

Children's Rights Team
National Children's Commissioner
Australian Human Rights Commission

By email: youthjusticereform@humanrights.gov.au

16 June 2023

Dear Children's Rights Team

Micah Projects welcomes the opportunity to provide a submission to the National Children's Commissioner project investigating opportunities for reform of youth justice and child wellbeing across Australia.

Micah Projects is a community-based, not-for-profit organisation in South-East Queensland. Our vision is to create social justice and respond to injustice at the personal, social, and structural levels in society. We believe every child and adult has the right to a home, an income, healthcare, education, safety, dignity, and connection with their community of choice.

We provide a range of support and advocacy services to children, young people and families according to their needs and capacity. This includes:

- Brisbane Domestic Violence Service – trauma informed programs including the Family Pathways (ReNew) Program which supports children and young people who are using adolescent to parent violence and their female caregiver through targeted interventions reducing entry into youth justice and protection systems.
- Young Mothers For Young Women – programs supporting young pregnant and parenting women under the age of 25 along with their children and partners.
- Family Inclusion Network (FIN) – supporting parents and families to be advocates for themselves and their children to improve the child protection system.
- Keeping Families Together – multidisciplinary supportive housing service providing intensive and holistic support for families.
- Lotus Place – a resource centre for people who have experienced institutional abuse and system failures in protecting them as children.

This submission responds to questions raised on the Australian Human Rights Commission website 'Call for submissions: Youth Justice and Child Wellbeing Reform across Australia'. We have provided responses to the questions based on Micah Projects' experience in supporting children, young people and families in poverty, experiencing homelessness and/or domestic and family violence.

Breaking Social Isolation – Building Community

Our hope is to create justice and respond to injustice at the personal, social and structural levels in society.

We seek to work collaboratively and respectfully with Indigenous communities and agencies. Micah Projects endorses the United Nations Universal Declaration of Human Rights.

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

Poverty is the key factor for children and young people's engagement in the youth justice and child protection system.

Other factors, which are linked to poverty and/or are co-occurring, include homelessness, domestic and family violence, disengagement from education, undiagnosed or undertreated disability or impairment, drug and alcohol misuse, inconsistent family support networks, adverse childhood experiences and intergenerational trauma.

In addition to the above factors is the complexity of brain and psychosocial development of the children and young people themselves as they transition through childhood and adolescence to adulthood. All children and young people seek positive connection and belonging and can be negatively influenced by peer pressure and risk-taking behaviours.

Some young people we support have been involved in the youth justice system and out of home care. In the absence of safe environments and positive role models, they felt they had to support themselves to meet their basic needs. This included stealing items to sell for cash as they did not have an income and stealing food as they were hungry.

Other young people told us they felt detention was more stable and reliable than life outside of detention and that they intentionally re-offended to return to a familiar environment. We have observed the connections and community young people build at court and in detention in lieu of positive relationships and community outside of the youth justice system, reflects the absence of a stable environment for them in community.

The lack of safe spaces in community for positive and pro-social engagement is a factor to children and young people's engagement in the youth justice system. Youth focused spaces which are culturally safe, accessible, provide transport, facilitate meaningful activities and a place to gather are needed in the community.

Safe spaces in community also includes how children and young people are perceived by their community and how they are labelled. The perpetuation of sensationalised messaging and misinformation through the media has negatively impacted the community's relationship with young people in Queensland. This has resulted in vigilantism and tougher youth justice laws, that do not reflect adequately on the context of family and community for the individual young person.

The punitive responses used to address children and young people's behaviour fail to adequately consider and address their behaviour in terms of models of neurological and biopsychosocial-spiritual development. When children and young people cannot meet their developmental and broader health needs through established pro-social pathways, they will adapt and find other ways to meet these needs, often through illegal behaviours, with others forming an unhealthy circle of belonging.



The inability to access established pro-social pathways to support is why children in poverty and in severely disadvantaged communities represent the majority of children and young people in contact with youth justice systems.

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?

In Queensland we have human rights legislation, guiding principles in youth justice legislation, and principles for children's participation and Aboriginal and Torres Strait Islander children in child protection legislation, which are intended to protect the rights and wellbeing of children and young people.

However, recently the Queensland government decided to override the *Human Rights Act 2019* when making amendments to the *Youth Justice Act 1992*. Two new youth detention centres are being built. The opposition government is intent on a reversal of the detention as a last resort principle in the *Youth Justice Act 1992*. Aboriginal and Torres Strait Islander children are still disproportionately involved in both child protection and youth justice systems in Queensland. These events sit in a cycle of media reports which dehumanise children and young people, leading to the rejection of evidence-based solutions and embrace of tough on crime approaches.

We are hopeful that the recent passing of the *Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2022* in the Queensland parliament will lead to improvements to the treatment of children and young people who are currently in the youth justice system. The monitoring mechanism provides an opportunity for the rights and wellbeing of children and young people within the youth justice system to be scrutinised, however we are yet to see how this mechanism will work in practice.

These are the current overarching barriers to the protection of the rights and wellbeing of children and young people in Queensland. We note Australia is due to submit its seventh periodic report to the United Nations Committee on the Rights of the Child in January 2024.¹ We seek the assistance of the Australian Human Rights Commission to draw the Committee's attention to the current treatment of children and young people in Queensland, including:

- The Queensland government's decision to override the *Human Rights Act 2019* to make amendments to youth justice legislation which are incompatible with the rights of children and young people.
- The continued practice of detaining children and young people in watchhouses which lack appropriate facilities and where adults are also detained.
- The increase in the number of children and young people and period of time they are detained in watchhouses and detention centres while on remand.



- The impact the recent amendments to the youth justice legislation have had on entrenching Aboriginal and Torres Strait Islander children and young people in the youth justice system.
- Resistance of government, across multiple levels, to raise the age of criminal responsibility in line with United Nations recommendations and their continued reliance on punitive responses.
- The failure of the child protection system to adequately provide for and support young people in care to exit out of home care and successfully transition into independent living with basic adulthood life skills.
- The failure of the child protection system to adequately support children and their families as a unit, and to effectively co-ordinate their health, housing and education.

The last two points draw from our experiences working with young people who are existing out of home care and detention often do not have the basic items needed for independent living, for example identification or a Medicare card, a bank account or access to an income. They require support to access physical, mental, dental, sexual health treatment and antenatal care, not knowing how or where to access these services. We have observed the youth justice and child protection systems largely do not adequately support young people to successfully exit the system.

In addition to international advocacy with the United Nations, more advocacy work is required within Australia and Queensland to recognise that children and young people, especially those under 18 years, function differently and have differing capacities and capabilities to adults and therefore require support and responses that are developmentally appropriate.

Ongoing promotion of services and proven solutions that young people endorse will help to balance the negative messaging and misinformation portrayed in the media and on social media. We hope this will encourage the investment in prevention, early intervention, diversionary programs and support services which are trauma informed, strengths based, culturally safe and family oriented. Investment in these responses will increase the wellbeing of children and young people and the protection of their rights, and create genuine safety within communities across the country.

We have found that consultation with and investment in local place-based solutions which connect children and young people with their family and community is successful in intervening early and preventing entry into youth justice and child safety systems. Services which use a two-generation approach and consists of wrap around support for the child or young person and their family consistently provide effective responses.² However, the barriers to establish and deliver place-based and wrap around support is a lack of ongoing and flexible funding which allows for tailored responses to the specific needs of the individual child or young person and their family.



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?

Aboriginal and Torres Strait Islander self determination must be a priority to cover a range of investments from conception, early childhood education and care, and transitions to school, to education and housing. The Family Matters Report 2022 published by SNAICC outlines the key recommendations to reform the child protection system and address the overrepresentation of Aboriginal and Torres Strait Islander children in out of home care.³

Evaluated programs which show positive outcomes for children and young people who are or have been involvement in youth justice and child protection systems include:

- Keeping Families Together – a pilot project study found families had reduced interactions with child safety and maintained stable housing.⁴
- Under One Roof: The Social and Economic Impact of Youth Foyers – a case study for scaling showing increases in maintaining stable housing and securing employment and decreasing involvement with youth justice systems.⁵
- Flexi Youth Voices Report 2022 – young people said flexi schools kept them engaged in education and not engaging in illegal activity.⁶
- Guddi Way Screen – a pilot project between Synapse and the Murri Court in Brisbane and Richlands to screen for brain injury and complex disability to identify cognitive impairments.⁷

Micah Projects has worked with vulnerable families for over 25 years. We know positive outcomes for children and young people, and their families can be achieved through:

- Early intervention with long term engagement to build a meaningful relationship with the family.
- Wrap around services and a two-generation approach that works with the child or young person and their family individually and together as a family unit.
- Holistic, trauma informed approaches to support with a place-based location, outreach services, transportation, flexible brokerage, that values social connection.
- Co-ordinated approaches across government departments to work together to find solutions for our most vulnerable families, similar to the High Risk Team for domestic and family violence matters in Queensland.⁸
- Dedicated family support programs to support parents who were children in the child protection system themselves to address experiences of intergenerational trauma, stress and abuse.
- Free access to early childhood education and care.



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?

Micah Projects supports a national approach to youth justice and child wellbeing reform in Australia.

The opportunities in taking a national approach include:

- Creating a Minister for Families portfolio with responsibility for early intervention reforms.
- Legislating early intervention, planning and support for families similar to the principles in *Oranga Tamariki Act 1989* (New Zealand), and improving child wellbeing and reducing child poverty and socio-economic disadvantage similar to the *Children's Act 2014* (New Zealand).
- Ability to review and reform current youth justice and child protection responses across Australia.
- Development of consistent, standardised child focused responses to children and young people and their families.
- Development of unified practice frameworks and continuing practice improvement.
- Improved communication across state and territory child protection systems.
- Collation of accurate data for children and young people and their families.
- Collation of successful evidence-based approaches which result in safer families and safer communities rather than punitive and statutory responses.

The next steps should include:

- Prioritising early intervention support and resourcing for children and young people engaging with or at risk of entering the youth justice and/or child protection systems.
- Prioritising intensive support for children and young people currently involved in the youth justice and child protection systems, during and following their exit from these systems.
- Prioritising access and supported engagement with health services, including physical, mental, sexual health and addiction for diagnosis and ongoing care, and identification of developmental delays.
- Providing trauma informed and evidence-based responses to children and young people who have experienced violence engaging with or at risk of entering the youth justice and child protection systems.
- Consulting with children and young people, their families and their communities to identify and co-design place-based responses to their specific needs.



We thank you for the opportunity to provide a submission to the National Children's Commissioner project. Should you have any questions or require further information, please contact [REDACTED] by email at [REDACTED] or by phone on [REDACTED]

Yours sincerely

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¹ Concluding observations on the combined 5th and 6th periodic reports of Australia: Committee on the Rights of the Child, p16 [57] <https://digitallibrary.un.org/record/3863406?ln=en>

² Aspen Institute, *The 2Gen Approach* <https://ascend.aspeninstitute.org/2gen-approach/>

³ SNAICC, *The Family Matters Report 2022* <https://www.familymatters.org.au/wp-content/uploads/2022/11/20221123-Family-Matters-Report-2022-1.pdf>

⁴ The University of Queensland, *Keeping Families Together - Pilot Project Study* <https://www.commongroundqld.org.au/assets/Media/PDF/KFT-Report-FINAL.pdf>

⁵ Foyer Foundation, *Under One Roof – The Social and Economic Impact of Youth Foyers* <https://www.commongroundqld.org.au/assets/Media/PDF/KFT-Report-FINAL.pdf>

⁶ The University of Queensland, *Flexi Youth Voices Report 2022* <https://espace.library.uq.edu.au/view/UQ:9fe37d9>

⁷ Synapse, *Guddi Way Screen* <https://espace.library.uq.edu.au/view/UQ:9fe37d9>; and Synapse, *Murri Court Pilot Project* <https://synapse.org.au/creating-real-change/our-research-work/programs-initiatives/murri-court-pilot-project/>

⁸ Department of Child Safety, Youth and Women, *Evaluation of the integrated service response and high risk teams trial 2019* <https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/130048dc-fb31-49eb-8fec-5083246d9e39/dfv-isr-evaluation-summary.pdf?ETag=b4198cafe86e093167fa5928ce1bb662>

