

Submission to the Inquiry into Youth Justice Centres in Victoria

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Introduction

About Melbourne City Mission

Melbourne City Mission welcomes the Legal and Social Issues Inquiry into Youth Justice Centres and thanks the Committee for the opportunity to make a submission.

Melbourne City Mission is one of Victoria's oldest and largest community services organisations (established 1854). Its mission is to work alongside people and communities who are marginalised, to support them to develop pathways out of disadvantage.

Melbourne City Mission's service platform spans all ages and life stages across the greater metropolitan area. Key areas of work include early childhood development, intensive family support, adult justice services, homelessness services, disability services, employment, education and training, and palliative care.

Whilst Melbourne City Mission is not a specialist youth justice provider, youth justice 'touches' many aspects of our work. We work with statutory clients through programs like:

- The **Community Integrated Accommodation Options (CIAO)** program – a lead tenant program that is a transition option for young people on statutory orders, including young people leaving care and young people on Youth Justice orders)
- **Connect Youth** – an outreach education program targeted to young people aged between 15 and 20, who are severely disengaged from education. Since 2016:
 - 34 per cent of our Connect Youth clients have been in Out of Home Care
 - 31 per cent have been linked with Youth Justice
 - 8 per cent have been either in remand or incarcerated
 - 22 per cent have an intellectual or learning disability.

Melbourne City Mission also has experience working with young people with past or current youth justice involvement, or risk factors for justice involvement, through programs such as:

- **Frontyard Integrated Youth Services** – Victoria's pre-eminent early intervention and crisis response service for young people, managed by Melbourne City Mission. YouthLaw is based at Frontyard, and works in an integrated way with other co-located services, spanning housing, health, family mediation, counselling and parenting supporting.
- **Cradle to Kinder** – a program which provides intensive wrap-around support to young mothers and children aged 0 to pre-school entry age. Many of the families we support have intergenerational Child Protection engagement. In our western metropolitan region program, 23 per cent of fathers have justice system involvement.

- **The Hester Hornbrook Academy** – Melbourne City Mission’s independent school, which re-engages early school leavers who have had multiple and complex barriers to education participation and attainment.
- **Youth Foyers** – Melbourne City Mission manages three Youth Foyers that offer long-term supported accommodation to young people. We have allocated a number of apartments specifically to young people leaving custody.

Melbourne City Mission is also a member of the Smart Justice for Young People Coalition, the Victorian Council of Social Services (VCOSS) and the Youth Affairs Council of Victoria (YACVic).

Melbourne City Mission does not seek to duplicate the comprehensive evidence already put by the peak bodies. Rather, this submission draws the Committee’s attention to specific areas of Melbourne City Mission’s practice which intersect with youth justice, and the lived experience of young people we support and members of our staff who are engaged in and with ‘the system’.

Acknowledgements

Case studies for this submission were compiled and written by Policy and Strategic Projects Officer, Morgan Cataldo.

Recommendations

As noted in the introduction to this submission, Melbourne City Mission is a member of the Smart Justice for Young People Coalition, the Victorian Council of Social Services (VCOSS) and the Youth Affairs Council of Victoria (YACVic).

Melbourne City Mission commends their submissions to this Inquiry, and supports the recommendations they have put forward on behalf of service providers working with children and young people.

Additionally, Melbourne City Mission specifically advocates for:

Recommendation 1:

That the Youth Justice system continues to treat young people differently from adults, with a culture, ethos and legislative framework that places the interests, developmental needs and rehabilitation of children and young people at the forefront.

Recommendation 2:

That the State Government immediately transfers young people out of Barwon Prison.

Recommendation 3:

That the youth justice system is centred on – and enables – therapeutic and trauma-informed practice, and that this is enabled by:

- A clearly articulated therapeutic philosophy, an overarching therapeutic framework and a model of care
- Appropriate training and supervision
- Culture change.

Recommendation 4:

That interventions are personalised, targeted and address the individual issues underlying the offending behaviour of young people.

Recommendation 5:

That young people remain in the community, engaging with bail supports and services, where possible and appropriate. Where detention on remand is used, young people should be held for the shortest time possible.

Recommendation 6:

That the Committee considers the findings and recommendations of the current *Review of youth support, youth diversion and youth justice services* commissioned by the State Government (Department of Health and Human Services).

Recommendation 7:

That the State Government support and resource a justice reinvestment pilot, in which evidence-based, locally-tailored, measurable responses to youth crime can be developed and implemented by, and in, a community where there are concerns about high rate of youth offending.

**Melbourne City Mission's response to:
The security and safety of staff, employees and young offenders at both facilities**

Melbourne City Mission has outreach staff 'following' clients into the Parkville and Malmsbury youth justice facilities and, more recently, the gazetted youth facility at Barwon (Grevillea unit).

In relation to **Parkville and Malmsbury**, Melbourne City Mission has major concerns about the safety of staff and young people in these facilities. Our experience accords with findings by the Victorian Ombudsman that:

- The system is *"ill-equipped ... to deal with young adult offenders"* generally
- The system is unable to appropriately manage the small, emergent cohort of recidivist offenders who are engaged in *"more sophisticated, socially networked, calculated and callous offending, characterised by rapidly escalating levels of violence and disregard for authority and consequence"*
- The *"regime of lockdowns"* in youth justice centres is set against a backdrop of inadequate staffing (staff shortages and gaps in workforce skills, knowledge and confidence to deal with shifting offending patterns and cohorts) and facilities that are not fit-for-purpose (overcrowded, poorly designed, infrastructure that is aged). As noted by the Ombudsman, *"It is predictable that a regime of lockdowns for young people will create unrest, and equally predictable that more lockdowns will follow that unrest."*¹

The following extract from an interview with a Melbourne City Mission worker (who has experience both 'inside' as a youth justice centre employee and 'outside' as a community worker providing 'in-reach' to young people in detention on remand) is typical of what Melbourne City Mission hears from our frontline staff who have experience of working at Parkville and Malmsbury:

"As a worker, you feel like you're in prison as well. The staff there are angry, depressed, burnt-out, unhappy, frustrated – it's just the most awful place to work. Every single day, they are understaffed. They do so much recruitment and the turn-over is insane.

"The first day I came in on my shadow shift, as training, I went behind the [security] wall and I knew it was going to be bad. There was a 'Code Black' as soon as I walked in, which means an assault. I was in disbelief that they had restrained this particular young person for what he actually did. But the staff said they restrained him because they knew he would escalate. It felt so wrong.

¹ Victorian Ombudsman, *Report on youth justice facilities at the Grevillea unit of Barwon Prison, Malmsbury and Parkville* (2017) <https://www.ombudsman.vic.gov.au/getattachment/c6880f35-3cf3-4237-b463-9be28db448c8>

“There is also a large majority of young people threatening suicide and self-harm in the prison. I witnessed young women and men trying to hang themselves or burn themselves on ovens, as an example. It’s awful.

“There were negative behaviours going on between staff and clients. I got bullied for calling out inappropriate behaviour. There is a culture within the prison that if you call out bad behaviour, you’re targeted. When I made a report, it was meant to be confidential, but everyone knew it was me that made the report – it spread somehow.

“On my last shift as a casual worker, I walked outside and spoke to my mum and my friend, and I just started crying. You lose your senses and it’s just a constant feeling of anxiety.”

In relation to **Barwon (Grevillea Unit)**, at a philosophical level, Melbourne City Mission believes unequivocally that children and young people in the youth justice system do not belong in an adult prison.

Additionally, Melbourne City Mission does not believe Corrections Victoria can provide a safe environment for young people and staff in the Grevillea unit.

In one recent case, a 16-year-old Melbourne City Mission client who had been on remand at Parkville was transferred to Barwon late at night, reportedly with no belongings or documentation.

The young person – who has an intellectual disability and an extensive Out of Home Care history (residential care) – has multiple and complex needs and is acutely vulnerable. He has been subject to extensive bullying whilst in detention and has been the victim of several assaults at Parkville by older predatory and aggressive inmates.

No one in his care team was notified of his transfer. After locating the young person at Grevillea, the Melbourne City Mission case worker made an appointment to see the client at Barwon.

On arrival at Barwon, the Melbourne City Mission case worker:

- Was pulled aside by a Barwon staff member and advised that a number of Barwon staff had fears for the client’s safety, but that these concerns were not being actioned by Barwon management.
- Was advised by Barwon staff that the client was amongst some of the youth justice system’s most violent offenders and had reported receiving threats to his life.
- Was advised by Barwon staff that they needed to take extra measures to ensure the staff and the client’s safety. Barwon staff then called on extra Corrections staff to support them in the communal area.

The case worker was taken through to the client who:

- Confirmed that he had received death threats.
- Advised that since receiving the death threats, he hadn't left his room once because he was so scared.
- Expressed fear for his life to his Melbourne City Mission case worker and appeared so traumatised that he found it difficult to engage in any other topic of conversation with the case worker.

Whilst the worker was meeting with the client in a secure locked meeting room next to the communal area, another inmate charged and kicked the window of the meeting room door, pushing it in. This appeared to be an attempt to attack our client. Fortunately, this was thwarted and our client and staff member were physically unharmed.

Our case worker advises that there was only one exit/entry point in this area of the unit, and at this point, Barwon staff instructed our case worker to "run".

Subsequent concerted advocacy from our worker resulted in the young person being transferred from Grevillea several days later.

However, Melbourne City Mission is of the firm view that the facility is neither appropriate nor safe for **any** young person, and we continue to have concerns about the safety and wellbeing of staff who work in this environment.

Additionally, as highlighted earlier in this submission, Melbourne City Mission – on principal – does **not** support the co-location of young people/youth justice facilities in adult corrections environments.

Melbourne City Mission's response to:

Implications of incarcerating young people who have significant exposure to trauma, alcohol and/or drug misuse and/or the child protection system, or have issues associated with mental health or intellectual functioning, in relation to –

(a) The likelihood of reoffending

(b) The implications of separating young people from their communities and cultures

Victoria's Principal Commissioner for Children and Young People has previously noted that:

"More than two-thirds of children in custody first come into contact with authorities in the Child Protection system – which means they themselves are victims of physical, sexual or mental abuse and neglect. One-third face mental health problems, often a manifestation of childhood trauma. One-fifth have impaired intellectual functioning.

"Aboriginal children are 12 times more likely to be in custody than non-Aboriginal children. Quite simply, our youth justice centres house some of the most traumatized and disadvantaged children in our society."²

As Victoria's largest funded provider of youth homelessness services, and one of the State's leading providers of education to disengaged learners (including young people who have a connection to – or risk factors for engagement with – statutory services), Melbourne City Mission notes that young people with a 'leaving care' background who present to our services have multiple and complex needs largely unmatched by any other cohort we work with.

Melbourne City Mission concurs with Commissioner Buchanan that when these young people hit the youth justice system *"it is often easier to demonise or simply forget these children, rather than acknowledge the collective failings that contribute to their harm."*³

As the Youth Affairs Council of Victoria (YACVic) has noted in its submission to this Inquiry, these young people are not only at elevated risk of coming into contact with the justice system, but of *"experiencing worse results inside that system"*⁴ because of their complex trauma.

² Buchanan, L (2017), 'Keeping Kids Out of Prison', *Insight*, Victorian Council of Social Service, published at <http://insight.vcross.org.au/keeping-kids-out-of-prison/>

³ Ibid.

⁴ YACVic (2017), *Inquiry into Youth Justice Centres in Victoria – A submission to the inquiry by the Standing Committee on Legal and Social Issues, Parliament of Victoria*, published at <http://www.yacvic.org.au/policy-publications/publications-listed-by-policy-area/35-youth-justice-and-child-protection/728-youth-justice-centres-in-victoria>

Like YACVic, YouthLaw and other voices in the social services sector, Melbourne City Mission acknowledges that there are *“some young people whose current behaviour poses such a risk to other people and themselves that they need to spend time in secure facilities until this behaviour can be addressed”*, **however**, *“reforms to the system must go beyond merely ‘parking’ young people in prisons; there must be a focus on effective and meaningful behavioural change and rehabilitation.”*⁵

Specifically, Melbourne City Mission advocates for:

- **The Youth Justice system to continue to treat young people differently from adults.**

We believe that Youth Justice must continue to operate in line with the *Children, Youth and Families Act* and be based on a culture, ethos and legislative framework that places the interests, developmental needs and rehabilitation of children and young people at the forefront.

- **Therapeutic and trauma-informed practice to be at the heart of the Youth Justice system**

We all want our community to be safe. To achieve this, the Youth Justice system must focus on rehabilitating young people back into society. As YACVic has noted in its submission, there are foundations for *“therapeutic, relational, trauma-informed”* approaches in the current system, but *“in recent years, staff have felt barely able to try it”*.⁶

One Melbourne City Mission case worker, who has recent experience in the youth justice system, related her experience for this submission:

“The misconception is that you’re working in the prison as a youth worker. They advertise and paint the Youth Justice worker positions as a youth worker, but once you get in there – you realise you’re not there to do any youth work. I was a qualified youth worker, but when I went in there, the model didn’t support actual youth work. There was no capacity for any therapeutic work with these young people.

“There are times when you can do some things, like interacting with the young people, playing cards and stuff. It’s so hard to model positive behaviour in there. The environment is so difficult. There’s no capacity or support for therapeutic work.

“Counsellors don’t exist within the centre. Some young people are referred to counselling by law in instances where they have been imprisoned for offences such as sexual abuse, but other than that, there’s not much.

⁵ Ibid.

⁶ Ibid.

Although there's mental health support from organisations such as Orygen Youth Health, the young person needs to be deemed significantly mentally ill to receive that support and there's no counselling or therapeutic support on offer – even if the young person asks for it.”

Staff must be enabled to practice therapeutic approaches – including having a clear therapeutic philosophy, an overarching therapeutic framework and a model of care. This must be supported by appropriate training and supervision, and by workplace culture.⁷

Additionally – to be effective – the approaches must be underpinned by an evidence base and must be tailored. The system needs to support the development and implementation of interventions that are personalised, targeted and address the individual issues underlying the offending behaviour of young people. Melbourne City Mission believes that the findings and recommendations of the DHHS review of youth support, youth diversion and youth justice services will be integral to achieving effective early intervention and rehabilitation. As detailed later in this submission, Melbourne City Mission urges the Committee to engage with the findings and recommendations of this review when it is completed.

- **Provide continuity of care in detention**

Young people in the youth justice system have multiple people in their environment at any one time. As noted on the previous page, a clear therapeutic philosophy, an overarching therapeutic framework and a model of care is vital to achieving good outcomes with, and for, a young person. This must be supported by appropriate training and supervision, and by workplace culture.

As well as being united in vision and approach, it is important that all members of a young person's care team have shared accountability.

- **Provide continuity of care and transition support to those leaving detention**

Melbourne City Mission knows from our work in areas such as supported youth accommodation (youth foyers), that a period of post-care is critical to sustaining outcomes for young people who have experienced complex trauma. To mitigate risk of re-offending, it is critical that on release from detention, young people are appropriately supported in their communities (for example, through mentoring). The 'risk – need – responsivity' framework, which has been successfully applied in a number of policy/service system jurisdictions, could help inform decision-making about what constitutes an appropriate period of support, including when to taper off as young people move towards wellbeing and independence.

⁷ YouthLaw, Smart Justice for Young People (2017), *Submission to the inquiry by the Legal and Social Issues Committee into Youth Justice Centres*, published at www.smartjustice.org.au

A current Melbourne City Mission client, who recently celebrated 12 months out of Parkville, is an exemplar of what young offenders can achieve when there is a consistent approach in detention and post-release, a continuum of care, long-term case management, a high-functioning care team whose members collectively 'lean in', and strong staff support and supervision.

The young person – who has a disability – had previously been in and out of Parkville for a period of three years. Over the past year, he has managed to sustain housing and education, and is now successfully undertaking a pre-apprenticeship in plumbing.

Government must create the conditions in which this kind of case is the rule, not the exception, in the youth justice system.

Melbourne City Mission's response to: Additional options for keeping young people out of youth justice centres

As a member of the Smart Justice for Young People Coalition and VCOSS – both of which have undertaken significant research and policy into place-based, community-led responses to 'wicked problems' – Melbourne City Mission advocates for the State Government to support and resource a justice reinvestment pilot, in which evidence-based, locally tailored, measurable responses to youth crime can be developed and implemented by, and in, a community where there are concerns about high rate of youth offending.

Additionally, we highlight the value of:

- Early intervention programs like Cradle to Kinder (described earlier in this submission), which strengthen family functioning and develop protective factors in vulnerable infants and children, enabling trajectories into disadvantage to be disrupted (including pathways to involvement with statutory services).
- Education re-engagement programs like Melbourne City Mission's Connect Youth and The Hester Hornbrook Academy (described earlier in this submission), in which young people are reconnected to education and pathways to disadvantage are disrupted.

In 2015, an *Education Justice Initiative* (EJI)⁸ funded by the Department of Education and Training confirmed that disrupted schooling and education disengagement is common amongst young people in the youth justice system. The EJI, trialled in the Melbourne Children's Court, was found to successfully help divert young people from being remanded in custody as well as, in the longer term, improve rehabilitation and reduce recidivism. The EJI underscores the need for – and contribution of – programs like Connect Youth and the Academy, in driving positive change in the youth justice space.

⁸ Te Riele, K. & Rosauer, K. (2015) *Education at the Heart of the Children's Court. Evaluation of the Education Justice Initiative. Final Report*. Melbourne: The Victoria Institute for Education, Diversity and Lifelong Learning <https://www.vu.edu.au/sites/default/files/victoria-institute/pdfs/Education-at-the-Heart-of-the-Children's-Court-Final-Report-web.pdf>

**Melbourne City Mission's response to:
Any other issues the Committee consider relevant**

Melbourne City Mission draws to the Committee's attention the following issues:

- **The system's failure to appropriately and effectively manage un-sentenced young people. In particular, we draw attention to:**

The use of secure welfare to 'hold' young people

Melbourne City Mission has concerns about the placement of young people with multiple system engagement (residential care and youth justice) in secure welfare while they are un-sentenced.

Placement in secure welfare is only meant to occur when *"a child is at substantial and immediate risk of harm"*⁹. We are not clear that all young people being placed in secure welfare meet this criteria, and have concerns that in some cases, placements appear to be driven by system/management/service imperatives rather than the safety and wellbeing of young people.

Our staff reflect:

- *"These young people are treated like a commodity. We'll take you out here, put you in here, put you back there – there's absolutely no consistency of care."*
- *"It's further re-abandonment for these young people, it sends the message that 'we don't want you here [at their residential care placement], so we're going to send you here until we lock you up and you're good enough to come back'."*
- *"It just does not work. This is a Band-Aid response. It's like keeping them locked up in the cells ..."*

Staff also express concern that:

- *"... there's no therapeutic intervention at this stage."*
- *"There's no treatment. The trauma these young people experience – how many times can people expect these young people to be re-traumatised through the system?"*

⁹ Department of Health and Human Services (DHHS), *Child Protection Manual*
<http://www.cpmanual.vic.gov.au/policies-and-procedures/out-home-care/secure-welfare/secure-welfare-service-placement>

Melbourne City Mission is concerned that the use of secure welfare for un-sentenced young people is compounding trauma and increasing risk factors for community disengagement.

Young people in detention on remand

The Youth Parole Board's Annual Report shows around 80 per cent of young people in youth justice facilities in Victoria are un-sentenced on remand.¹⁰

Melbourne City Mission is concerned that remanding young people in custody with convicted offenders dislocates them from support networks in the community, and fosters negative peer connections and identity formation. Research shows this increases their risk of future criminal offending. For example, remand has been found to demystify the experience of youth detention, reducing the influence the apprehension of being sentenced to a youth custodial centre may have for a young person engaged in a pattern of problem behaviour.

Melbourne City Mission supports YouthLaw's call for more and appropriate resourcing of bail supports and services, which allow the accused to remain within their community, address offending-related behaviour where that is relevant, and encourage attendance at court, increasing court efficiency and decreasing the number of remands, resulting in cost savings.¹¹

As a major provider of disability services (including nationally-recognised expertise in Acquired Brain Injury, as well as behaviour support for young people with autism, intellectual disability, depression and anxiety), Melbourne City Mission is particularly concerned that young people with intellectual and cognitive disabilities – who are at heightened risk of harm in detention – be appropriately managed and supported in the community.

Melbourne City Mission staff identify a range of issues and concerns associated with the remand period, including systemic failure to respond in a timely and appropriate manner, with examples provided immediately below.

- **Systemic failure to respond in a timely and appropriate manner**

Delays in court hearings

As YouthLaw has noted in its submission, data since 2012-13 shows only about 20 per cent of young people remanded in Victoria are ultimately sentenced to custody, however, there are young people being held on remand in youth justice centres for more than three months at a time.¹²

¹⁰ Cited in YouthLaw, Smart Justice for Young People (2017), *Submission to the inquiry by the Legal and Social Issues Committee into Youth Justice Centres*, published at www.smartjustice.org.au

¹¹ Ibid.

¹² Ibid.

Melbourne City Mission outreach workers who follow clients into youth justice facilities note that these delays make it difficult for young people to maintain their “future focus” and engage with positive goal setting.

Staff report that young people in this uncertain situation experience a continuum of emotions – ranging from anxious or frightened through to frustrated or angry – which can manifest in challenging behaviours during this period in detention.

This is compounded by limited supports available within youth justice facilities to detainees (as distinct from sentenced offenders).

We advocate for young people to remain in the community, engaging with bail supports and services, where possible and appropriate. Where detention on remand is used, Melbourne City Mission agrees with YouthLaw that young people should be held for the shortest time possible.

Use of video link in a resource-constrained system and the impact on young people

In a resource-constrained system, many young people are engaging with courts principally through video link technology, rather than appearing in person.

Melbourne City Mission staff describe the process as confusing, disempowering and frustrating for young people:

- *“They will just keep [the young person] in a room for a video link for a couple of hours, not knowing when the magistrate can hear their case – they are told to just wait there until it happens. Even if they request to actually go to court, they are told that the courts don’t have capacity and this is why they’re using video link services.”*
- *“Waiting there like that is traumatic for the young person and when they eventually come on screen to the magistrate, they probably look a bit shitty, after waiting there for hours on end. The magistrate is then going to judge them, based on this.”*
- *“These young people don’t get to see anyone who’s supporting them at this time. All they get to see is the magistrate talking to them, then they’re asked questions or they’re not even spoken to. Then the video link is gone and they don’t even know what’s happened – they don’t know whether they’ve been remanded or not. They feel like they’re sitting for hours in a room, [only to] be ignored when they’re finally ‘seen to’. They do sometimes have a third person there for support, but they are physically there in the courtroom and the young person doesn’t know that, because they can’t see them via the video link and aren’t allowed to communicate with them. It’s completely cut-off altogether.*

- *“We also have clients with intellectual disabilities, so their capacity to understand what the video link means or what is happening on the other side is limited. They are usually only 16 years old when this is happening to them.”*

- **Root and branch policy and systems reform – the DHHS Youth Justice Review**

Melbourne City Mission has been actively engaged in the review of Victoria’s youth support, youth diversion and youth justice services, which is being undertaken by Penny Armytage (KPMG) and Professor James Ogloff (Swinburne University) on behalf of the State Government (DHHS).

Our insights into the process have been gleaned through participation in a stakeholder roundtable, working with DHHS and the reviewers to facilitate a focus group of young people at Frontyard (Victoria’s pre-eminent early intervention and crisis response youth service), and other sector dialogues.

We believe this to be a rigorous, evidence-based review led by eminent experts, which will provide strong foundations from which government can build a contemporary youth justice program and accompanying service delivery model. In particular, we believe this work to be a crucial enabler for the development and rollout of tailored/segmented responses to address specific offending behaviours.

While young people in the youth justice system have some common life experiences and characteristics, they are not a homogenous group. Blunt ‘one size fits all’ approaches do not work. The development of nuanced, tailored approaches is key to mitigating the potential for recidivist offending and improving community safety.

Melbourne City Mission urges the Committee to support the completion of this review, and to giving full consideration of the final report’s findings and recommendations.