

# **Youth Justice and Child Wellbeing Reform across Australia**

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

In Australia, youth justice can be considered as the state's and territory governments' responsibility. Accordingly, each jurisdiction has its own legislation, policies and practices. Section 11 of the Children and Young People Act 2008 defines a child as a person who is under 12 years old, and Section 12 defines a person who is 12 years old or older but not yet an adult, as a young person. In terms of the factors that contribute to children's and young people's involvement in youth justice systems in Australia, there are several important factors. The three main factors are individual factors, family factors and societal factors.

Individual factors are the factors that relate to the characteristics and behaviour of the children and young people. Firstly, mental health issues are key to it. Children and young people with mental health problems, such as conduct disorders or substance abuse issues are more likely to be involved in the youth justice system. Secondly, the other contributing factor is educational difficulties. Children and young people who struggle academically or those who have a history of truancy or school exclusion are at a higher risk of becoming involved in the justice system. Next, peer influence is another individual factor. Negative peer relationships and involvement in delinquent peer groups can increase the involvement of children and young people in youth justice. Drug and alcohol use is another contributing factor as these children are also more likely to have poor physical and mental health and reduced cognitive ability. Adding to that, personal history is another individual factor that contributes to children's and young people's involvement in youth justice systems in Australia. Previous involvement in criminal activities or having a history of abuse, neglect or trauma can contribute to a child's involvement in the youth justice system. For instance, a child or young person who has previously involved in crimes has the tendency of getting involved in criminal activities in future too. Moreover, especially the young people who have been victims of abuse, neglect, mental illnesses, intellectual disabilities, or trauma get involved in youth justice systems in Australia.

Family factors, factors relate to the family environment and dynamics contribute to children's and young people's involvement in youth justice systems in Australia. Parental criminality is a major family factor because children with parents who have a criminal history are more likely to become involved in the youth justice system. Parental incarceration is another existing factor which results in children getting involved in criminal activities. Family dysfunction or simply families with high levels of conflict, domestic violence, child maltreatment and neglect, substance abuse or inadequate parenting skills can contribute to a child's involvement in the justice system. Parents who lack parenting skills or parents who practice domestic violence and parents who are victims of it are not being able to shape their children to practice what is right. Parental neglect and abuse, as well as being raised in a dysfunctional home can contribute to criminal behaviour. At the same time, socio-economic disadvantage or children from low-income families or disadvantaged communities may face limited opportunities and resources, increasing their risk of involvement in the youth justice system. Existing family issues, homelessness, unstable accommodation, poverty, financial difficulties, lack of opportunity and social isolation contribute to children's and young people's involvement in the youth justice system.

Societal factors are the next major factors that contribute to children's and young people's involvement in the youth justice system in Australia. These factors relate to broader social and environmental influences. Community disadvantages or living in areas with high crime rates, limited access to services or social disorganization can increase the likelihood of youth justice involvement. According to the updated data of web report related to children under youth justice supervision, "children from areas of greatest socio-economic disadvantage were 10 times more likely than those living in areas of least disadvantage to be under supervision (140 per 100,000 compared with 14 per 100,000)". Discrimination and marginalization are other major societal factors that contribute to Australia's children's and young people's involvement in the youth justice system. Children from minority, ethnic or cultural backgrounds may face discrimination and marginalization, which can contribute to their involvement in the justice system. Furthermore, labelling and stigmatisation are widely considered in the formation of young people's offending trajectories. Systemic issues including inadequate support services, lack of diversion programs and over-reliance on punitive measures within the youth justice system can contribute to the cycle of involvement for children and young people.

It is important to note that these factors often interact and influence each other, creating complex pathways to youth justice involvement. Addressing these factors requires a comprehensive and multi-faceted approach that focuses on prevention, early intervention and support for at-risk children and young people.

**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?**

All children in the world, including children who commit criminal offences, are entitled to have their human rights protected. These rights are set out in the United Nations Convention on the Rights of the Child (UNCRC) and it is the basis of all of UNICEF's work and upholds children's rights all over the world. Every child needs to be treated fairly and equally without discrimination as children need to be kept safe. Children should be provided with basic needs, and they should be given equal opportunities to engage in education. It is equally important to have children's views considered in decisions that affect them.

To ensure that youth justice and related systems protect the rights and wellbeing of children and young people in Australia, several changes need to be made.

Strengthening legal frameworks and reforms to ensure that the rights of children and young people are protected throughout the justice process should be taken into account. This includes ensuring access to legal representation, fair and timely hearings, and protection of privacy rights. Due to the vulnerability and special needs of children and young people, it is important to ensure that the legal system provides tailored support and interventions for this group. Children and young people should be provided with therapeutic support as to reduce the socio-economic and legal problems they would encounter in their adulthood.

Rehabilitation-focused approach is another major change that is needed, so that youth justice and related systems protect the rights and wellbeing of children and young people in Australia. It is important to shift the focus from punitive measures to a rehabilitation-focused approach that addresses the underlying causes of youth offending. This includes providing access to education, mental health support, and skill-building programs. In terms of children and young people's development, the adolescent brains do not fully develop until young people are well

into their early 20s. Therefore, children and young people have a greater capacity for rehabilitation and change. Expanding diversion programs that divert young people away from the formal justice system and providing them with support and intervention services in the community is another mandatory change that should be made, so that youth justice and related systems will protect the rights and wellbeing of children and young people in Australia.

Increasing access to comprehensive support services, including mental health support, substance abuse treatment, educational assistance, and family support to address the individual and family factors that contribute to youth justice involvement is a measure that will contribute to the protection of rights and wellbeing of children and young people in Australia. According to the “Youth Justice Strategic Plan 2020-2030 – The Challenges and the Opportunities”, the characteristics of children and young people in Youth Justice include:

- 53% were a victim of abuse, trauma or neglect as a child
- 41% either have a current child protection case or were previously subject to a child protection order
- 49% present with mental health issues
- 42% have been witness to family violence
- 52% have a history of alcohol and drug use
- 21% live in unsafe or unstable housing
- 31% present with cognitive difficulties that impact on daily functioning
- 4% are NDIS participants

All in all, increasing access to support services will contribute to protect the rights and wellbeing of children and young people.

Cultural sensitivity is an important section that should be addressed. Ensuring that the youth justice system is culturally sensitive and responsive to the needs of diverse communities, including Indigenous communities is crucial to address the over-representation of certain groups. Children from diverse backgrounds, including Aboriginal and Torres Strait Islander children, are overrepresented in child protection and youth justice statistics across the country. Lack of cultural awareness and capability to be responsive to specific issues faced by multicultural communities is thereby likely to result in greater number of criminal activities. Therefore, implementing a culturally sensitive and responsive youth justice system is a key protective factor against children and young people’s involvement in the criminal justice system.

However, there are several barriers in implementing these changes. Limited resources and lack of funding can hinder the implementation of effective programs and services for children and young people involved in the justice system. Therefore, it can be recommended that the government commit to long-term investment in education and employment programs and partnerships between mainstream and community-led initiatives for children and young people. Children and young people in the youth justice system in Australia belong to diverse cultures and communities. Therefore, resistance to change is another barrier to change. From another perspective, there may be resistance from within the justice system or other stakeholders who may be reluctant to shift from punitive approaches to more rehabilitative and supportive approaches.

Negative societal attitudes towards young offenders can hinder efforts to implement more rights-based and supportive approaches within the youth justice system. Incarceration has

a negative social impact that involves stigma and discrimination. This negative social impact can be a barrier in implementing supportive approaches and comprehensive frameworks to children and young people. The youth justice system often operates in isolation from other systems, such as child protection and mental health services, leading to fragmented support for children and young people. Therefore, fragmented systems are a barrier in protecting rights and wellbeing of children and young people.

The strategies that can be employed to overcome these barriers in a major perspective are through advocacy and awareness. Raising awareness about the importance of protecting the rights and wellbeing of children and young people involved in the justice system can help to generate support and overcome resistance to change. Overcoming barriers can also be achieved through collaboration and partnerships. Building partnerships between government agencies, community organizations, and stakeholders can help leverage resources and expertise to implement effective programs and services. Moreover, providing training and capacity building for professionals working within the youth justice system can help ensure they have the knowledge and skills to implement rights-based approaches effectively. By conducting research and promoting evidence-based practices, the effectiveness of rights-based approaches can be demonstrated. Furthermore, conducting research provides a basis for policy and practice changes. Advocating for policy and legislative reforms that prioritize the rights and wellbeing of children and young people can help in creating a supportive legal framework for change.

By addressing these barriers and implementing these strategies, it is possible to create a youth justice system in Australia that prioritizes the rights and wellbeing of children and young people.

**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?**

There are several reforms that have shown evidence of positive outcomes, including reductions in children's and young people's involvement in youth justice and child protection systems in Australia and internationally.

Interventions that focus on the family environment and providing support to parents and caregivers have shown positive outcomes in reducing youth justice and child protection involvement. The Functional Family Therapy (FFT) program, implemented in Australia and internationally, has demonstrated reductions in reoffending rates and improvements in family functioning. Implementing programs that focus on early intervention and prevention have shown positive outcomes in reducing youth justice involvement. For example, the Multisystemic Therapy (MST) program, implemented in Australia and internationally, has demonstrated reductions in reoffending rates and out-of-home care placements for children and young people involved in the justice system. Diverse programs that provide alternatives to formal court proceedings have shown positive outcomes in reducing youth justice involvement. The Youth Justice Group Conferencing model, implemented in Australia and New Zealand, has been effective in reducing reoffending rates and improving victim satisfaction.

Furthermore, restorative justice approaches that focus on repairing harm and promoting accountability have shown positive outcomes in reducing youth justice involvement. The Family Group Conferencing model, implemented in New Zealand and other countries, has been effective in reducing reoffending rates and improving outcomes for young people and their

families. Trauma-informed care can be considered as another positive outcome that reduces children's and young people's involvement in youth justice and child protection systems. Implementing trauma-informed approaches within the youth justice and child protection systems has shown positive outcomes in reducing reoffending rates and improving the wellbeing of young people. These approaches recognize the impact of trauma on young people's behaviours and provide appropriate support and interventions.

It is important to note that the effectiveness of these reforms may vary depending on various factors, including implementation fidelity, cultural appropriateness and individual needs and behavioural changes of individuals. Ongoing evaluation and research are crucial to identify and refine effective strategies for reducing children's and young people's involvement in youth justice and child protection systems.

**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?**

According to my perspective, there are several benefits in taking a national approach to youth justice and child wellbeing reform in Australia because a national approach always ensures consistent standards and practices across different jurisdictions. A national approach promotes equity in access to services and support for children and young people involved in the justice system. Therefore, it helps to address disparities that may exist between states or territories. Moreover, a national approach allows for better coordination and allocation of resources, ensuring that funding and support are distributed based on needs and evidence of effectiveness. It can help avoid duplication of efforts and ensure that resources are directed towards areas that require the most attention. A national approach facilitates collaboration and knowledge sharing between different jurisdictions, allowing for the exchange of best practices, research, and evidence-based interventions. Therefore, this can lead to more effective and efficient approaches to youth justice and child wellbeing.

Policy coherence is another benefit in taking a national approach to youth justice and child reform in Australia as it promotes alignment across different sectors, such as justice, education, health, and child protection. This ensures that policies and interventions are integrated and complementary, leading to better outcomes for children and young people. The next steps in taking a national approach to youth justice and child wellbeing reform in Australia is establishing a national framework. Developing a national framework that outlines the principles, goals, and strategies for youth justice and child wellbeing reform is crucial. This framework should be developed in consultation with relevant stakeholders, including government agencies, community organizations, and young people themselves. Facilitating collaboration and coordination between different jurisdictions, government agencies, and service providers to ensure a unified approach to reform is another important aspect to be considered. This can involve establishing national working groups, sharing of data and research, and regular communication channels.

As to my perspective, identifying areas where policy and legislative reforms are needed to support the national approach and it may involve reviewing existing legislation, developing new legislation, or harmonizing policies across jurisdictions to ensure consistency and alignment. Ensuring that adequate resources are allocated to support the implementation of the national approach is crucial because this may involve securing funding from federal and state governments, as well as exploring partnerships with philanthropic organizations and private sector entities. Another important benefit of taking a national approach to youth justice and

child wellbeing reform in Australia is by establishing mechanisms for monitoring and evaluating the impact of the national approach. This can involve collecting and analysing data, conducting research, and regularly reviewing progress to ensure that the desired outcomes are being achieved.

By taking these steps, Australia can move towards a more coordinated and effective national approach to youth justice and child wellbeing reform, leading to improved outcomes for children and young people across the country.