people, to justice staff, and to our broader society. They fail to provide a safe environment, evidenced by the constant stream of reviews, inquiries, and royal commissions around the country, in addition to the ongoing exposés of abuse and failure uncovered by reporters and journalists, and the often scathing scrutiny of oversight bodies. Staff are getting hurt, children are getting hurt, it costs an enormous amount of taxpayers’ money, all so that young people can come out with worse chances than those they had going in. Moreover, there is no evidence to show that these facilities do anything to reduce offending behaviour. Our youth justice facilities don’t align with what we know helps young people to change their behaviour and their lives for the better.”

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?

Youth justice facilities can, and should, be designed from the ground up specifically to promote pro-social connections with a young person’s family, community, and culture, contributing to their wellbeing and rehabilitation. This principle has been productively developed in international jurisdictions, and is relevant in Australia. It is the antithesis of our current model, which centres upon containment and isolation. A new model must focus on meaningful engagement and connection.

Despite best efforts to ensure juvenile justice detention is in line with ‘good’ practice, it remains an extreme intervention which undoubtedly has a marked impact on the young person who is subjected to this measure. In this event, incarceration should always serve as an opportunity for treatment and rehabilitation within a safe and structured environment.

Our work has considered whether time spent in a juvenile justice detention facility can ever be conducive to adolescent health and wellbeing. We have explored this question by examining the relationship between several key built environment characteristics of ‘good’ practice juvenile justice detention models and their impacts on the lives and experiences of the young people they detain.

Our work shows that good practice juvenile justice facilities are small-scale, locally sited and integrated with the surrounding community, designed to promote relational and differentiated security and comprise therapeutic design characteristics (Dwyer and Oostermeijer 2023; Dwyer 2023). This type of facility is best positioned to facilitate therapeutic and individually tailored responses that encourage the development of positive social interactions, social support networks and commitment to positive social and civic engagement. As outlined in our work, such facilities can minimize some of the significant harms and negative impacts well-known to persist in the conventional forms of juvenile justice detention. It is worth pointing out that cherry-picking from these elements does not constitute ‘evidence-based’. Our work clearly demonstrates that these elements are interrelated and work together in order to facilitate better outcomes. Further, it is necessary to understand that the physical environment must be considered as only one aspect of a comprehensive and holistic approach, which must also involve staffing, training, programming, procedure, support, culture, values, and broader societal understanding.

Keeping kids physically, emotionally and socially close to their families, their communities and broader society impacts on their wellbeing and mental health, their social connections, their educational and learning opportunities, their autonomy, decision-making capacities and human rights.

The jurisdictions considered in our work have demonstrated that meaningful reforms can be accomplished when major changes to facility design, location, staffing and culture are fully embraced (e.g. the Netherlands, Spain, Norway, New York and Missouri). Rather than being ideal facilities to be replicated, the examples we studied demonstrate the impacts of a practical commitment to the health, wellbeing and positive development of their young people, which includes the built environment of youth justice detention facilities. Importantly, this involves an ongoing practice of continuing improvement and change, involving staff and management being reflective, flexible and maintaining an attitude of mutual learning with young people (Dwyer 2023).

In previous work further exploring the concept of relational security approaches with staff from one of Victoria’s youth justice detention facilities, we have listed several recommendations with a view to addressing current issues, by optimising conditions for relational security to be implemented, understood and practised consistently (Oostermeijer, Tongun & Johns 2022). We highlight that working in a youth justice detention setting requires that staff are able to establish constructive working relationships with young people, involving mutual trust and respect, to be flexible and adaptive to young people needs, and to maintain professional boundaries. A key focus should be giving staff the time and space to communicate and engage in meaningful conversations with young people and for staff to engage in activities with young people. The need for time to

be prioritised has implications for staff recruitment, training, retention, support and management. The need for space to be prioritised has implications for the physical, environmental and interior design of the facility. Although unit size and facility and unit lay-out are static characteristics – the provision of calm and private spaces, communal areas, security differentiation and access to green spaces should be a focus within current environments.

Further, we would like to reiterate that research forms the foundation of successful policy and practice reforms, by building the knowledge of successful approaches, identifying areas of improvement and promoting transparency and accountability. We recommend the building and strengthening of partnerships between university research centres and Youth Justice Departments across Australia. Instead of acting as a gatekeeper for accessing young people involved in justice system as participants, lived experience experts and co-researchers – State and Territory Departments should embrace independent research and evaluation as a way of facilitating continuous evidence-based improvements, reflective practice and transparency.

3. 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?

Several jurisdictions around the world have recognised that meaningful, broad, youth justice reform is more likely to be achieved when it also involves moving away from large-scale conventional youth justice detention institutions. In our recent work we outline how and to what extent small-scale community integrated facilities enhance the ability to provide evidence-based youth justice approaches and interventions (Dwyer and Oostermeijer 2023). Some jurisdictions have monitored and evaluated their reform efforts, briefly outlined below.

The Missouri model from the USA has long been heralded as a leader in juvenile justice reform. Since 1974 Missouri has been pioneering a positive approach to youth justice that deemphasises large remote institutions in preference for community-based services and small treatment facilities. The switch to smaller facilities (with an average of 20 beds) was seen as a crucial factor in the implementation of this model. Young people placed in these facilities rarely experienced mechanical restraints and isolation and very few assaults on young people or staff were reported (Mendel 2010). Compared to young people incarcerated in facilities in other USA jurisdictions, young people placed in the Missouri facilities made greater educational progress and experienced more successful transitions back to the community (Mendel 2010; Huebner 2013).

In 2012, New York City embarked on a comprehensive redesign of its Juvenile Justice and custodial system: The Close to Home Initiative (C2H). In addition to substantially improving and broadening community-based alternatives to detention, the initiative effected a paradigm shift to replace large institutional facilities with smaller programs, rich with rehabilitative services and close to young people’s homes, as well as establishing comprehensive support and aftercare. The initiative has been documented and evaluated quite extensively. Several reports have been published on the policy transfer consideration, describing the key success factors and challenges policymakers and practitioners should consider and providing a blueprint for similar reforms in other jurisdictions.

Below we outline some of the key indicators of the positive impacts of the C2H reforms (Weismann, Ananthakrishnan, Schiraldi 2019):

- In the four years following the introduction of C2H in 2012, New York City saw a 37% decline in the use of youth detention, compared to a 31% decrease in the rest of the state without such reforms.
- Additionally, juvenile arrests in New York City decreased by 52%. For comparison, the four years preceding C2H, juvenile arrests declined by 24%.
- Readmissions to C2H and violations of aftercare conditions have been limited. Of the young people released from C2H placement between 2014 and 2016, 7.6% had their aftercare revoked for violations of the terms of their release (e.g. a new arrest).
- Finally, 91% of C2H young people passed their academic classes, 82% transitioned from C2H to parents, other family member or guardian and 91% of young people who transitioned from C2H were enrolled with community-based programs.

In the Netherlands, three small-scale community-integrated pilot facilities opened in 2016 as part of a three-year trial. Subsequently, in 2019 the Dutch government decided to further implement small-scale community-integrated facilities as a permanent part of the justice system. Several small-scale facilities now offer a 'low security' alternative for young people who would otherwise be remanded or sentenced to a high-security form of detention.

The three Dutch facilities have been closely evaluated by a Dutch team of academics (Full reports available in Dutch: Souverein 2017, 2018). Results indicated wide system support for the facilities among professional/industry stakeholders, as well as detained young people and their families. Overall, it was concluded that these facilities provide justice-involved young people with a valuable opportunity to be supported and get their lives 'back on track'. The impacts on children's and young people's involvement in youth justice system are not yet known. However, it was shown that most young people were able to continue (70%) and/or successfully start (37%) school or work activities. Young people were also able to continue (78%) and/or start engaging (57%) with health care and youth support services.

Further, the above examples demonstrate that the physical infrastructure of small-scale facilities are better able to be readily and inexpensively retrofitted or decommissioned as useful buildings outside the justice system. This is key, in that this allows a downsizing in the number of youth justice beds in reflection of the success of broader diversion and community building approaches, reducing the use of incarceration.

Sanne has recently co-written two academic publications on the key considerations for policy-transfer of this model (one accepted and one under review, both attached to this submission). The first paper (Souverein et al 2023) sets out the key operational elements and conditions for implementation. It is worth noting that both the Dutch and the New York evaluations indicated that a critical element of the reforms was, and remains, to achieve consensus among all key stakeholders on the core vision and basic principles of the reform initiative and maintaining their support throughout the implementation process. The second paper (Oostermeijer et al 2023) considers the potential benefits and feasibility of implementing community-integrated facilities with a specific focus on Victoria, Australia. We conclude that small-scale community-integrated

facilities may alleviate some of the pressing challenges in the current custodial system by offering an alternative to high security facilities. As case study it may also illuminate implications for other Australian jurisdictions considering similar policy transfer activities.

To conclude, there is now substantial evidence available on the positive impacts, as well as the key elements and the process of reform and implementation for small-scale community integrated youth justice facilities.

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?

While we emphasize the importance of localised and place-based responses, a national approach offers the opportunity to implement national standards that reflect current (international) evidence on adolescent health and wellbeing and good practice. This should include national oversight of adherence to these standards, especially within youth justice detention facilities which have been known to breach the basic human rights of detained children and young people. A National framework should identify tangible and concrete actions, milestones and indicators of success which benefit from collective effort and commitment from both the Australian and state and territory governments.

Attached resources & references:

Dwyer, M. (2023). *'What changes people is relationships': Designing youth justice facilities that work.* Melbourne: The Winston Churchill Memorial Trust. Available from: <https://www.churchilltrust.com.au/project/to-document-the-architectural-design-of-a-new-youth-custodial-model-that-can-address-current-challenges/>

Dwyer, M., Oostermeijer, S. (2023). A Model for the Design of Youth Custodial Facilities: Key Characteristics to Promote Effective Treatment. In: Moran, D., Jewkes, Y., Blount-Hill, KL., St. John, V. (eds) *The Palgrave Handbook of Prison Design.* Palgrave Studies in Prisons and Penology. Palgrave Macmillan, Cham. https://doi.org/10.1007/978-3-031-11972-9_13

Oostermeijer, S., Souverein, F., Ross, S., Johns, D., van Domburgh, L., Popma, A., Mulder, E (2023). Under review, attached as confidential manuscript.

Oostermeijer, Tongun & Johns (2021). Relational security within Victoria's Youth Custodial System: the establishment, strengthening & maintenance of relational security approaches. Melbourne: The University of Melbourne.

Souveirin, F., Oostermeijer, S., Johns, D., Ross, S., van Domburgh, L., Popma, A., Mulder, E. (2023). Small-scale, community-embedded youth justice facilities: lessons from Dutch reforms and recommendations for cross-jurisdictional implementation. *The Prison Journal* (accepted).

Other key references:

Huebner, B. M. (2013). The Missouri model: A critical state of knowledge. Reforming juvenile justice: A developmental approach, 411-430. Available from: www.researchgate.net

Mendel, R. A. (2010). The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders. Available from: www.aecf.org/resources/the-missouri-model

Souverein, F., Adriaanse, M., de Beus, S., van Wissen, N., Oostermeijer, S., van Domburgh, L., Popma, A., Mulder, E. (2017). Tussenrapport: Monitor Proeftuinen Verkenning Invulling Vrijheidsbeneming Justitiële Jeugd. Zutphen: Academische Werkplaats Risicojeugd. Available from: www.eerstekamer.nl

Souverein, F., Adriaanse, M., de Beus, S., van Wissen, N., van den Burg, A., Steenbergen, P., de Hair, K., van Domburgh, L., Popma, A., Mulder, E. (2018). Eindrapport Monitor Proeftuinen Verkenning Invulling Vrijheidsbeneming Justitiële Jeugd. Zutphen: Academische Werkplaats Risicojeugd. Available from: www.dji.nl/documenten/rapporten

Weissman, M., Ananthakrishnan, V. & Schiraldi, V. (2019) Moving beyond youth prisons: Lessons from New York City's implementation of Close to Home. Columbia University. Available from: <https://academiccommons.columbia.edu/doi/10.7916/d8-950a-hz15>