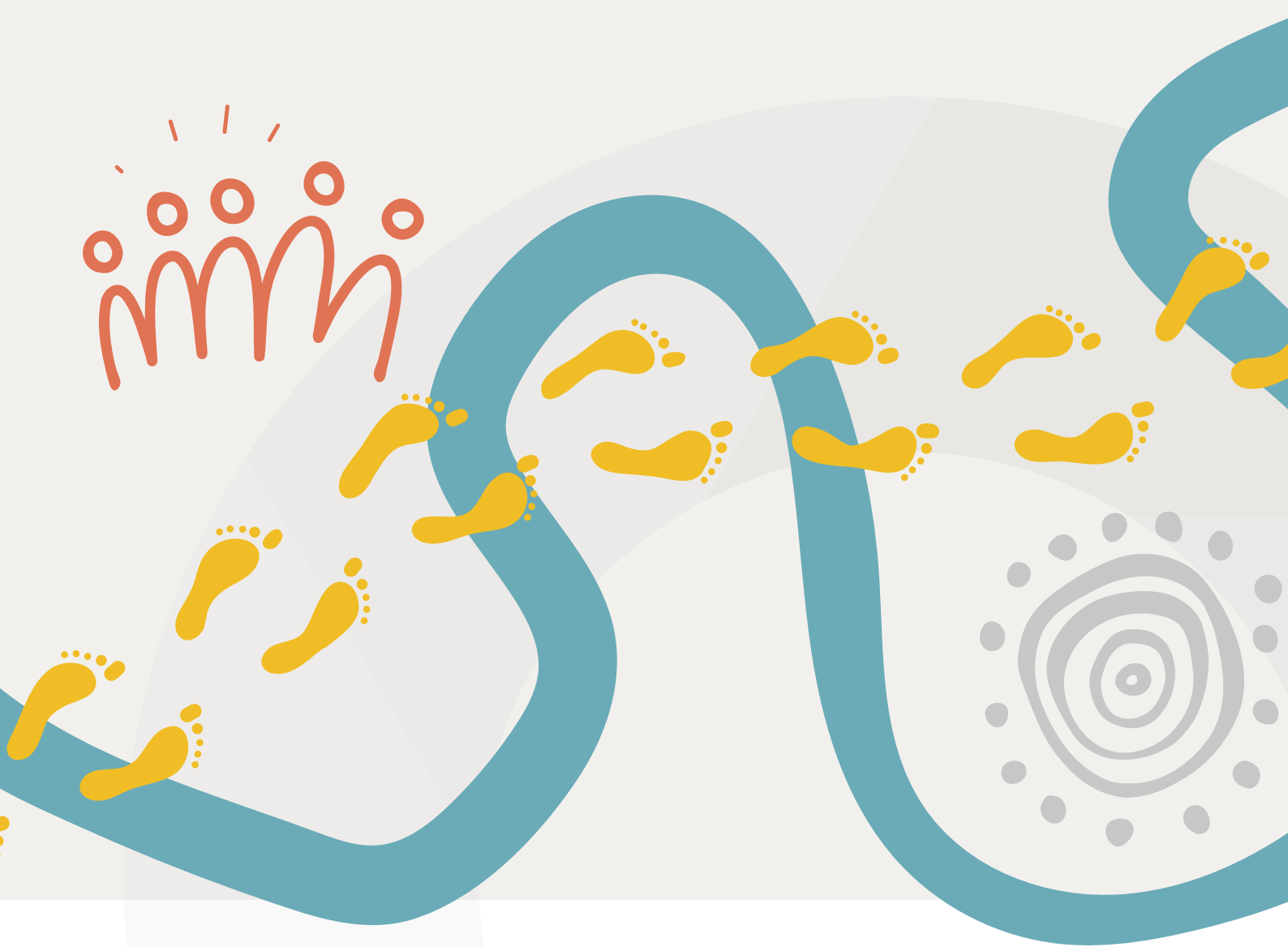


Blueprint for a Better Future:

Paving the Way for Youth Justice Reform in Western Australia

Edition 1: August 2022



Executive Summary

OUR VISION



We all want to live in a safe community, grow up in a healthy, loving family, and see our children thrive. In Western Australia this dream is attainable for many. However, there is a group of children and young people being denied this experience: those caught up in our youth justice system. These children, young people and their families are from the most vulnerable and disadvantaged groups in our community, and have serious unmet needs.

But we can create a safer Western Australia and improve outcomes for these children and young people if we work together on a smarter approach to justice issues. By responding to the underlying socio-economic drivers of offending we can effectively reduce crime, improve the cultural, social, and emotional wellbeing of families, and return the immense costs being spent at the crisis end of the justice system into building positive futures for all young people. To address this issue, we need everyone at the table – community, non-profit organisations, children and young people, and government.

Prepared in collaboration with the non-profit sector, practitioners, researchers, legal experts, and young people with lived experience, this report provides an overview of the central issues in Western Australia's youth justice system. The report provides policy recommendations and practical solutions to achieve this vision of a smarter justice system. Ultimately, that means healthy families and safer communities.

The Need to Change Our Approach

Our youth justice system should be keeping everyone in our community safe. It should seek to prevent and reduce youth offending, and provide children and young people with the opportunity to change their behaviour so that they can enjoy bright futures as valued and responsible members of the community.

But our current youth justice system, built on decades of punitive responses, does not enable us to achieve this vision. Aboriginal children are significantly overrepresented in our justice system, as are children who have been involved with child protection services, and those with disabilities and cognitive impairments. Incarceration in Banksia Hill Detention Centre rarely changes young people's offending behaviour — 84.87 per cent of young people released from detention return to custody within five years.

In most cases, our approach to placing children in detention exposes children to further harm. Far from keeping children safe, our current approach breaches their human rights, as documented in a 2022 report from the Office of the Inspector of Custodial Services. The July 2022 decision to move a group of children from Banksia Hill Detention Centre to a unit at the maximum-security Casuarina Prison, was evidence of both the ongoing crisis our youth justice system has been facing, and the risks the current approach poses to the children and young people. It entrenches children in cycles of disadvantage, and is ineffective at rehabilitation. Without effective prevention and rehabilitation, youth offending is increasingly an issue of concern for communities across the state, particularly in the Kimberley and Pilbara regions.

The current Western Australia state government (the state government) has identified goals to improve the lives and outcomes for children, young people and families across many domains with links to the justice system (such as through the *WA Youth Action Plan 2020-2022* and the *Path to Safety: Western Australia's Strategy to Reduce Family and Domestic Violence 2020 – 2030*). Rethinking our approach to youth justice is an opportunity to enhance and improve existing Western Australia state government strategies to achieve better outcomes for children and young people.

This blueprint details how changes such as improving child protection supports, increasing access to high-quality education services, and improving mental health supports for young people will all improve outcomes in youth justice. In addition, the blueprint aligns closely to the National Agreement on Closing the Gap, and will support progress towards a range of the identified socio-economic targets. By working together to reimagine the youth justice system, we can achieve outcomes that reverberate beyond youth justice, and into other priorities of the state government. Whilst this report was developed within the Western Australian context, its contents are relevant and applicable to many jurisdictions.

What Does a Transformed Approach to Youth Justice Look Like?

It is clear from the state of youth justice in Western Australia that our response cannot focus on a single solution. The reasons why children and young people offend, or end up in prison, most often lie outside the justice system, and therefore so do our responses.

In order to meaningfully transform Western Australia into a state that truly supports the wellbeing of children and young people, we require a collaborative and systems-based approach that shifts both the drivers of inequality and disadvantage that lead people to our justice system, as well as the enablers that entrench this disadvantage and create life-long harm.

This approach will require a new way of working, and a foundational intention to empower the communities and individuals who are at the heart of our vision for safer and healthy communities.

Principles

Community Leadership and Co-Creation

The voices and insights of children, young people and communities needs to be at the heart of what we do. The voices of lived experience are integral in ensuring our responses are effective, appropriate, and supportive.

Holistic and Therapeutic Approaches

Instead of punitive responses, we need to prioritise policies, programs, and supports that are trauma-informed and address the unmet needs of children, young people and families to achieve cultural, social, and emotional wellbeing.

Data and Evidence-Driven Proactive Interventions

Providing the right support, in the right place, at the right time for children and young people to meet their needs and change trajectories; informed by accessible data, information, and evidence.

Accessible Supports

Removing barriers to and to ensure help and support whenever children and young people need it, regardless of entry point or mechanism; to create a system with no wrong door.

Aboriginal Self-Determination

Self-determination for Aboriginal people in responses that pertain to them, and support for Aboriginal community-controlled solutions.

Justice Reinvestment

Investing in wellbeing to address the underlying causes of offending, for a smarter approach that creates safer communities.

Transparent, Accountable and Anti-Discriminatory Systems

Create increased trust in our justice systems through greater accountability mechanisms which seek to uphold the rights of children and proactively address systemic discrimination.

Approach

Thriving and Equipped Communities: Holistic care for all young people across Western Australia

Investing in communities that are connected, accessible, and healthy for children and young people to thrive through:

- Place-based programs that respond to community needs
- Wrap-around holistic whole-of-family programs
- Co-designed solutions with young people and communities
- Challenging community racism
- Self-determination and partnerships with communities and Aboriginal Community Controlled Organisations

Responsive Support: Early intervention for young people at-risk

Community services and government collaborate to identify and care for children and young people early, and for as long as is needed, through:

- Local service collaboration to improve referral and engagement
- Data-linkage and information sharing to support proactive therapeutic interventions
- Removing barriers to support for children and young people with complex needs
- Trauma-informed care across all youth justice services and supports
- Improving screening, care, and support for disability and cognitive impairments

Prioritised Diversion: Individualised support upon first engagement with the justice system

Use the justice system and the Western Australia Police Force as a touchpoint to provide support that meets the needs of children and young people, enables them to engage with services in their communities, including:

- Partnering with youth workers as first responders to improve connection with community-based supports
- Improving the use and effectiveness of police diversion options
- Prioritising community-based intensive support and relationship-building programs
- Creating a culturally-responsive and informed frontline response system

Rehabilitation-Focused Justice: Diversion and supportive responses within the court system

Create a legal system that sets children and young people up to receive effective care - not harm - when behaviour escalates, through:

- Setting the minimum age of criminal responsibility to at least 14 years of age
- Ending mandatory sentencing
- Supporting children, young people, and families to navigate the legal system
- Creating culturally-based alternative courts for Aboriginal children and young people
- Investing in sentencing alternatives – including culturally-based approaches
- Ensuring diversion and reintegration options are prioritised and available in every community

Therapeutic Care Focused on Reintegration: Therapeutic approaches within secure places of care as a last resort

Transforming youth detention to culturally-appropriate, therapeutic responses over punishment, and ensuring this is only used as a last resort to provide safe, intensive care by:

- Transforming detention to a therapeutic environment with a focus on rehabilitation
- Consistent through-care and transition support to continue connection

How Do We Achieve This Vision?

The youth justice space is complex, with many stakeholders working across a range of sectors. Legislation, courts, policy, frontline workers, non-government services, communities, and families all interact to shape the reality experienced by children and young people day-to-day. Reform in the space of youth justice requires an approach founded on meaningful partnerships and collaboration.

This report provides a range of recommendations, summarised on the following page. Many are primarily the responsibility of state government, while some will require buy-in from the non-profit sector and local

communities, as well as collaboration with the federal government.

Ultimately, we invite the state government to work with us to plan and design a youth justice system that aligns with the principles and evidence in this blueprint. We wish to work on this in partnership with community services, Aboriginal Community Controlled Organisations, Aboriginal leaders, communities, and people with lived experience. This blueprint is intended to provide the foundation, but formal collaboration will be needed to implement it in detail.

Next Steps for Government

WHOLE OF GOVERNMENT STRATEGIC APPROACH

Develop a whole of government vision and strategy to improve youth justice outcomes across the life-course, in partnership with the community and sector, commencing by the end of 2022. Carriage of a new vision and strategy should be made accountable and enabled through a leadership mechanism.

Why: Western Australia currently has no mechanism to coordinate efforts across government agencies responsible for youth justice outcomes. As a result, we are seeing a disconnect between strategic intentions, funded services, and reforms between agencies, and vulnerable young people are falling through the cracks. Western Australia requires a strategy and vision for youth justice to enable connected and coordinated services for children and young people and take a holistic approach to improve outcomes.

Accountability is critical as youth justice outcomes are the responsibility of multiple ministerial portfolios and existing government agencies. As a result, interagency coordination is limited and no one body has oversight of the service system from prevention to crisis and detention. Identifying a champion within government, such as a new Ministerial Portfolio, to oversee this work will support accountability within existing activities.

FUNDED AND ACCESSIBLE PROGRAMS IN EVERY PLACE

Identify the 10 communities in most urgent need of action on youth justice, and allocate resourcing in the 2023 Budget for place-based initiatives to co-create asset-based solutions in partnership with local communities, ACCOs, NGOs and government services across the spectrum of intervention (Justice Reinvestment Sites.)

Why: A lack of coordination between resourcing and services at a local level is preventing strategic work to address community-wide issues that are the underlying causes of offending. To achieve maximum effect from programs such as Target 120, we need to invest in the backbone supports that allow local collaboration, place-based strategies, and identifying service gaps across the spectrum of intervention.

LAW REFORM

Begin a review of the *Young Offenders Act 1994 (WA)*, commencing no later than the end of 2022, to update this legislation with modern understandings of youth offending, reflect a focus on prevention and diversion, and prioritise pathways that promote the wellbeing of children, young people and communities.

Why: The *Young Offenders Act 1994 (WA)* has not been substantially reviewed since its initial review in 1998, and restrains the options available for young people in the justice system. A review commenced in 2016 but was suspended in advance of machinery-of-government changes. Reforming the Act is required to address provisions in the Act, reflect modern understandings of youth justice, and to address contemporary issues in youth detention and remand.

Conclusions

Now is the perfect opportunity to make this vision a reality for our community.

Our current system is clearly in need of reform. Despite tens of millions of dollars invested into prisons and continued increases in our prisoner population, we are not seeing a shift in rates of offending and communities remain concerned about crime. It is clear our current approach is not working.

Public and political momentum is growing. There is increasing support for the campaign to raise the age of criminal responsibility in line with medical and human rights guidelines, and increasing support for preventative strategies like justice reinvestment that seek to address social issues before they reach crisis point.

We know what works. Years of research, consultation and evidence has identified what a reformed system would look like, and there is strong evidence of various strategies and programs already being implemented in Western Australia and beyond.

Our state has a unique opportunity to be a leader in youth justice reform; to harness social reinvestment and reform our system through investing and empowering the next generation of leaders, instead of criminalising them.

We look forward to working together with all Western Australians to achieve smart justice, healthy families, and safer communities through justice reinvestment.

Recommendations

Develop a Whole-of-Government Vision and Strategic Approach for Young People Ending Up in the Justice System

1. Develop a whole-of-government strategy for youth justice which coordinates efforts across government agencies responsible for youth justice outcomes and aligns reform work. A strategy should be developed in partnership with the Community Services Sector, Aboriginal Community Controlled Organisations, lived experience, academic experts, and community leaders. This should aim to:
 - a. Embed justice reinvestment approaches across relevant State Government departments and agencies, including the Department of Justice, the Department of Communities, the Department of Education, Western Australia Police Force, and the Mental Health Commission.
 - b. Incorporate the development of an Aboriginal Justice Agreement in partnership with relevant Aboriginal and Torres Strait Islander organisations, learning from the Victorian implementation.
 - c. Set clear direction for investment, and outcomes-based targets to measure strategy progress.
 - d. Provide mechanisms to support Aboriginal community-owned and led programs that build the capacity of local communities to lead responses tailored to local needs.
 - e. Provide structures to enhance government agencies' collaboration with each other, non-profit organisations, and local communities to allow collaborative approaches, as collaboration is currently limited and ad hoc, preventing long-term initiatives.
 - f. Enable data and information-sharing between government and non-government organisations for the identification of at-risk young people, for proactive targeted support.
 - g. Develop common evaluation frameworks across government agencies that align shared outcomes for programs across the strategy, and ensure adequate resourcing for evaluation to support investment in the programs that work.
 - h. Prioritise 10 communities in greatest need of support, identified through socio-economic and justice data analysis, for immediate investment to improve community outcomes and services.
 - i. Ensure that barriers to accessing services are removed for children who need them (a no wrong door approach), and service continuity (through care) is prioritised for young people.
2. The WA Government take a more active role in raising awareness among the general public and community around the underlying causes of offending, and the community-based approaches that can address these.

Create Programs in Every Place, Across the Spectrum of Intervention, Investing in Struggling Areas First

3. Invest in place-based backbone mechanisms to coordinate collaboration and collective social reinvestment approaches in each community in order to: improve referral pathways for young people, increase collaboration among existing services, and identify key gaps in services for future investment.
4. Address the demand for Aboriginal frontline workers to provide culturally-appropriate care for Aboriginal young people through investment in Aboriginal Community Controlled organisations, and in development and capacity-building opportunities for Aboriginal and Torres Strait Islander staff.
5. Invest in additional community-based programs that promote positive wellbeing and prevent issues from developing for young people, including:
 - a. Initiatives to improve baseline wellbeing, address poverty, food security and housing security
 - b. Access to prosocial recreation activities
 - c. Early childhood development
6. Invest in additional support programs and services for at-risk children and young people to provide support and change behaviour prior to engagement with the justice system, including:
 - a. Alternative schooling programs and training opportunities
 - b. Alcohol and other drug rehabilitation, support and treatment services
 - c. Disability services
 - d. Mental health supports
 - e. Youth mentoring
 - f. Connected case management for children, young people and families
7. Invest in additional diversion and rehabilitation services for young people in contact with the justice system, to assist them to meet their needs in the community outside of the justice system, including:
 - a. Opportunities for Western Australia Police Force officers to refer and divert to non-profit community-based services
 - b. Cultural connections and healing programs
 - c. Aboriginal-led justice interventions (such as First Nations First Responders, night patrols, family led decision making, and Koori Court models)
8. Invest in diversion and legal assistance programs and supports for children and young people, including:
 - a. Community Justice Centres
 - b. Bail houses
 - c. Improved accessibility and advocacy support within the courts, including additional legal

support, access to cultural interpreters, and Aboriginal Liaison Officers.

- d. Restorative justice programs
 - e. Aboriginal-led decision-making, courts and justice interventions
9. Invest in additional programs and supports for young people in need of care or in detention, with a focus on rehabilitation and reintegration to reduce high recidivism rates, including:
 - a. Training and development opportunities to support young people leaving detention to develop skills and employment opportunities
 - b. Community-based alternatives to detention (such as on-country camps)
 - c. Rehabilitation programs (such as trauma informed counselling, alcohol and drug rehabilitation and treatment, therapeutic communities)
 - d. Additional through-care programs, such as housing support.

Reforming Legislative Frameworks and Systems to Transform Our Justice System to Prioritise Children's Wellbeing and Community Safety; and Use Incarceration of Children Only as an Absolute Last Resort

10. Immediately commit to raise the Minimum Age of Criminal Responsibility from 10 to 14 years old as an absolute minimum, in alignment with international standards recommended by the United Nations and the Raise the Age WA campaign asks. This legislative change should:
 - a. Replace s29 of the Criminal Code (WA) with a new s29 that provides 'a person under the age of 14 years is not criminally responsible for any act or omission'.
 - b. Provide that detention can only be imposed as a last resort and, for children aged 14 to 16 years, detention can only be imposed for very serious offences against a person.
11. Recommence a review of the *Young Offenders Act 1994 (WA)* following the 2016 review's suspension. Amend the Act to reflect modern approaches to youth justice, contemporary issues in youth detention, and to enable strategies to achieve better outcomes in youth diversion, alternative sentencing, and remand.
12. Repeal 'mandatory sentencing' laws for children and young people because they unfairly and unjustly place disproportionate amounts of young people into detention, separate families, and entrench community-wide disadvantage.
13. Transform Western Australia's youth detention system to address issues identified by the Office of the Inspector of Custodial Services, and provide therapeutic care. This should include a model-of-care

that is child-centred, culturally safe, and empowers young people for life outside of youth detention.

14. Improve the transparency, accessibility and accountability of oversight of complaints made about Western Australia Police Force Officers. Consideration should be given to how the current process of review by the Corruption and Crime Commission and associated Parliamentary oversight can be improved, including to be more responsive and accessible to children and young people. Improvements in this area are required to increase community trust in the integrity of the complaints process and improve the relationship between police and the wider community.
15. Establish a Commissioner for Aboriginal Children and Young People to promote and advocate for the rights and interests of Aboriginal children and young people in Western Australia. The Aboriginal Commissioner for Children and Young People should have the same powers as the current Commissioner for Children and Young People including the power to hold special inquires and report to Parliament.
16. Require constant implementation of culturally safe practices designed by local Aboriginal communities, with accompanying mandatory training for all frontline staff (including Western Australia Police Force, youth custodial officers, and youth justice officers). This practice should support frontline workers to ensure they are engaging in appropriate practice for Aboriginal people and communities. Government agencies should be required to adhere to minimum standards to support effective implementation of this practice.
17. Invest in Aboriginal-led research on solutions and programs for Aboriginal and Torres Strait Islander young people involved in the criminal justice system that result in long-term positive outcomes and address recidivism to identify the solutions that work for Aboriginal young people and communities

Blueprint Endorsements

Aboriginal Legal Service WA (ALSWA)	Justice Reform Initiative	Vinnies WA / St Vincent de Paul
Amnesty International Australia	MercyCare Australia	WA Association for Mental Health
Anglicare WA	NAIDOC Perth	WA Council of Social Services (WACOSS)
Australian Lawyers for Human Rights	Outcare Inc.	WA Justice Association (WAJA)
Bringing Them Home WA/ Yokai	Oxfam Australia	WA Network of Alcohol and other Drug Agencies (WANADA)
Centre for Human Rights Education	Palmerston	Whitelion
Centrecare	Perth Inner City Youth Service	Wirrpanda Foundation / Waaltitj
Change the Record	Reconciliation WA	World Vision
Community Legal WA	Ruah	Wungening Aboriginal Corporation
Connect Groups WA	Save the Children Australia / 54 Reasons	Youth Affairs Council of WA (YACWA)
Kin Disability Advocacy (Formerly EDAC)	Shelter WA	Youth Involvement Council
FISH - Foundation for Indigenous Sustainable Health	Uniting Church WA	Youth Legal Service
Hello Initiative	Uniting WA	

Social Reinvestment WA acknowledges the traditional custodians of country on which this report was developed, the Whadjuk people of the Noongar Nation, and their continuing connection to land, sea and community. We pay our respect to their Elders both past and present, as well as acknowledge and celebrate the ongoing contributions of Aboriginal young people in our communities.

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