



Children's Rights Team
Australian Human Rights Commission
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30 June 2023

Submission to the Australian Human Rights Commission, Project on Youth Justice and Child Wellbeing Reform across Australia

Dear Children's Rights Team,

We welcome the opportunity to provide a submission to the National Children's Commissioner's project reviewing Youth Justice and Child Wellbeing Reform opportunities across Australia.

Youth justice in Australia is an area requiring urgent attention and political action. There is significant work required to align youth justice with contemporary approaches and international best practice, particularly regarding review of punitive and ineffective approaches.

Social Reinvestment WA wishes to submit our *Blueprint for a Better Future: Paving the Way for Youth Justice Reform in Western Australia* ('the Blueprint') for consideration as part of this review. Released in August 2022, the Blueprint comprehensively addresses the first three questions of this review, and represents the vision of our coalition for a reformed youth justice system that is in line with human rights, evidence-based approaches, and therapeutic rehabilitative care.

About Us

For context, Social Reinvestment WA (SRWA) is a coalition of 32 organisations united in the aim to end the systemic over-representation of Aboriginal and Torres Strait Islander people in Western Australia's justice system. We are led by two Aboriginal Co-Chairs, Daniel Morrison and Glenda Kickett, and our membership comprises a range of service providers, legal bodies, researchers, and peak bodies. As a coalition, SRWA develops policy solutions to justice issues, leads campaigns for more equitable and effective systems, and seeks to advance the establishment of justice reinvestment sites across Western Australia. Since 2020, we have led the Raise The Age campaign in Western Australia in partnership with Change The Record.

Our Raise the Age campaign, in collaboration with Change the Record, aims to lobby the government to raise the age of criminal responsibility from 10 to 14, in line with

scientific consensus, medical consensus, and international standards. SRWA also advocates and campaigns for the improved treatment of children in detention, as Banksia Hill and Unit 18 has a complex and frequent history of human rights breaches, unsafe conditions, and rolling lockdowns. We aim to offer real solutions for the justice system that prioritise the cultural, social and emotional wellbeing of families, using smart justice approaches such as justice reinvestment.

Context in Western Australia

Despite the extensive evidence highlighting the need for comprehensive interventions across multiple areas to address youth justice issues, WA currently lacks a whole-of-government strategy for youth justice. While there are various reform initiatives taking place, the lack of an overarching direction and integrated approaches means that WA has relied on reactive measures and short-term solutions for youth crime.

As a result, there is a shortage of funded and effective alternatives and options to support children and young individuals in the most vulnerable communities, leading to a disconnection between service systems that fail to meet their needs. Consequently, these children are shuffled around until they inevitably fall through the cracks, often culminating in their incarceration.

Blueprint for a Better Future

The Blueprint is a comprehensive and evidence-based policy document outlining a vision for a more effective, and connected youth justice system in Western Australia. A whole-of-system approach that responds to the underlying causes of offending to reduce crime, ensures the wellbeing of children and young people, and delivers safer and better futures for our most disadvantaged communities.

The entire blueprint is underpinned by 6 principles that should guide any approach to youth justice in Western Australia:

- *Community Leadership and Co-Creation:*
 - o The voices of children, young people & communities needs to be at the heart of what we do. Lived experience insights are integral in ensuring our responses are effective, appropriate, & supportive.
- *Holistic and Therapeutic Responses:*
 - o Instead of punitive responses, we need to prioritise policies, programs, and supports that address the unmet needs of children, young people and families to achieve cultural, social, and emotional wellbeing.
- *Data and Evidence-Driven Proactive Interventions:*
 - o Providing the right support, in the right place, at the right time to meet children & young people's needs and change trajectories; informed by accessible data, information, & evidence.
- *Accessible Supports:*

- Removing barriers 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

Our vision with the Blueprint is to provide an overview of existing remedies to encourage the West Australian government to implement meaningful and effective solutions that result in better outcomes for young people, safer communities, and healthy families. To show government that there are other approaches to the current knee-jerk responses to youth crime.

A whole-of-government approach is required to support government departments and agencies such as the Department of Justice, Department of Communities, and the Department of Education to coordinate efforts to identify and help vulnerable young people that are falling between the cracks. Our Blueprint outlines clearly why Western Australia needs a youth justice strategy and a comprehensive vision to that focuses on prevention.

The current knee-jerk approaches to youth justice and widespread occurrence of human rights breaches only further traumatise and harm young people that interact with the youth justice system. A key principle that the Blueprint outlines is that reform around the youth justice system should be built on embedding a therapeutic and supportive approach, regardless of whether it is at an early intervention stage or in detention.

Every community has different needs and solve problems in unique ways. From our consultations with young people, we heard from them that our existing the justice system falls short in meeting their unique needs. This harm stems from inherent design flaws, punitive approaches, and demoralising them.

The Blueprint identifies across the intervention spectrum (from prevention to post-release from detention) where there are opportunities for Western Australia to transform and improve outcomes for young people.

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

- Investing in communities that are connected, accessible, and healthy so young people can thrive.
- Services like healthcare, appropriate housing, education, social activities, and parenting support are crucial to help a community thrive.
- These services must collaborate and support the whole family.
- Responsive Support: Early intervention for young people at-risk
 - Community services and government collaborating to identify and care for young people early and for as long as is needed.
 - This involves providing services such as alternative education, mental health and drug support, and disability screening.
 - These services must be trauma informed and not have barriers to access.
- Prioritised Diversion: Support upon engagement with the justice system
 - Using the justice system and Western Australia Police Force as a touchpoint to provide support that meets young people's needs and enabling them to engage with services in their communities.
 - Diversion in the justice system looks like youth workers working as first responders, funding early intervention programs, and supporting cultural connection.
 - It is important to prioritise community-based intensive support and build positive relationships with young people that interact with these diversionary programs.
- Rehabilitation-Focused Justice: Diversion and supportive responses within sentencing and court systems
 - Creating a court system that supports young people to receive effective care and support if behaviour escalates.
 - Children deserve the opportunity to be diverted and reintegrated into community. By providing services like Aboriginal-led courts, sentencing alternatives, and restorative justice programs, these opportunities can be realised.
- 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.
 - Community-based alternatives should be a first priority when thinking about detention. Providing training opportunities for young people in detention will encourage reintegration into the community.

Developing the Blueprint

The Blueprint's development started in 2020, commencing with data analysis undertaken by King Wood Mallesons. Two consultation workshops were held in February and December of the same year, with an attendance of 117 participants. Throughout 2021, the wider SRWA coalition provided valuable feedback through

monthly reviews and input on updated drafts. This was facilitated by SRWA's Law Reform Subcommittee, and drafts were widely circulated to gather additional insights. During 2022, organisations such as Aboriginal Legal Service of WA, the Office of the Inspector of Custodial Services, and the Commissioner for Children and Young People were consulted on the final draft before the reviewing and editing process.

In developing the Blueprint, SRWA consulted with people with lived experience of the justice system, non-government organisations, and Aboriginal Community Controlled Organisations (ACCOs) to uncover what factors lead to young people coming involved in the youth justice system. These factors are overwhelmingly socio-economic in nature, and can be considered to encompass:

- *Development*: children require consistent support and guidance in cultivating skills such as emotional regulation, decision-making, and self-restraint. However, subjecting children under the age of 14 to the youth justice system, as well as placing them in facilities that perpetuate trauma and criminal behaviour, goes against medical and scientific advice, leading to a cycle of reoffending and prolonged involvement with the justice system.
- *Disadvantage*: The youth justice system often involves our most vulnerable and disadvantaged young people, including those facing financial difficulties, mental illnesses, drug use, disabilities, and unsupportive family environments. These challenges, combined with the prevalence of intellectual and cognitive disabilities among youth offenders, highlight systemic failures in supporting and protecting these children, ultimately impacting their understanding of consequences and their overall development.
- *Discrimination*: According to the Department of Justice in 2019-20, 72% of children in detention were Aboriginal and/or Torres Strait Islander. This overrepresentation of First Nations people in the justice system reflects the entrenched socio-economic disadvantage, due to the historical legacy of Australia's colonisation and oppressive policies such as stolen generations, stolen wages, and the dispossession of Aboriginal and Torres Strait Islander people from their ancestral lands.
- *Trauma*: Unaddressed trauma can have a significant impact on children and young people's behaviours, including in forming supportive relationships, showing empathy, concentration, impulse control, and managing emotions. Lacking in these behaviours can be linked to the types of offending which are common for young people, such as violence, theft, and drug offences. Many of the young people in youth justice system have significant experiences of trauma in their lives that occur before offending behaviour starts.

Uncovering the factors that contribute to children and young people coming into contact with the youth justice system helped inform that principles, areas of transformation, and policy reform laid out in the Blueprint. Throughout the several

years of development, constant consultation, review, and feedback was sought from community, ACCOs, and non-government organisations.

Closing Remarks

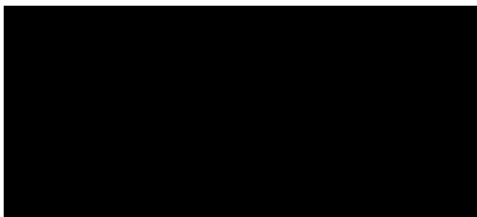
We believe our Blueprint should be considered strongly under this review and hope this submission has sufficiently introduced the nature and breadth of the work that has led to its development.

As part of our submission, please find the following attachments:

- *Blueprint for a Better Future: Paving the Way for Youth Justice Reform in Western Australia* – Full Report
- Executive Summary of the Blueprint
- Briefing Note: What is the Blueprint?
- Briefing Note: Journey and Consultation To Develop This Report

If you have any questions or wish to discuss further, please contact us via email at srwa@srwa.org.au. We would be delighted to brief the AHRC further on this piece of work, and greatly appreciate this opportunity to support reform that improves outcomes for children across the nation.

Yours Faithfully,



A/Principal Manager
Social Reinvestment WA