



Seeds of Affinity: Pathways for Women Inc <https://seedsofaffinity.org/>

Submission from Seeds of Affinity: Pathways for Women (Seeds) in response to the Australian Human Rights Commission Youth Justice and Child Wellbeing Reform across Australia.

Submitted on June 29th, 2023.

Introduction

This response has been prepared by Dr Michele Jarldorn, Chair of the Board of Management of Seeds of Affinity: Pathways for Women. The response is informed by the advocacy work of Seeds' co-founder and Community Coordinator Linda Fisk, the lived experiences of Seeds members and service users. While we recognise that there is ample recent and relevant academic literature available on this topic which many other submissions will draw upon, this submission seeks to centre the voices of lived experience. This submission has been endorsed by the Seeds of Affinity Board of Management. This submission provides information about Seeds of Affinity, followed by a preliminary statement, and then sets out key issues for consideration.

About Seeds of Affinity: Pathways for Women

Seeds of Affinity was incorporated in 2006, co-founded by former prisoner, Linda Fisk, and her former parole officer, social worker, Anna Kemp. They created Seeds to fill a much-needed gap in service provision for criminalised women in South Australia. Women who have spent time in prison are rarely welcomed into the community when they are released, many struggle with stigma, isolation, poor physical and mental health, poverty and homelessness. Often the only friends they have are the ones they made in prison. Seeds offers a unique service not offered by other organisations by providing a place for women to check in with each other, share a meal, access resources and support, try new things, learn new skills and make connections with people outside of their immediate community.

Women who participate in Seeds often say that for them, Seeds is like a family and being involved with Seeds gives them a sense of belonging.

Everything that Seeds does aims to uphold the dignity and human rights of formerly incarcerated women. Seeds' philosophy of 'leave no woman behind' drives everything that we do. The work of Seeds has been recognised through multiple awards and public recognition of the organisation and the individuals who volunteer their time with Seeds. Apart from winning the occasional grant, Seeds funds its work through fundraising, social enterprise activities and donations from the public. Every person who contributes to the work of Seeds does so on a voluntary basis and does so with care, compassion and a strong sense of social justice. You can access our values statement here

<https://seedsofaffinity.org/about/our-values/>

Seeds is the only pre/post-release service available to women in South Australia that works outside of the criminal justice system. Despite the lack of funding, Seeds has proven its capacity by supporting women to succeed once they return to the community, therefore reducing recidivism and reducing the cost of imprisonment in South Australia. Seeds' unique service model is peer-led and driven, drawing upon lived experience knowledge to actively engage criminalised women as providers and recipients of support. Women who connect with Seeds are encouraged to talk about their own experiences in a safe and supportive environment that facilitates growth in self-confidence.

Preliminary Statement

Thank you for the opportunity to contribute to your project. Criminalised women are one of the most disadvantaged groups of people in South Australia, with much of this disadvantage emanating from their childhood. Hence this submission is informed by the women of Seeds of Affinity, drawn from their own lived experiences of involvement in the criminal justice system.

One of the key markers of people being held in an adult prison is that they have been imprisoned before, and this includes in youth/juvenile prisons. Seeds take the position that no child should be held in a cage. Rather than simply raise the age of criminal responsibility to 14 years as is the focus of much campaigning across Australia, we advocate for no child to be held in prison. We also propose that by refusing to act upon the advocacy efforts of hundreds of organisations and individuals who have contributed submissions to inquiries over the last few years, Australia is failing to live up to core international agreements on human rights.

The narrow expectation that every child matures equally, or that teenagers have the same maturity in terms of emotional development as they did a century ago is unfounded. According to de la Vega and Leighton (2008, p. 984), "children cannot be expected to have achieved the same level of psychological and neurological development as an adult, even when they become teenagers."¹ They lack the same capacity as an adult to use reasoned

¹ de la Vega, C., & Leighton, M. (2008). Sentencing our children to die in prison: global law and practice. *University of San Francisco Law Review*, 42(4), 983-1044.

judgement, to prevent inappropriate or harmful action generated as a result of high emotion and fear, and to understand the long-term consequences of those actions”.

We now turn to respond to the specific questions posed by the Australian Human Rights Commission project.

Questions:

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

There are multiple situations that contribute to children and young people’s involvement in the criminal justice system, which can be thought of as structural and/or intergenerational. Children who grow up in environments that are prone to domestic violence and abuse causes hyper-vigilance which in turn leads to poor mental health and substance abuse. Intergenerational issues can also stem from having their own parents or carers being involved in the criminal justice system, experiences of trauma, and having a lack of positive role-models in their lives.

Children who have been removed from their families through Department of Child Protection orders are, later in life, disproportionately represented in juvenile and adult prisons. The misdiagnosis or non-diagnosis of mental health can often result in young people self-medicating or acting in ways where that behaviour is criminalised. Rather than becoming involved in a supportive and adequately funded health system, they are diverted into the child protection and criminal justice system, where essentially, their mental ill-health is criminalised.

For young Aboriginal children especially, and children from families of colour, racism—whether intentional or not—shapes the way police, services and the community see and respond to the behaviours of young people. Likewise, children who live in poverty are so much more likely to be entrenched in the criminal justice system; where often their behaviour occurs as it is a means to combat boredom, escape, or to ‘fit in’. For some young people, participating in crime with their friends can be an attractive alternative both for life and identity. While behaviour labelled ‘criminal’ occurs across all young people, families who live in poverty have minimal access to decent legal representation.

Relevant to this submission, we note that young people with a disability often have the behaviour attached to that disability criminalised, rather than being supported in school systems. This leads to what has been described as the school to prison pipeline. Many of the behaviours underpinned by disability are viewed through a criminogenic, rather than a disability lens, with research suggesting that having the right disability support in place can prevent entry into prison altogether (Dickinson et al. 2022).² This is supported by findings from the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with*

² Dickinson, H., Yates, S., Dodd, S., Buick, F., & Doyle, C. (2022). “Most people don’t like a client group that tell you to get fucked”: Choice and control in Australia’s National Disability Insurance Scheme for formerly incarcerated people. *Public Policy and Administration*, 09520767221134320.

Disability (2021),³ which reported that “many people with disability who end up in a life-long cycle of disadvantage and incarceration come into contact with police due to their disadvantaged circumstances and their inability to access effective social services”.

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?

Schools need to be more culturally appropriate and sensitive to the needs of all young people. Workers in these systems need to be informed by lived experience, rather than just using their own personal behaviours, morals and values to inform their interventions and the work they do.

Given that public opinion drives social policy, the ways that the media reports on young people must be influencing public opinion. Due to some of our own experiences of engaging with the media, we know that there is a strong tendency in reporting to sensationalise stories and not provide any context to what is happening for those young people in their families and communities.⁴ We also call for de-funding of police, an immediate stop on building and extending youth and adult prisons, decriminalisation of drug use and that funding be provided to better resource a diverse range of community organisations to enable them to respond at a community level before a young person becomes entangled in the criminal justice system.

Young people can be better supported by, and they need community led programs with mentors and people with lived experience to guide them. Seeds advocate for less focus on punishment and more on guidance done with care and mutual respect. Being ordered around by an officer in a uniform in a prison does not engender any respect for authority, rather it breeds fear and/or resentment.

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?

Seeds believe that reforming the youth justice system, by, for example, raising the age of criminal responsibility by a couple of years or upgrading prison environments in the pursuit

³ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2021) *Responses to people with disability in the justice system are often ‘inadequate’ and can significantly impact their rights to justice.* [https://disability.royalcommission.gov.au/news-and-media/media-releases/responses-people-disability-justice-system-are-often-inadequate-and-can-significantly-impact-their-rights-justice#:~:text=in%20Australia%20while%20only%202.9,accounting%20for%20borderline%20intellectual%20disability\)&text=in%20NSW%20in%204,custody%20have%20an%20intellectual%20disability](https://disability.royalcommission.gov.au/news-and-media/media-releases/responses-people-disability-justice-system-are-often-inadequate-and-can-significantly-impact-their-rights-justice#:~:text=in%20Australia%20while%20only%202.9,accounting%20for%20borderline%20intellectual%20disability)&text=in%20NSW%20in%204,custody%20have%20an%20intellectual%20disability).

⁴ Guenzler, J. (2023). “Our country’s shame” Debbie Kilroy firmly criticises Australia’s mass incarceration of children. National Indigenous Times, <https://nit.com.au/22-06-2023/6474/our-countrys-shame-debbie-kilroy-firmly-criticises-australias-mass-incarceration-of-children?fbclid=IwAR1qDK15JQic4Vn7gmKKBVMitSOQ99Es3IMsXz4XdAc-uFOT4dBFchmU8a4>

of a 'therapeutic' prison is just tinkering around the edges of the problem, and will not substantially reduce the number of young people being held in prisons.

Even restorative justice programs, while on paper seem to be a useful, non-punishing approach, post-intervention, young people still return to the same disadvantaged communities and families they lived in prior. Nothing changes if nothing changes.

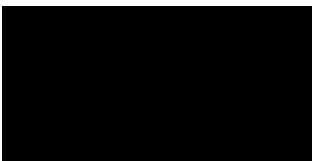
4. From your perspective, are there benefits in taking a national approach to youth justice and child wellbeing reform in Australia? If so, what are the next steps?

Adequately funding community led, lived experience responses are key to turning around the imprisonment rate of young people in Australia. Currently, young people are being ignored when it comes to informing the policies which impact them directly. If Australia is serious about addressing the 'problem' with youth justice, then the community must prioritise ensuring young people identify what drives them, what they are passionate about and how they want to be included in the world. Regardless of their age children must be included in all aspects of society, with supports in place to protect their right to freedom and to thrive their way.

Conclusion

Thank you for the opportunity to provide input to this investigation. If you require any further information, please do not hesitate to contact Seeds of Affinity: Pathways for Women, via email at soasemaphore@gmail.com

Yours Sincerely



Dr Michele Jarldorn

Chair, Board of Management

Seeds of Affinity: Pathways for Women