



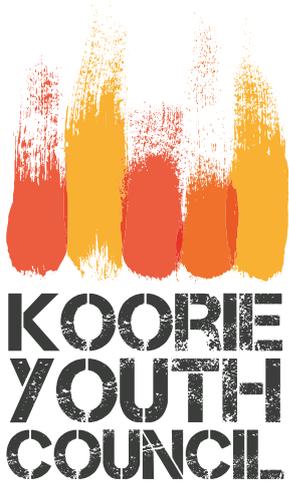
**KOORIE
YOUTH
COUNCIL**

Inquiry into Youth Justice Centres in Victoria

A submission to the inquiry by the Standing
Committee on Legal and Social Issues,
Parliament of Victoria

March 2017

Authorised by Indi Clarke (Manager)



About the Koorie Youth Council

The Koorie Youth Council (KYC) provides a voice for Aboriginal young people to influence government decisions, a platform to express themselves and an opportunity to get together and have fun. The KYC is led by an Executive of Aboriginal young people, funded by Aboriginal Victoria, and is a partner agency of the Youth Affairs Council Victoria (YACVic). KYC is membership-based and currently has a network of over 300 young people from across the state. KYC members must be Aboriginal young people aged between 12 and 25 living in Victoria.

The KYC is not a service provider and points the Inquiry to the expertise of those Aboriginal Community Controlled Organisations that have particular expertise in this area, such as the Victorian Aboriginal Legal Service and the Victorian Aboriginal Child Care Agency.

Further information about the KYC can be found at the KYC website www.koorieyouth.org.au

Koorie Youth Council

Level 3, 180 Flinders Street
Melbourne VIC 3000

Author

Anna Cerreto, Policy and Research Officer, Koorie Youth Council
anna@koorieyouth.org.au

9267 6704

Contents

Introduction	4
Language	5
Context: Understanding the overrepresentation of Aboriginal young people in the justice system	6
1. What is driving overrepresentation?	6
2. Relationship between Aboriginal young people and the justice system	7
3. Intersections between youth justice and out of home care	7
4. A culturally informed inquiry	8
5. The protective power of culture	8
6. Supporting Aboriginal young women	9
Listening to young people	10
1. Centre access and accountability	10
2. Models for consultation with Aboriginal young people	10
Investing in communities and services: a primary prevention approach	11
Keeping young people out of custody: reducing incarceration and recidivism	12
Creating safe supports: investing in the youth and justice sectors	14
Recommendations	15

Introduction

The Koorie Youth Council (KYC) welcomes the opportunity to submit to the Parliamentary Inquiry into Youth Justice Centres in Victoria (the Inquiry). The Inquiry presents an opportunity for Aboriginal young people to contribute to a smarter, safer justice system. The recent debate on youth justice has excluded those most affected by the system: young people themselves. The voices of Aboriginal young people are at the heart of KYC's work and their experiences and insights have shaped this submission. By listening to young people and their communities, Victoria's justice system can work smarter and keep communities safe.

KYC's guiding principle is that youth justice solutions begin in communities. Strong, supported Aboriginal communities create strong, supported Aboriginal young people. When young people are supported to be healthy, safe, capable and culturally strong, they are unlikely to make contact with the justice system. The justice system plays a key role in supporting communities and young people through justice reinvestment, consultation and rehabilitation.

Despite recent rhetoric describing rising youth crime, Victoria's crime rate is dropping and is well below the national average.¹ This submission acknowledges the positive steps that the Victorian Government has taken towards reducing the amount of young people in the justice system and the commitment to an equitable, rehabilitative framework. In particular, important initiatives include the recent introduction of a state-wide youth diversion program, investment in youth work and funding for Aboriginal Youth Support Service programs.

The recent announcements allowing harsher treatment of young people and the responsibility for youth justice moving from the Department of Health and Human Services (DHHS) to the Department of Justice and Regulation (DJR) signify a move away from the rehabilitative framework that has influenced the downward trend in Victoria's youth crime rates. KYC's submission argues that increased incarceration rates and harsher treatment within justice centres will result in higher rates of youth crime that will disproportionately affect Aboriginal young people.

Creating a fairer justice system for young people is key to addressing overrepresentation of Aboriginal young people in youth justice centres. KYC will take the opportunity in making this submission to highlight the critical importance of the Inquiry placing a strong focus on the experiences and needs of Aboriginal young people in its process of gathering evidence, deliberations and findings. KYC asks the Inquiry to:

- Ensure that the Inquiry process includes the direct voices of Aboriginal young people and/or the voices of those that support them in the community and service sector
- Make recommendations to ensure an ongoing focus on Aboriginal young people in youth justice and in strengthening the wellbeing of Aboriginal communities, children and young people who have had contact with the justice system or who are at risk of offending

As the Inquiry's terms of reference acknowledge, Victoria's youth justice centres are closely linked with the broader justice system and a range of government and socio-economic influences. Our submission reflects this scope, drawing together the insights of Aboriginal young people and their communities to help the Inquiry understand the context of Aboriginal overrepresentation in the youth justice system, primary prevention, recidivism and support for the youth and justice sectors.

Language

Aboriginal: We use Aboriginal as a term also inclusive of Torres Strait Islander people.

ACCOs and Aboriginal Organisations and Services: ACCOs (Aboriginal Community Controlled Organisations) play a key role in the delivery of services, research and policy advocacy for Aboriginal people in Victoria. Where we have made reference broadly to Aboriginal Organisations and Services, we are being inclusive of ACCOs and other types of services delivered by and/or for Aboriginal people (for example through departmentally funded programs and services).

Koorie: The Koorie Youth Council uses the term Koorie in our organisation's title as inclusive of all Aboriginal and Torres Strait Islander young people living in Victoria.

Young people: The term 'young people' is used in this submission to refer to people aged between 12 and 25 years. This is in keeping with the accepted definition of young people utilized by the youth sector in Victoria and as such, reflects the scope of the KYC. It should be noted that understandings of the development and role of young people within the community are culturally influenced - meaning that assumptions about young people based on western cultural frameworks can lead to inappropriate assumptions and assessments of young people's experiences and needs when applied without an awareness of cultural difference.

Context: Understanding the overrepresentation of Aboriginal young people in the justice system

1. What is driving overrepresentation?

In order to meet the needs of Aboriginal young people in the youth justice system, the Inquiry must understand the complex drivers of contact with the system. Aboriginal young people are far more likely to have contact with the justice system compared with their non-Aboriginal peers, “in 2014–15, the rate of Aboriginal young people 10–17 years of age under supervision in Victoria on an average day was 136.5 per 10,000. For non-Aboriginal children the rate was 12.4 per 10,000.”ⁱⁱ Australia’s low age of criminal responsibility disproportionately affects these young people, who experience high rates of disadvantage and as a result, enter the justice system younger than their non-Aboriginal counterparts. The United Nations views this legislation as damaging to children,

“From an international perspective the minimum age level in Australia exposes children to the criminal justice system at too young an age. The UN Committee on the Rights of the Child already commented in its Concluding Observations on Australia in 2005 that it considers the age of 10 to be too low and recommends that the minimum age level be increased.”ⁱⁱⁱ

Recent unrest in Victoria’s youth justice system presents an opportunity to examine the system as a whole, including this key systemic cause of Aboriginal overrepresentation in youth justice. KYC recommends lifting the age of responsibility to at least 12 years in accordance with minimum international standards.

The Koorie Youth Council spoke with Aboriginal young people attending Parkville College, a school for youth justice clients. These young people identified key issues impacting their lives, particularly mental health, disengagement from school, drugs and alcohol and family violence as impacting their life.^{iv} These findings are echoed in research that argues overrepresentation is rooted in disadvantage and marginalisation of Aboriginal people. The Australian Institute of Health and Welfare identified key drivers as,

“Family and community violence, child abuse and neglect, alcohol and drug abuse, inadequate housing, poor health, low educational and training achievement, and a lack of employment opportunities. These findings are supported by research demonstrating the social and economic disadvantage of Indigenous people in contact with the justice system.”^v

Victoria’s *Aboriginal Justice Agreement Phase Three (AJA3)* also acknowledges the ongoing impact of dispossession and loss of culture on the wellbeing of Aboriginal young people,

“This material disadvantage and marginalisation is compounded by the ongoing legacy of colonisation, dispossession and child removal practices such as psychological distress and social disorganisation, intergenerational trauma grief and loss. This is frequently associated with alcohol and drug abuse and violence which in turn undermines family

stability and wellbeing leading to a self-perpetuating cycle of trauma, grief and loss and ongoing mental health issues for many vulnerable members of the Koorie community.”^{vi}

2. Relationship between Aboriginal young people and the justice system

The cultural disconnect between Aboriginal communities and police also impacts on the rate of Aboriginal young people in the justice system. The Victorian Aboriginal Legal Service’s (VALS) *Submission to the Inquiry into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system* notes that the poor relationship between police, courts and the Aboriginal community can contribute to harsher treatment of Aboriginal young people,

“Indigenous Australians have a particular relationship with police and Courts which is often poor and results in cultural alienation...The point can be illustrated by evidence that police use their discretion to arrest rather than caution Indigenous Australian youth in comparison to non-Indigenous Australian youth. Arguably, underlying racism influences the actions of police to arrest more Indigenous Australians than non-Indigenous Australians.”^{vii}

Aboriginal young people consulted about youth justice noted the importance of fostering positive relationships between police and young people. The Massive Murray Paddle (previously Murray River Marathon) was recognised as a sustainable, best practice program that aims to build trust between police and Aboriginal young people,

“Murray River Marathon, it’s really really awesome. About 40-50 Aboriginal young and 10-12 police officers and other community members who act as mentors. You see day to day in [location] the impact of when you have a positive relationship with the police officers...If anything happens in [location] the young people will call the police officers they know from the marathon, to get advice or for help.”^{viii}

KYC asks the Inquiry to consider the value of projects that built rapport between the justice system and Aboriginal young people. It is particularly important to recommend that projects like the Massive Murray Paddle are sustainably funded and supported.

3. Intersections between youth justice and out of home care

The Koorie Youth Council urges the Inquiry to acknowledge the ways that different forms of social disadvantage intersect for many Aboriginal young people in the justice system. The *Youth Parole Board Report 2015-2016* outlines the high rates of disadvantage experienced by youth justice clients.^{ix} Many Aboriginal young people who offend are also suffering from mental health issues, unemployment, family violence, poverty and homelessness.^x The Victorian Commission for Children and Young People’s *Always Was, Always Will Be Koori Children* report explains particular intersections between the out of home care and youth justice system, resulting in the overrepresentation of out of home care clients in the youth justice system,

“The trajectory from out-of-home care to youth justice is a disturbing reality for many young people. This is particularly the case for Aboriginal young people.

Research has found that Aboriginal young people are particularly vulnerable to becoming immersed in a cycle of contact with the criminal justice system. The cycle is intensified by contributing factors such as limited education and employment opportunities, drug and alcohol dependence and insecure accommodation.”^{xi}

Always Was, Always Will Be Koori Children identifies the failure of the out of home care system to adequately support young people to adulthood. The Koorie Youth Council supports the report’s recommendation that DHHS work with the Aboriginal Children’s Forum and relevant ACCOs to develop a strategy for diverting Aboriginal young people in out of home care from entering and progressing through the justice system.

4. A culturally informed inquiry

It is essential that the Inquiry and the youth justice system understand Aboriginal young people within their cultural context. Culturally-informed strategy requires understanding the unique experiences of young people within their culture. This approach uses a framework of culturally specific strengths, challenges and protective factors. The *Not One Size Fits All* report examines the need for policies and procedures to understand the cultural context of Aboriginal children’s lives,

“For too long Aboriginal children have been assessed using measures and assessment approaches which do not take into account their culture, beliefs, connection to community and place, spirituality and their individual experiences. Furthermore the assessment of an individual’s social and emotional status independent of the family and community is an alien concept to Aboriginal people as well as being ecologically uninformed.”^{xii}

The Inquiry must acknowledge that Aboriginal young people often take on roles that are considered adult in the non-Aboriginal community. Aboriginal young people are more likely take on responsibilities for care and cultural loads¹ as adolescents, resulting in little separation between the responsibilities of teens and adults. Young people in the Koorie Youth Council’s *Yarning Justice* workshops reported that their wellbeing is negatively impacted by responsibilities such as earning money, finding stable housing and dealing with family violence.^{xiii} A number of Aboriginal young people in the justice system are also parents. Snapshot data from DHHS demonstrates that in 2014, 16 of 110 Aboriginal young people under community supervision were parents and two of the 19 Aboriginal young people in a youth justice centre were parents.^{xiv} An effective approach to supporting Aboriginal young people must take into account how these roles affect them, their community and their rehabilitation.

5. The protective power of culture

Cultural context is also key to understanding the strengths of Aboriginal young people. Connection to culture provides a sense of belonging and wellbeing that acts as a protective

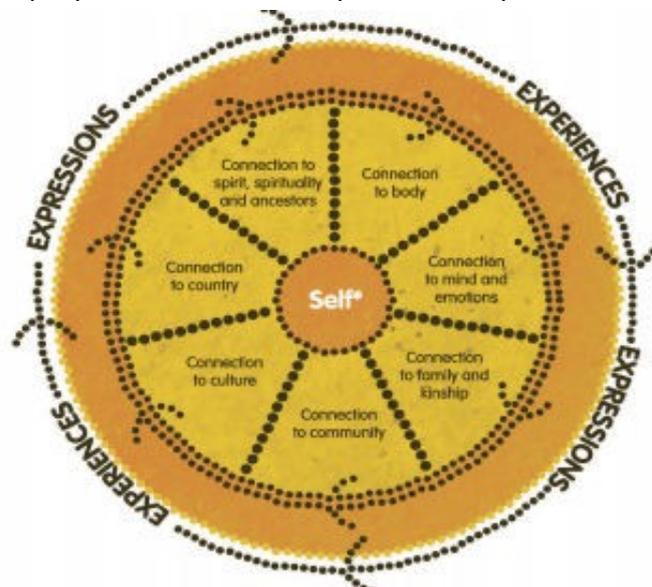
¹ Cultural load: Culturally-specific responsibilities that Aboriginal young people carry. These responsibilities are often complex and can include management of family and kinship responsibilities, practicing self-determination and intergenerational trauma.

factor against contact with the justice system and other forms of disadvantage. The Koorie Youth Council’s consultations with young people consistently identify a connection with culture and identity as a key determinant of resilience and wellbeing.

“An understanding of culture and traditions invigorates a sense of self which better enables individuals to successfully reach their full potential.”^{xv} – Workshop participant

“If we experience racism and identity issues we will always have our connection to culture to fall back on.”^{xvi} – BLACKOUT Forum participant

These findings from young people are consistent with the work of the Australian Indigenous Psychologists’ Association in their development of an Aboriginal Social Emotion Wellbeing Framework.^{xvii} Implementing this guide or similar as a basis for understanding is an important step for the Inquiry towards a culturally-informed system.



*This conception of self is grounded within a collectivist perspective that views the self as inseparable from, and embedded within, family and community.

© Gee, Dudgeon, Schultz, Hart and Kelly, 2013
Artist: Tristan Schultz, RelativeCreative.

6. Supporting Aboriginal young women

There is a growing need to support Aboriginal young women’s diversion in Victoria. DHHS data shows a concerning increase in the overrepresentation of Aboriginal young women in youth justice centres and aged 10-14 on community supervision orders.^{xviii} A culturally-based young women’s diversion program that is accessible state-wide is an important step to support Aboriginal young women. Wayapa Wuurk runs mentoring programs for young people that are culturally based and locally led.^{xix} Warran Warran Maar is Wayapa Wuurk’s long-term boys mentoring program and is an exceptional model from which to base a girl’s primary prevention and diversion program. For more information on the program, see <http://wayapa.com/traditional-cultural-mentoring-programs/>

Listening to young people

Victorian legislation recognises that effective systems are informed by the people they affect most. The *Children Youth and Families Act 2005* states that young people should have a say in decision-making that affects them.^{xx} The *Victorian Aboriginal Affairs Framework* also recognises engagement and inclusiveness as a guiding principle, stating, “closing the gap can only be achieved through a partnership built on genuine engagement with Aboriginal people and organisations across Victoria.”^{xxi} Young people are key players in youth justice, as such; consulting with them about the system is crucial to understanding their recovery and keeping the system accountable.

1. Centre access and accountability

Genuine partnership between youth justice centres and the Aboriginal community (including individuals, ACCOs and other Aboriginal organisations) requires centres to be accessible and accountable. The importance of engaging young people in shaping the justice system is set out in AJA3^{xxii}, however, their voices have been absent from recent debate. In order to create an accountable system that meets their needs, this Inquiry and the youth justice system must actively seek the voices of young people. Unrest in youth justice system demonstrates the need to improve responses to young people calling for the support of services and their community. The current systems for organisations visiting youth justice centres pose barriers to the implementation of these services and connections between clients and community. Ensuring that centres facilitate community and organisation-led consultations is essential to fulfilling the Victorian Government’s commitment to a rehabilitative framework in youth justice.

The Koorie Youth Council is alarmed by reports into the conditions in youth justice centres and conduct of workers that describe the use of isolation, restraint and other punitive means inappropriate for young people.^{xxiii} These reports mark a move away from the system’s rehabilitative framework and demonstrate the need to support centres to remain accountable and ensure that standards for care are met. Creating an open, accessible system protects Aboriginal young people’s social-emotional wellbeing and helps make their voices heard.

2. Models for consultation with Aboriginal young people

The Victorian Government’s *Youth Policy: Building Stronger Youth Engagement in Victoria* states that its “reform agenda has a strong focus on better supporting and empowering young people who experience disadvantage and face social, community and economic barriers.”^{xxiv} Effective engagement with Aboriginal young people requires a culturally safe and trauma informed framework. The Koorie Youth Council’s consultations with young people provide a model for youth consultation in the justice system. The *Justice for Koorie Youth* project, to be undertaken in 2017, has been developed from the AJA3 strategies to give Aboriginal young people who have had contact with the justice system an opportunity to share their experiences and inform practices and approaches in youth justice programs. KYC also consulted with young people from Parkville College about issues that affect their lives in the *What’s Important to Youth* workshops. By initiating similar ongoing consultation

processes, the youth justice system can be better informed of the experiences and needs of clients, with a particular view to supporting their cultural needs. The Aboriginal social-emotional wellbeing framework demonstrates the particular needs that must be taken into account when designing youth justice centres for Aboriginal young people.^{xxv} At present, youth justice centres do not provide adequate spaces for young people to feel connected to culture.

To be effective, a consultation process would need to be undertaken regularly and the results made available to the young people and centres involved. In addition to consultations within centres and community programs, the Koorie Youth Council recommends building on the success of the 2015 *Yarning Justice* workshop by regularly dedicating an Aboriginal Justice Forum to consulting with young Aboriginal people.

Investing in communities and services: a primary prevention approach

The study of complex drivers of Aboriginal overrepresentation in the youth justice system demonstrates the systemic disadvantage that leads young Aboriginal people to offend. Effective responses to offending must address these drivers through a primary prevention approach before they lead to offending. *AJA3* reflects the importance of primary prevention by listing crime prevention and early intervention as its first objective.^{xxvi}

Victoria's young Aboriginal population are also calling for better primary prevention. During the *What's Important to Youth?* workshop, young people discussed a lack of services and support in their local area, particularly,

- “ - The need to ensure Koorie young people's access to culturally safe, timely youth specific mental health support...
- Supporting young people's connection to culture, land, community and family...
- The need for support and investment in Koorie young people's engagement in sports and recreation...
- The need to continue to strengthen educational outcomes for Koorie young people.”^{xxvii}

Most young people were only able to access services and care after coming into contact with the justice system. One young person attending Parkville College expressed their need for primary prevention services, “they [services] only wanna know us when we get locked up.”^{xxviii} A young Aboriginal justice worker adds,

“They [clients on custodial orders] have a set routine, all centres are different but (for some) they had a sense of belonging and consistency with an Aboriginal worker there. It's pretty sad that they get the sense of belonging there and not on their own country.”^{xxix}

These insights demonstrate the need for more high-quality primary prevention programs. Timely, place-based and culturally appropriate services are key for effective intervention for

youth at risk of offending. While some primary prevention programs exist, they are often short term and chronically underfunded. It is essential that this Inquiry uses a primary prevention framework to create effective, long term improvements in youth justice with a particular focus on supporting programs aimed at addressing the drivers of youth offending.

Keeping young people out of custody: reducing incarceration and recidivism

Keeping young people out of youth justice centres will result in better outcomes for young people and their communities. The Commission for Children and Young People states,

“Studies show that the experience of incarceration for Aboriginal children increases the chances of reoffending, often disconnecting and isolating the child from family, community, cultural and support networks.”^{xxx}

While the number of Aboriginal clients in youth justice is decreasing, the reoffending rate is rising.^{xxxi} To reduce Aboriginal overrepresentation in the justice system and rates of recidivism, Victoria needs to create a system that avoids placing young people in custody and supports them in their community. This reinvestment requires opportunities to divert young people away from custody at various stages of the system.

Increasing the use of police cautions for Aboriginal young people is a key tool to improve relationships with police, link young people with appropriate services and reduce their likelihood of reoffending. The *Children, Youth and Families Act 2005* states that a registrar must not issue a warrant to arrest a child unless satisfied that the circumstances are exceptional^{xxxii}, however, many young people are arrested for low level offences that suggest cautioning is not always utilised. The importance of police cautioning for Aboriginal young people is recognised in this legislation but the system is not always used by police. *AJA3* also calls on Victoria Police to continue strengthening its partnership with the Victorian Aboriginal Legal Service to increase the number of Aboriginal Victorians who are cautioned.^{xxxiii} It is essential that young people who are cautioned are referred to services to address the drivers of offending.^{xxxiv}

The Inquiry must seek ways to reduce time for young people spent on remand. Providing alternate bail accommodation outside youth justice centres is an important way of keeping unsentenced young people out of youth justice centres. DHHS data notes the significant increase in the number of Aboriginal young people in remand, with a marked increase in 2014-2015.^{xxxv} These young people on remand do not necessarily receive a subsequent custodial sentence. This is particularly concerning due to the heightened likelihood of recidivism after spending time in custody. Young people are also spending longer on remand, so there is also a pressing need to provide these young people programs, including cultural activities.

Smart Justice recognises that “community based diversion options are more effective in reducing re-offending than the traditional justice system, especially detention.”^{xxxvi} The justice system does invest some resources into diversion but more needs to be done to increase the accessibility and effectiveness of diversion, particularly for Aboriginal young people. KYC welcomes the introduction of diversion options at all Children’s Courts from

January 2017.^{xxxvii} Aboriginal young people also need a state-wide diversion program that is culturally-based. While some culturally specific diversion programs exist, they have not been sustainably funded or available at multiple sites. Victoria's Aboriginal young people need a culturally based diversion program that is available throughout the state. Baroona Healing Centre runs a culturally-based healing model of diversion for young people,

“ Baroona Youth Healing Place is a safe and confidential place for young people aged between 14 –22 yrs. The centre offers a 16-week residential *Journey to Heal the Spirit*. The stay is then followed by a Post Support Program over a time decided by staff and the young person themselves. The key Stepping Stones in the program include a range of cultural & spiritual programs, services, & activities which are appropriate & flexible to address and prevent substance abuse.”^{xxxviii}

Baroona's focus on healing through culture enables young people to be culturally connected, address primary drivers of offending and stay out of custody. These elements are key to effective diversion programs for Aboriginal young people and similar programs need support to be available state-wide. For more information about Baroona Healing Centre visit <http://www.njernda.com.au/baroona-healing-centre/>

A hallmark of effective care for Aboriginal young people is maintaining connection to family, kin and culture. It is also widely recognised that connection to community outside of the justice system is a key determinant for successful rehabilitation.^{xxxix} Inadequate visiting areas and restricted phone use in youth justice centres does not adequately support regular visitors for young people. This impedes young people in creating and maintaining connections with community outside youth justice centres. In order to effectively rehabilitate Aboriginal young people, the youth justice system needs to facilitate and encourage connections with communities through phone calls and visits. This support is also integral to enable a healthy transition out of youth justice. Aboriginal young people expressed their concerned at the lack of support for those completing a custodial order,

“There needs to be more support for the individual when they are discharged from the facility. People have to pack up and move away to go to rehab but yet when they return home they are returning back to the same people, friends, family and area and then people wonder why they relapse. I think if there were more support after discharge it might help people from relapsing.”^{xl} – Youth survey participant

Aboriginal young people need culturally specific transition services to support them integrating in their community and reduce the likelihood of reoffending.

Creating safe supports: investing in the youth and justice sectors

To change the current cycle of overrepresentation, Aboriginal young people need a workforce that is trained to understand their culture and history (as set out earlier in this submission). The *Victorian Aboriginal Affairs Framework* states that services must understand clients' needs, including cultural needs, to be effective (see figure below).^{xli}

Figure 4: Key access criteria for effective service design

Cultural Safety	The service provider understands clients needs, including cultural needs
Affordability	Clients can afford to use required services
Convenience	Clients can get to the service easily
Awareness	Current and potential clients are informed about the availability of the service and its value
Empowerment	Current and potential clients know which services they are entitled to seek
Availability	Services that a client needs are accessible
Respect	The service provider treats the client with respect

The current system and its workers do not meet the *Victorian Aboriginal Affairs Framework* criteria. Many services and staff lack cultural understanding, Aboriginal specific services and dedicated Aboriginal workers. To work effectively with Aboriginal young people, youth workers, guards and other support staff need to be culturally competent and work in a trauma-informed way that recognises the complex disadvantage experienced by many young people.

Young people noted the need for accessible services that intensively engage with at-risk Aboriginal young people in a range of areas,

“Increased accessibility to services is positive but engaging with a service that is culturally specific for example for Indigenous communities dealing with colonization/intergenerational issues is extremely limited. Expanding the scope of services could encourage education of historical factors that add to personal circumstances which lead to mental illness – taking a holistic approach is most beneficial.”^{xlii} – Youth survey participant

It was particularly important for young people to be able to speak to an Aboriginal-specific youth worker who understood their situation, “I wanna talk to my mob, my people.”^{xliii} Other young people expressed the importance of service accessibility, sharing that their closest Aboriginal specific youth service is a 2-3 hour drive from their home.^{xliiv} Comprehensive training of Aboriginal workers at every stage of the youth justice system (primary prevention, community orders, within centres and in transition) is needed to create an effective youth justice sector that meets the unique needs of Aboriginal young people.

These unique needs must be better understood by putting into place a comprehensive pre-assessment of young people who come into contact with the justice system. Pre-assessment must include early identification of Aboriginality and assessment of a young person's health, housing and family situation. Inadequate pre-assessment of clients means that the system is unable to respond appropriately to vulnerable young people in the justice system. Systems that fail to identify and respond to risk factors can lead to tragic outcomes for young people. *Always Was, Always Will Be Koori Children* presents a case study on out of home care and youth justice client, Lucas. The case study demonstrates many opportunities where child protection and youth justice systems had opportunities to intervene for Lucas from age four.^{xlv} Due to violence, neglect and drug use by his parents, mental health issues, behavioural problems, drug use and disengagement from school, multiple government and community organisations were present throughout Lucas' life.^{xlvi} Despite these systems being in place, Lucas entered the youth justice system on a custodial order where he had experiences of isolation, restraint and routine unclothed searches, all likely to cause and trigger trauma. Lucas' case demonstrates that better pre-assessment, analysis and intervention response by child protection and youth justice systems could lead to better overall outcomes for Aboriginal young people experiencing disadvantage.

Recommendations

1. That the Inquiry is culturally informed and acknowledges the historic and societal factors contributing to the overrepresentation of Aboriginal young people in the justice system
2. That the Inquiry is led by a guiding principle of addressing the disadvantage that drives many Aboriginal young people to offend and particularly recommends,
 - a) That the age of criminality be lifted to at least 12 in accordance with international standards
 - b) That the Inquiry makes recommendations to curb the overrepresentation of out of home care clients in youth justice
 - c) That the Inquiry acknowledges the impact of relationships between police, courts and Aboriginal young people and recommends the increased support of initiatives to build rapport between Aboriginal young people and justice systems
3. That the Inquiry's recommendations consider Aboriginal young people within relevant cultural frameworks, in particular,
 - a) That the Inquiry use an Aboriginal social-emotional wellbeing framework (see xiv) to better understand Aboriginal young people and their communities
 - b) That the Inquiry focus on supporting Aboriginal young women and recommends the introduction of a state-wide Aboriginal young women's diversion program

4. That the Inquiry recommends that the youth justice system must actively seek the voices of Aboriginal young people through,
 - a) Facilitating access to youth justice centres for Aboriginal and youth organisations to consult with young people and provide a community presence
 - b) Implementing a formalised schedule for consultations with Aboriginal young people in the justice system. A regular 'Yarning Justice' at the Aboriginal Justice Forum would be an ideal platform for consultation. The Koorie Youth Council would gladly conduct these workshops (see xi)
 - c) Consulting with Aboriginal young people, their community and Aboriginal organisations about the cultural safety of youth justice centre design
5. That the Inquiry recommend that primary prevention be the focus of youth justice investment, particularly,
 - a) That young people at risk of offending are identified early and connected with appropriate services
 - b) That primary prevention services are community led, accessible and culturally informed
6. That the Inquiry recognise the link between incarceration and recidivism in Aboriginal young people and recommend,
 - a) That the Victorian Aboriginal Legal Service and Victoria Police Koori Youth Cautioning Program is sustainably funded
 - b) That time spent on remand is limited to that considered absolutely necessary
 - c) That alternate bail accommodation (outside youth justice centres) is sought in order to mitigate or reduce the time young people spend in custody
 - d) That support for diversion programs is increased, including the development and implementation of a state-wide diversion program for Aboriginal young people
7. That the Inquiry recommends the increased focus on safely transitioning young people from youth justice centres into communities by facilitating connections between Aboriginal young people, their families and communities through regular visits and telephone calls
8. That the justice and youth sectors are supported and trained to work in a culturally-informed and trauma-sensitive way with Aboriginal young people, in particular,
 - a. That all staff working with Aboriginal young people in the justice system have been comprehensively trained to work in a culturally informed and trauma sensitive way. The KYC is available to assist with training and cultural awareness education
 - b. That a cohort of Aboriginal youth and justice workers are supported to be present at every stage of the youth justice system
 - c. That the Inquiry recommends a more comprehensive pre-assessment of youth justice clients to better understand and respond to their needs

ⁱ Crime Statistics Agency (2016) *Briefing paper: What we know about youth crime*, Crime Statistics Agency: Melbourne

ⁱⁱ Commission for Children and Young People (2016) *Always was, always will be Koori children: Systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria*, Commission for Children and Young People: Melbourne, p.97

ⁱⁱⁱ Crofts, Thomas (2012) *The age of innocence: raising the age of criminal responsibility*, Right Now <http://rightnow.org.au/opinion-3/the-age-of-innocence-raising-the-age-of-criminal-responsibility/> [accessed 26 February 2017]

^{iv} Koorie Youth Council (2015) *What's Important to Youth? Final Report from the Koorie Youth Council*, Koorie Youth Council: Melbourne, p.28

^v Australian Institute of Health and Welfare 2012. *Indigenous young people in the juvenile justice system: 2010–11*. Bulletin no. 109. Cat. no. AUS 164. AIHW: Canberra, p.4

^{vi} Department of Justice (2013) *Victorian Aboriginal Justice Agreement Phase 3*, Koori Justice Unit, Victorian Government Department of Justice: Melbourne, p.30

^{vii} Victorian Aboriginal Legal Service (2010) *Submission to the Inquiry into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system*, Victorian Aboriginal Legal Service <http://vals.org.au/assets/2015/06/High-level-contact-of-Indigenous-juveniles-and-young-adults-with-the-criminal-justice-system.pdf> [accessed 26 February] p.13

^{viii} Department of Health and Human Services and the Koorie Youth Council (2017) *Transcript of consultation on youth justice* (unpublished) For more information on this consultation please contact the Koorie Youth Council.

^{ix} Department of Health and Human Services (2016) *Youth Parole Board Annual Report 2015-2016*, State of Victoria: Melbourne, p.14

^x Ibid.

^{xi} Commission for Children and Young People (2016) op.cit. p.97

^{xii} Bamblett, M., Frederico, M., Harrison, J., Jackson, A., & Lewis, P. (2012). *Not one size fits all: Understanding the social & emotional wellbeing of Aboriginal children*, La Trobe University: Bundoora, p.6

^{xiii} Koorie Youth Council (2015) *Yarning Justice Workshop and Forum Report*, Koorie Youth Council: Melbourne

^{xiv} Department of Health and Human Services (2016) Presentation by Anna Guglielmucci to the Aboriginal Justice Forum

^{xv} Koorie Youth Council (2015) *What's Important to Youth?* op.cit. p.22

^{xvi} Koorie Youth Council (2017) *BLACKOUT Wodonga Report*, Koorie Youth Council: Melbourne

^{xvii} Gee, G. Dudgeon, P. Schultz, C. Hart, A. Kelly, K (2014) *Aboriginal and Torres Strait Islander Social Emotional Wellbeing*, available at <https://aboriginal.telethonkids.org.au/globalassets/media/documents/aboriginal-health/working-together-second-edition/wt-part-1-chapt-4-final.pdf> [accessed 26 February]

^{xviii} Department of Health and Human Services (2016) Presentation by Anna Guglielmucci to the Aboriginal Justice Forum

^{xix} Wayapa Wuurk (2016) *Traditional Cultural Mentoring Programs*, <http://wayapa.com/traditional-cultural-mentoring-programs/> [accessed 26 February]

^{xx} *Children, Youth and Families Act 2005* (Vic) ss 10(3)(d), 11(f)

^{xxi} State Government of Victoria (2012) *Victorian Aboriginal Affairs Framework 2013-2018, Building for the future, a plan for closing the gap in Victoria by 2031*, State Government of Victoria: Melbourne, p.6

^{xxii} Department of Justice (2013) *Victorian Aboriginal Justice Agreement Phase 3*, Koori Justice Unit, Victorian Government Department of Justice: Melbourne, p.92

^{xxiii} Longbottom, J. (2017) *Teen held in isolation for up to 10 days in Victorian Juvenile Justice Centre, records show*, The Guardian Online <http://www.abc.net.au/news/2016-07-26/teen-held-in-isolation-for-up-to-ten-days-in-victorian-detention/7662428> [accessed 27 Feb]

^{xxiv} State of Victoria (2016) *Youth Policy: Building Stronger Youth Engagement in Victoria*, State of Victoria: Melbourne, p.2

^{xxv} Gee, G. Dudgeon, P. Schultz, C. Hart, A. Kelly, K (2014) op.cit.

^{xxvi} Department of Justice (2013) op.cit. p.86

^{xxvii} Koorie Youth Council (2015) *What's Important to Youth?* op.cit. pp.30-32

^{xxviii} Koorie Youth Council (2015) *What's Important to Youth?* op.cit. p.29

^{xxix} Department of Health and Human Services and the Koorie Youth Council (2017) *Transcript of consultation on youth justice* (unpublished) For more information on this consultation please contact the Koorie Youth Council.

^{xxx} Commission for Children and Young People (2016) op.cit. p.98

^{xxx} Department of Health and Human Services (2016) Presentation by Anna Guglielmucci to the Aboriginal Justice Forum

^{xxx} *Children, Youth and Families Act 2005* (Vic) s345(4)

^{xxx} Department of Justice (2013) op.cit. p.86

^{xxx} Smart Justice for Young People (n.d.) *Youth Diversion Makes Sense*, available at [http://www.smartjustice.org.au/cb_pages/files/Diversion%20paper\(3\).pdf](http://www.smartjustice.org.au/cb_pages/files/Diversion%20paper(3).pdf) [accessed 26 February]

^{xxx} Department of Health and Human Services (2016) Presentation by Anna Guglielmucci to the Aboriginal Justice Forum

^{xxx} Smart Justice for Young People (n.d.) op.cit.

^{xxx} Children's Court of Victoria (2017) *Youth Diversion*
<http://www.childrenscourt.vic.gov.au/jurisdictions/criminal/youth-diversion> [accessed 26 February]

^{xxx} Njernda Aboriginal Corporation (2015) *Baroona Healing Centre*
<http://www.njernda.com.au/baroona-healing-centre/> [accessed 26 February]

^{xxx} Australian Red Cross (2017) *Helping offenders and their families*
<http://www.redcross.org.au/offenders-and-their-families.aspx> [accessed 26 February]

^x Koorie Youth Council (2015) *What's Important to Youth?* op.cit. p.26

^x State Government of Victoria (2012) op.cit. p.18

^x Koorie Youth Council (2015) *What's Important to Youth?* op.cit. p.26

^x Koorie Youth Council (unpublished) 2017 policy consultations. For more information on these consultations, contact the Koorie Youth Council

^x Ibid.

^x Commission for Children and Young People (2016) op.cit. Melbourne p.98

^x Ibid.