

**Australian Human Rights Commission
National Children's Commissioner
Youth Justice and Child Wellbeing Reform
across Australia**

Submission from the South Australian Government
June 2023



Acknowledgment of Country

The South Australian Government acknowledges and respects Aboriginal peoples as South Australia's First Peoples and the Traditional Owners and occupants of lands and waters of South Australia. We respect and celebrate the cultural and spiritual identities of Aboriginal children and young people, and their communities.

Aboriginal children and young people have the right to grow up free from discrimination of any kind, and to exercise and enjoy their rights to family and culture, in accordance with the principles of the United Nations Declaration of the Rights of Indigenous Peoples.

Terminology statement: The term 'Aboriginal' has been used throughout this document to reference all Aboriginal and Torres Strait Islander peoples. The South Australian government also acknowledges and respects that Aboriginal people prefer to be identified, where possible, by their specific language group or nation.

Introduction

The South Australian youth justice system comprises:

- South Australia Police (SAPOL), responsible for the arrest and safe custody of children and young people who have allegedly committed an offence and for administering options to divert children and young people from further involvement in the youth justice system.
- Youth Court of South Australia, responsible for hearing matters relating to charges against children and young people and decisions regarding bail, remand, and sentencing.
- Department of Human Services (DHS), responsible for the supervision and provision of support to children and young people in the community (under community supervision orders) or in detention. Kurlana Tapa Youth Justice Centre (Kurlana Tapa) is South Australia's only custodial youth justice facility.

DHS also has a broader mandate to fund and provide a range of early intervention and support services to support children and young people to be safe and well in their families and communities. This includes responsibility for the state's domestic, family, and sexual violence response as well as financial assistance for people on low or fixed incomes. Non-government and community service providers also work with youth justice agencies to provide services and programs for children and young people under supervision.

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

- While every individual's situation will be unique, a range of factors are recognised as increasing the risk of a child or young person becoming involved in the youth justice system, including disengagement with education, interaction with the child protection system, drug and alcohol use, and exposure to childhood maltreatment and adversity. The relationship between these factors and offending behaviour is complex and children and young people in contact with the youth justice system often present with multiple needs.
- During 2022-23, DHS partnered with the University of Adelaide to research the needs of children and young people under youth justice supervision. Evidence generated through this partnership demonstrates a changing South Australian youth justice population over time and an increase in complex needs, including:
 - Evidence of earlier age of entry into the youth justice system
 - High prevalence of trauma
 - High prevalence of disability
 - Higher likelihood of mental health and substance use-related Emergency Department presentations
 - Higher proportion of young people known to child protection
 - Continued overrepresentation of Aboriginal and Torres Strait Islander children and young people.

- A recent study examined the prevalence of adverse childhood experiences (ACEs) in a sample of young people under youth justice supervision in South Australia (Malvaso et. Al. 2022). It found high prevalence of ACEs for this population, in addition to trauma symptomology, substance use, and internalising and externalising behaviour.
- An emerging body of literature is also identifying the connection between disability-related needs and offending behaviour for some young people. In 2019, the DHS Youth Justice Assessment and Intervention Service (YJAIS)¹ and partners conducted the [Kurlana Tapa Disability Screening Project](#). This project identified a high prevalence of complex disability-related needs experienced by children and young people in custody in South Australia.
- The National Agreement on Closing the Gap recognises the continued overrepresentation of Aboriginal children and young people in the justice system. Whilst South Australia is on track to meet the target of reducing the rate of Aboriginal children and young people in detention by at least 30 per cent, more is required to address the factors that lead to their involvement with the justice system. It is acknowledged that for Aboriginal children, young people, their families and communities, factors such as systemic racism, intergenerational trauma and the ongoing effects of dispossession from land and the Stolen Generations continue to impact.

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?

- It is widely recognised in the literature that therapeutic, trauma-informed approaches that respond to the developmental needs of children and young people are more effective than service systems based on punitive practices. Service provision built on strong multi-agency collaboration that places the young person and their family at the centre of decision-making is also key to ensuring interventions are effective at reducing the likelihood of further involvement in the justice system. This approach aligns with the changing client profile in South Australia, characterized by increased complexity and multiple needs. Expanding access to clinically-based, evidence-informed treatment for this population would further support the wellbeing of children and young people involved in the justice system and promote rehabilitation.
- A focus on wellbeing needs to be holistically informed, inclusive of teaching young people key skills to promote and develop resilience in relation to their mental health and wellbeing, as they move through the justice system and beyond.
- The overrepresentation of Aboriginal children and young people in the justice system requires a culturally safe and appropriate response based on genuine partnerships with Aboriginal services and communities, recognising and valuing the protective effects of kinship and culture. DHS is working closely with the South Australian Community-Controlled Organisation Network (SAACCON) to establish structures to share decision-making authority and partner with the Aboriginal Community-Controlled sector.
- In line with this, DHS Youth Justice is developing a practice framework that will articulate the principles, knowledge-base and interventions that inform the way staff work with children and

¹ YJAIS is a specialised allied health service consisting of psychologists, speech pathologists and occupational therapists that provides assessment, intervention, and consultancy services for young people in custody and in the community.

young people. There will be a significant focus on strengthening responses to Aboriginal young people and embedding culturally safe and responsive practice in all elements of service delivery in line with commitments under Closing the Gap. Using the evidence base provided through the University of Adelaide research partnership, the practice framework will also focus on strengthening the way DHS Youth Justice works with young people with trauma and disability-related needs. The framework will provide a consistent and contemporary model of evidence-informed practices across both custodial and community youth justice services.

- A safe, well-trained, stable and motivated workforce is central to delivering the best outcomes for children and young people in the youth justice system. Equipping staff with therapeutic, trauma-informed, culturally appropriate approaches to supporting children and young people under supervision is essential to rehabilitation and meeting the needs of this uniquely vulnerable cohort.
- The *Youth Justice Administration Act 2016* (YJAA) contains a range of standards and mechanisms that ensure the rights of children and young people in contact with the justice system are promoted and protected. In particular, independent oversight that promotes the safety and wellbeing of children and young people in the youth justice system is critical. In South Australia, the Training Centre Visitor, appointed under the YJAA, regularly visits children and young people in custody, advocates on their behalf and promotes their rights and best interests.
- The Charter of Rights for Youths Detained in Training Centres sets out the minimum standards for what children and young people should expect when they are in detention. Under the YJAA, anyone working with children and young people in detention must seek to implement the Charter to the fullest extent possible.

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?

As indicated previously, research consistently highlights the importance of adopting a therapeutic, trauma-informed approach to working with children and young people in a youth justice context.

Secure Stairs is an initiative being implemented in the UK to improve the quality of care and outcomes for children and young people in secure estates. It has a focus on consistent, trauma-informed, formulation-drive, evidence-based care delivered through multi-agency and multi-disciplinary collaboration. An evaluation of the initiative identified a range of positive outcomes including increased emotional and relational safety experienced by young people, improved empathy and understanding of behavior by staff, and better responses based on multi-agency collaboration (Anna Freud National Centre for Children and Families, May 2022).

Group-based programs for young people within the criminal justice system focusing on offence-related treatment, forms a key part of improving young people’s outcomes, since this will assist to keep young people out of the criminal justice system. This may include the ‘use of violence’ and ‘desistance from general offending’ programs for example, focusing on problem-solving, consequential thinking and learning about different ways to manage strong emotions or impulsive behaviour.

There is a dearth of programs relating to early intervention for domestic violence and sexually coercive behaviour in youth which leaves these young people vulnerable to entering the criminal justice system as adults. Offence-specific programs, require further adjacent programs focusing on ‘individualized informants’ of offending that are unique to each young person’s formulation or experience. This may include for example, ‘drug and alcohol treatment programs’, ‘skills-based training on emotional regulation’ and ‘understanding how to recognize and manage trauma symptomatology’. Young people in the criminal justice system and within child protection require strengths-based approaches that seek to develop identity, purpose, human occupation and meaning in their lives. Group-based programs are efficient in terms of resourcing and promote active discussion to facilitate growth and a sense of belonging in vulnerable youth. Programs that are relationship-based often produce better outcomes for youth from child protection and youth justice backgrounds. These programs will be enhanced through the concerted efforts of key government agencies such as education, industry, housing and health to prioritise these populations given their vulnerability towards offending, homeless, poverty and suicidality.

DHS initiatives that have contributed to positive outcomes include:

- The KIND Program (Moulds et. al. 2019) is a tailored systemic intervention working with perpetrators of Adolescent Family Violence and Adolescent Dating Violence. Delivered by specialist family violence therapists with the young person and their families/partner, the program focuses on improving relationships, safety, and interpersonal skills. In 2022, the program was expanded, providing additional resources within the team to meet demand for its services. A formal evaluation of the program is underway through Griffith University and is due for completion by the end of 2023. Internal assessments of individual outcomes indicates that the program is achieving positive outcomes for young people and their families.
- The Enhanced Support Team (EST) was established in 2021. The EST is a small team of multi-disciplinary allied health professionals who work to equip youth workers at Kurlana Tapa with the tools to respond therapeutically to complex behaviours of children and young people in a custodial environment.
- YJAIS consists of multi-disciplinary services across psychology, speech psychology and occupational therapy. Clinical staff within this team not only provide direct assessment and therapeutic interventions to young people but also supports operational staff through consultation, behaviour support planning, training and practice improvement.
- In 2022, the Telethon Kids Institute selected South Australia as the first jurisdiction to roll out REFRAME training through the ‘train-the-trainer’ model. REFRAME training is an evidence-based training program for youth justice staff working with children and young people with Foetal Alcohol Spectrum Disorder and other neuro-developmental disabilities. To date, 50 DHS youth justice staff have undertaken REFRAME training. It is anticipated REFRAME training will be made available to all frontline youth justice staff.
- Many young people in the youth justice system experience communication difficulties and are often faced with complex information. At the recommendation of the DHS Disability Screening Project, speech pathologists created a suite of youth-friendly documents to help children and young people understand important information relating to expectations of them while under youth justice supervision. Staff who trialled these new materials reported that young people understood their bail conditions better and showed improved compliance, leading to fewer breaches and less time in custody. The success of these youth-friendly documents indicates the critical role that speech pathologists occupy the youth justice system.

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?

A national approach to reform will be beneficial to ensure alignment across jurisdictions. This will also ensure there is careful and consistent consideration as to the implications for services to this cohort. A national approach will allow for the sharing of outcomes that work.

DHS participates in the Australasian Youth Justice Administrators (AYJA) forum which meets regularly and provides an opportunity to share best practice and collaborate with other states, territories and New Zealand. AYJA also publish a set of agreed Principles and Standards to drive consistency in the delivery of youth justice services.

Whilst national consistency in relation to youth justice reform is important, each jurisdiction also operates within its own unique contexts with vastly differing population numbers and characteristics and service systems so any reform driven from the national level should recognise this.

The South Australian government welcomes and will consider findings from the National Children's Commissioner.

References

Anna Freud National Centre for Children and Families, [Independent evaluation of the Framework for Integrated Care \(SECURE STAIRS\)](#), May 2022.

Malvaso C, Day A, Cale J, Hackett L, Delfabbro P, and Ross S (2022) '[Adverse childhood experiences and trauma among young people in the youth justice system](#)' *The Australian Institute of Criminology Trends and Issues in Crime and Criminal Justice*, no. 651.

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SA Department of Human Services (DHS) (2020) '[Disability Screening Assessment Project Report: Identification of Population Needs at the Adelaide Youth Training Centre \(Kurlana Tapa\)](#)'.