



Reform the Victorian youth justice system to improve outcomes for Aboriginal children and young people

October 2021

Proverbs 22:6. Start children off on the way they should go, and even when they are old, they will not turn from it.

The inequality of the Victorian youth justice system is systemic for Aboriginal children and young people. For example, between 2019 and 2020, Aboriginal children and young people aged 10 to 17 made up 15% of those under youth justice supervision despite making up 1.5% of Victorians aged 10 to 23 years. They are also ten times more likely than their non-Aboriginal peers to be subject to community-based supervision, and nine times more likely to be in youth justice custody. The courts are also biased towards sentencing Aboriginal children and young people for more extended periods of detention. As a result, they remain detained on sentence and remand for longer on average. Aboriginal children and young people are also more likely to face the consequences for breaching bail conditions than non-Aboriginal peers.

I want a Koori judge who knows what I'm going through, who wants to help me, not some white judge that wants to punish me. I just got a straight sentence. I got a 12-month probation order – for a 13-year old that's a really long time. I've had one community order and I was back in jail in the next two months. I live on a mission, I got no petrol, so how am I supposed to get to appointments? Another time, I breached [my conditions] so that I could go to [a close relative's] funeral. –Watjpa, 21

For any child or young person, encounters with the justice system are traumatic and seriously undermines their health and wellbeing. For Aboriginal children and young people who experience the cumulative and generational adversity of systemic racism and injustice, encounters with the youth justice system lead to disproportionately unjust outcomes. Action is needed to radically transform the inequalities of our youth justice system in a way that provides adequate care and support that is contextually fit for purpose. The system needs to proactively reconnect Aboriginal children and young people to culture and build support structures within the community and family.

If I had a dream and it all came true, there would be no DHHS [Department of Health and Human Services], there would be no youth justice system, and none of us kids would have got taken away. Even the Stolen Generations wouldn't have got taken away. I would bring more things to help us – more Elders to sit down and talk to us, more things to do for us blackfellas. I want us to have a better life. – Peyton, 16

The Victorian Government Commission for Children and Young People and the Koori Youth Justice Taskforce began a major inquiry in 2019. It aimed to describe the Aboriginal community's vision for Aboriginal children and young people in Victoria concerning the youth justice system. It culminated in the ['Our Youth, Our Way'](#) report, released in 2021. It made public Aboriginal and self-determined recommendations to inform the youth justice system to create services, policies, practices and facilities that are culturally safe and responsive to the unique needs of Aboriginal children and young people.

The report included in its recommendations:

- The Department of Justice and Community Safety (DJCS) partner with the Aboriginal community through Aboriginal peak bodies and youth sector organisations, to increase their capacity to contribute to the design, coordination and delivery of youth support.
- That the Aboriginal Youth Justice Strategy prioritise holistic early intervention and prevention strategies and programs led by the Aboriginal Community to avoid Aboriginal children and youth coming into contact with the criminal justice system.
- Strengthen family and community connections, and expand the definition of 'family' to include extended family, kin and Aboriginal community members.



- Require the Secretary of DJCS to ensure all Aboriginal children and young people under Youth Justice Supervision have a cultural support plan. There should be systems to ensure the quality and implementation of those plans.
- The *Bail Act* 1997 be amended to expand sections 3A and 3B to require decision-makers to consider factors that impact a young person's behaviour like systemic racism, experiences of trauma, disruption to family and home life, the experience of out-of-home care, and the offender's age.
- The *Children, Youth and Families Act* 2005 be amended to include a presumption against the use of restrictive conditions in supervised community orders, except where necessary and achievable in individual circumstances.
- Specialist legal service program for Aboriginal Children and young people, *Balit Ngulu*, obtain guaranteed statewide and long term funding.
- The Victorian Government creates a child-centred system with interagency collaboration and begins with a pilot of at least two integrated case management programs based on the NSW [A Place to Go](#) program.
- Establish Aboriginal community-controlled crisis accommodation informed by the [Nungurra Youth Accommodation Services](#) model.
- Ensure targeted educational support for Aboriginal Children and young people in the youth justice system.
- The Children's Koori Court be expanded to sit at more locations with greater frequency and strengthen Elder participation and self-determination.

Our concern is that without adequate government response to these reforms, Aboriginal children and young people will continue to be marginalised by a punitive youth justice system, rather than leading to better outcomes for at-risk kids. The 'Our Youth, Our Way' reports tells us that the youth justice system could become a source for positive intervention, but this will require involvement from all parts of government, including education, health and child protection. In addition, empowering Aboriginal communities to take more responsibility for elements of the youth justice system is crucial to address the over-representation of Aboriginal children and young people in it.

What you can do:

Write polite and respectful letters to:

The Hon. Natalie Hutchins
Minister for Youth Justice
Level 26
121 Exhibition Street
Melbourne, Victoria, 3000

Email: minister.hutchins@justice.vic.gov.au

Salutation: Dear Minister

The Hon. Gabrielle Williams
Minister for Aboriginal Affairs
Level 22
50 Lonsdale Street
Melbourne, Victoria, 3000

Email: gabrielle.williams@parliament.vic.gov.au

Salutation: Dear Minister

Points to make in your letter:

Acknowledge that the Youth Justice target to reduce the average daily number of Aboriginal children and young people aged 10 to 17 under custodial supervision is ahead of target, but more needs to be done. State that Aboriginal children and young people are still disproportionately sentenced by courts, and removed from families and communities.

Ask that they implement the recommendations of the 'Our Youth, Our Way' report, which was directly informed by the Aboriginal community in Victoria.

You may wish to highlight specific recommendations (from the bullet points above) in your letter.