



14 June 2023

National Children's Commissioner
Australian Human Rights Commission
GPO Box 5218
SYDNEY NSW 2001
Email: youthjusticereform@humanrights.gov.au

Dear Commissioner

Minderoo Foundation (Minderoo) is pleased to make this submission in response to the National Children's Commissioner investigation into reform opportunities regarding Youth Justice and Child Wellbeing Reform across Australia. This letter outlines a submission from Minderoo in response to the Terms of Reference (TOR).

Overarching remarks

Minderoo's response to the TOR is based on observations and insights developed through working alongside our partners, such as the Wunan Foundation and Telethon Kids Institute, and our community work in regional Australia in supporting some of the most vulnerable members of the community in Western Australia. Key themes of our response include:

1. Early identification and intervention with young people at risk will lead to better outcomes for individuals, their families and communities.
2. More investment is required for therapeutically informed prevention and intervention.
3. Take a national approach to youth justice and child wellbeing reform in Australia.

About Minderoo Foundation

Minderoo Foundation is a modern philanthropic organisation. We take on tough, persistent issues with the potential to drive massive change. We incubate ideas, advocate for systems change and accelerate impact. We push the limits of what is believed possible. Minderoo Foundation is independent, forward thinking and seeks effective, scalable solutions. We are proudly Australian, and one of Asia's largest philanthropies. We have currently more than \$2.6 billion dollars dedicated to supporting our philanthropy into the future and more than 300 employees located across the globe.

Now more than ever, the world is increasingly fragile, uncertain and unequal, and we believe this decade is a pivotal window for change. Through bold, collaborative and selfless action, we must dismantle the systems that entrench inequality and fight for a fairer future.

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Minderoo looks forward to working collaboratively with the Australian Human Rights Commission, the Australian Government and policymakers on this important matter. In the interim, if you have any queries, or would like to discuss our response further, please contact [REDACTED], Director Building Communities via email [REDACTED] or by phone [REDACTED]

Yours faithfully



JOHN HARTMAN
Chief Executive Officer
Minderoo Foundation



Minderoo Foundation's response to the Terms of Reference

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

While there is no one factor that determines a child's involvement in the Youth Justice System (YJS), often these children and young people have experienced significant trauma with high occurrences of family violence, substance misuse, and housing and employment insecurity. For example, a study conducted by ANROWS¹ found that Adverse Childhood Experiences² (ACEs), particularly exposure to Family and Domestic Violence (FDV), are prevalent in the developmental histories of young men interacting with the YJS. Furthermore, a report by the Telethon Kids Institute found that nine out of ten children in Banksia Hill Detention Centre (BHDC) had some form of neuro-disability, including Fetal Alcohol Spectrum Disorder.³

A child or young person who enters the YJS is often a sign of broader system(s) failure(s), with previous contact with Child Protection, Health, Education and Police. Research has shown that early engagement with police and the justice system can increase the risk of 'entrenchment' within the YJS, including a higher likelihood of being imprisoned as an adult. Alternatively, early intervention with children who experience maltreatment and trauma may have the potential to prevent later interactions with the YJS and may be effective in breaking cycles of anti-social behaviours.

The high prevalence and frequent co-occurrence of ACEs reinforces the need for consistent communication and collaboration between services attending to the care and protection of children, including those that address criminogenic, health and behavioural problems. WA's Target 120 program has shown reductions in interactions with the YJS amongst participants and is underpinned by strong interagency collaboration and communication. Thus, models of engagement similar in nature should be prioritised.

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?

The YJS needs whole of system reform at a national and state level; state and territory governments have been accused of violating various human rights protocols, including the Convention of the Rights of the Child, and The United Nations Standard Minimum Rules for the Treatment of Prisoners.⁴

At present, the YJS is focussed on a punitive approach that favours incarceration over rehabilitation. For example, in Western Australia, BHDC costs more than \$100 million a year to run⁵ and recidivism rates remain high.⁶ Despite this investment, a recent report into BHDC by the Office of the Inspector of Custodial Services found 'the experience for young people in custody has deteriorated since [their] last full

¹ Ogilvie, J. et al. (2022). Adverse childhood experiences among youth who offend: Examining exposure to domestic and family violence for male youth who perpetrate sexual harm and violence.

² The Adverse Childhood Experiences (ACE) framework is a well-established tool for understanding the origins of negative outcomes among adolescents and adults who have experienced abuse, trauma and maltreatment during childhood.

³ Telethon Kids Institute (2018), 'Banksia Hill Project fact sheet'.

⁴ Australian Human Rights Commission (2021), 'Australia's Third Universal Periodic Review (UPR)'.

⁵ Department of Justice (2022), 'Annual Report 2021/2022', Government of Western Australia.

⁶ Office of the Inspector of Custodial Services (2022), 'Banksia Hill's 'One Stop Shop' Experiment Has Failed'.



inspection of Banksia Hill in 2020' and that the YJS in WA 'is in acute crisis, and there is no immediate solution'.⁷

Barriers to creating change are numerous. Often, systemic racism and a lack of cultural awareness across all levels of Australian society result in punishment-oriented interventions for First Nations young people, which increase harm to individuals, families and communities. The largest barrier to change will be to pivot from a punitive whole of system approach towards a more holistic, therapeutic and person-centred approach.

A co-designed and collective impact approach should be taken to any legislative reform, programmatic support and information sharing. This ensures communities are empowered, informed and able to contribute to any interventions involving their young people from the outset, and governments are aware of specific community needs. At a minimum, co-design should involve First Nation's communities including Aboriginal Community Controlled Organisations, young people with lived experience of the YJS, youth justice practitioners, and government agencies.

Additionally, Minderoo Foundation recommends making investments into community-led early prevention and intervention models that specifically target children - as young as six to eight. Investment in this cohort creates opportunity to address the underlying causes of future offending, thus ensuring a strong diversionary pathway away from the YJS.

This type of work is being undertaken in various communities at a local level such as Maranguka, a model of Indigenous self-governance guided by the Bourke Tribal Council. By addressing the underlying causes of crime, savings on criminal justice costs are reinvested in strategies that strengthen communities and prevent crime. Models, such as Maranguka, can be supported in communities - at scale - to ensure that children and young people have a genuine opportunity for rehabilitation and diversion away from the YJS.

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?

In WA, Target 120⁸ was developed as an early intervention program for young people aged 10-14 to reduce rates of recidivism in several WA communities. This program highlighted the need for collaboration across government and non-government agencies to better support young people at risk. Target 120 has achieved positive outcomes, with almost half of Target 120 participants reported as having no further contact with police in some intervention sites.⁹

Building on this success, the WA State Government subsequently announced its commitment to expand the program¹⁰ to support families of those who were engaged in the program in a culturally safe way.

⁷ Office of the Inspector of Custodial Services (2023), '148: Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison (Part One)'.

⁸ Department of Communities (March 2020) 'Target 120 Progress Evaluation Report'.

⁹ WA Government Media Statements, '\$11.1 million boost to Target 120 program to address drivers of youth crime' Tuesday, 3 May 2022, [Government of Western Australia](#).

¹⁰ WA Government Media Statements, 'Support for young offenders to turn their lives around' Sunday, 31 July 2022, [Government of Western Australia](#).



In New South Wales, Maranguka is a model of Indigenous self-governance that works to improve outcomes for children and families in Bourke. Maranguka's local governance approach to live data collection and analysis has demonstrated that YJS diversion is achievable in a timely manner provided communities have access to and ownership of their information. In 2018, it was found that a gross impact of \$3.1 million had been achieved through Maranguka, with an operational cost of \$600,000.¹¹ This model of local data sovereignty is critical to the success of any youth justice interventions.

Minderoo Foundation is supportive of Maranguka's community-led model and recommends it is expanded to other locations.

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?

There are numerous benefits of a national approach to youth justice and child wellbeing reform. These include streamlined reporting processes, a greater level of accountability for states and territories in reporting and improved information sharing amongst government agencies. It will require accountability to the Commonwealth Parliament on their progress against meeting national targets and objectives, similar to Closing the Gap reporting obligations.

National approaches are not new and they are achievable, as demonstrated recently through the announcement of a national Housing and Homelessness Plan¹². Currently, each state and territory is responsible for the administration of legislation and support services in the YJS. There is no uniform approach across Australia that ensures the best outcomes are achieved for children and young people engaged in the YJS.

Minderoo Foundation recommends the Australian Government commits to a national approach in reforming the youth justice system in collaboration with state and local governments, not-for-profit agencies, people with lived experience, private businesses and philanthropy, people with lived experience and the broader community.

¹¹ KPMG (2018), 'Maranguka Justice Reinvestment Project: Impact Assessment'. ¹² Department of Social Services (2023), 'National Housing and Homelessness Plan'.