

Youth Justice Briefing Paper

Uneven justice: Addressing multicultural youth overrepresentation in the Victorian Youth Justice System

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The social determinants of health recognise that factors such as socioeconomic position, conditions of employment, power and social support act together to strengthen or undermine the health and wellbeing of individuals and communities. We have a collective responsibility to ensure every child and young person feels safe and included, with access to the opportunities and resources to succeed.

Social determinants recognise that a young person's experience of crime and the justice system can affect their wellbeing and life chances. Young people entering the youth justice system are a particularly vulnerable population group who are likely to have multiple complex needs, which require requiring specialist, targeted supports as they undergo adolescent development. We are strongly reminded of the need to place the youth context at the centre of our concerns by His Honour Judge Bourke's remarks in 2019, as Chairperson of Victoria's Youth Parole Board:

“That the treatment and management of children and young offenders must be different to that in respect of adults. This is consistent with United Nations convention, established scientific (neurobiological) opinion, common and ethical sense”¹

In Victoria, certain cohorts of multicultural young people are disturbingly overrepresented across the youth justice system.

Overrepresentation of cultural groups in Victoria's youth justice system is not a new phenomenon. We have seen peaks and troughs of overrepresentation of multicultural young people in youth justice over time. However, the current trend represents the highest rate

¹ Youth Parole Board Annual Report (2019)

since the 1990s and has worryingly persisted for the last five years. It testifies to a system that is not working.

Overrepresentation is largely a consequence of multicultural young peoples' particular experience of a complex range of personal, social and systemic risk factors coupled with the failure of responses to adequately understand and address their particular needs. For the state of Victoria, that has a world class multicultural service sector, it is an indictment on the youth justice system to fail to provide culturally appropriate responses. Furthermore, responses to youth crime have often neglected issues of structural inequality and its symptoms, such as poverty, disadvantage and racism that adversely affect the lives of marginalised multicultural young people.

Persistent overrepresentation is a clarion call for urgent reforms that attend to the needs of young multicultural Victorians who are at risk of, and engaged in, our justice system. More than ever, it is imperative that the Victorian Government act on its 2017 review into Victoria's Youth Justice System, where it recommended that the Government work with CMY to:

- ❖ *Develop a strategy to reduce the overrepresentation of CALD young people, initially focused on Māori, Pacific Islander, South Sudanese and other newly arrived migrants; and*
- ❖ *Promote the delivery of programs in a culturally safe and effective way through engagement and advice from community leaders and elders from cultural groups that are overrepresented in youth justice.ⁱ*

Victoria must act now and invest in a **Multicultural Youth Justice Strategy** that is:

- ❖ *Informed by and developed in conjunction with multicultural young people and families with lived experience of the justice system.*
- ❖ *Informed by learnings from other cultural approaches, namely First Nations approaches and engagement with the justice system e.g. the Koori Court and other forms of restorative justice. The successful elements of these approaches must be tested for transferability to the context of multicultural communities and young people.*
- ❖ *Underpinned by evidence of underlying drivers of multicultural youth offending and overrepresentation. This includes a clear focus on the systemic and structural drivers, and culturally appropriate models and approaches that work to support pre-offending at-risk multicultural youth, as well as those engaged in the justice system and post-release.*
- ❖ *Driven by youth outcomes that consider adolescent development and the intersection of the migration experience as a means to better targeting of activities, and commitment to stronger monitoring and reporting mechanisms to improve accountability and transparency. This could include an independent oversight body to advocate for the needs and interests of multicultural young people within youth justice and related responses.*

Moreover, investment in the Strategy must reform the justice system and programs to:

- ❖ *Focus on evidence-based early intervention and prevention that addresses underlying drivers of offending, overrepresentation and overexposure among this cohort. It includes research into best practice and approaches for multicultural young people, trialling and evaluating culturally responsive early intervention and prevention approaches and program models.*
- ❖ *Prioritise, strengthen and expand culturally appropriate diversion pathways in order to utilise detention of children and young people as a measure of “last resort”.*
- ❖ *Address recidivism through long-term investment in evidence-based, culturally relevant models and approaches that engage young people, their families and communities, as well as improved service coordination. Critically, improved service coordination must be accompanied by workforce and organisational development that is responsive to culturally and linguistically diverse communities.*

From clear, articulate and poignant feedback, multicultural young people and communities have demanded that a Multicultural Youth Justice Strategy must have clear action and reportable outcomes to address and eradicate all forms of racial discrimination, including cross-cutting action across education, policing and the administration of justice.

The Centre for Multicultural Youth (CMY) is a not-for-profit organisation based in Victoria, providing specialist knowledge and support to young people from migrant and refugee backgrounds. Our vision is that young people from migrant and refugee backgrounds are connected, empowered and influential Australians.

Introduction

Victoria's population is increasingly diverse. In 2016, more than 48% of young Victorians were either born overseas or had a parent born overseas.ⁱⁱ Young people aged between 12 and 24 consistently comprise approximately one quarter of arrivals through Australia's Humanitarian Program and one fifth through the Family Migration Program.ⁱⁱⁱ

The process of settling in is complex and spans generations, with second and third generation migrants continuing to re-negotiate their place and identity over many years. This can sometimes be highly stressful for individuals and families, especially for young people, for whom the challenges of negotiating settlement are compounded by adolescent development. As a result, young people often face particular challenges in realising their potential – in accessing the support and opportunities, they need, and to which they are entitled.^{iv}

Youth offending rates have fallen across most Australian jurisdictions over the past decade, with the numbers of young people entering youth justice systems also falling over this period.^v Multicultural young people, in the main, are underrepresented in Victorian criminal offending statistics and youth justice even though they make up almost half of Victoria's youth population.^{vi} However, there is evidence of a persistent and concerning trend, over many decades, of overrepresentation of certain cohorts of multicultural young people in the justice system.

What is happening?

From as early as the 1950s in Australia, concerns about “immigrant crime” at various times singled out Greek, Italian, Lebanese, Chinese and Turkish migrants. Since the 1970s, as the profile of new migrants to Australia shifted from traditional European source countries to more diverse cultural and racial groups, concerns about “immigrant crime” shifted focus to produce a criminalised and racialised discourse that’s been intractable from migrant youth offending discourse.^{vii} This has partially served to obscure and complicate the presence of overrepresentation in the justice system of groups of young multicultural Victorians that has been evident for decades.^{viii}

In the 1980s, data showed an emerging cohort of young offenders from Indo-Chinese backgrounds, appearing at rates higher than their population in the community.^{ix} In the 1990s, data showed the “distinct alleged offender rates” for those born in Lebanon, New Zealand, Turkey and Vietnam were higher than the rate of Australian-born.^x More recently, it was reported that on an average day in Youth Justice, 39% of young people identify as culturally and linguistically diverse Australians.^{xi} The 2017 Victorian Government Youth Justice Review confirmed that multicultural groups overrepresented in youth justice include Māori, Pacific Islander and South Sudanese young people, with many returning to the system multiple times.^{xii}

Data from 2018 also shows Aboriginal (18.29%) and culturally diverse young people, specifically from African (15.48%) and Pasifika (7.07%) backgrounds, are significantly overrepresented in police contacts in Victoria, with the proportion of young people from African backgrounds in contact with police doubling in the four years from 2014 to 2018.^{xiii} Additionally, a more recent review of youth crime statistics data (aged 10 to 24 years) for the period 2011 to 2020 shows young people born in Sudan/South Sudan and New Zealand were overrepresented among Victoria’s young unique alleged offenders^{xiv}, while young people born in Australia were no longer overrepresented by the end of the decade.^{xv}

This more recent shift in profile of young offenders has occurred alongside the emergence of a very concerning trend in youth offending, of small groups of young first time offenders engaging in particularly violent behaviours and high victim impact crimes.^{xvi} Alongside this, a very damaging and sensationalised public conversation, fuelled through racialised media and narratives, has persisted around “ethnic youth gangs”, which has influenced policy and incriminated whole cohorts of youth and communities. Worryingly, this has also served to obscure and complicate efforts to understand and respond to multicultural youth offending and overrepresentation.^{xvii}

The phenomenon of overrepresentation isn’t new – while the faces and names of young multicultural offenders may have changed over time, their negative and racialised experiences and outcomes in our justice system have persisted. This is despite considerable investment in youth justice in Victoria over many years. Notably, the investment has focused on young people in general with a failure to tailor responses to culturally diverse young people whose circumstances require programs and systems that adopt a culturally responsive approach. Regrettably, it has also omitted engaging multicultural communities and young people in co-designing solutions to the issues that affect them.

Groups of vulnerable young multicultural Victorians unfairly and unnecessarily remain at increased risk of justice engagement, and poorer outcomes once in the justice system.^{xviii} In 2019, His Honour Judge Michael Bourke, Chairperson of Victoria’s Youth Parole Board, shared concerns about the lack of targeted supports for this cohort and warned:

“There is a risk of an entrenched underclass within our young which feels no connection or aspiration to being part of a functional and hopeful community.”^{xix}

Understanding youth offending

Youth offending and its causes are complex. We know young people, because of their age and stage of adolescence, are more likely to engage in criminal activity and that there are common indicators of disadvantage and shared life events across the general youth justice population that indicate risk and protective factors associated with youth offending.^{xx}

Risk and protective factors associated with youth offending^{xxi}

| | Risk factors | Protective factors |
|-----------------|---|---|
| Community | <ul style="list-style-type: none"> • Poverty • Low neighbourhood attachment and community disorganisation • Availability of drugs | <ul style="list-style-type: none"> • Culture of cooperation • Stability and connectedness • Good relationships with adults outside family • Opportunities for meaningful contribution |
| School | <ul style="list-style-type: none"> • Academic failure • Poor relationships in school • Early and persistent antisocial behaviour and bullying • Low parental interest in children | <ul style="list-style-type: none"> • A sense of belonging • Positive achievements • Attendance at preschool |
| Family | <ul style="list-style-type: none"> • History of problematic alcohol and drug use • Family conflict • Alcohol and drugs interfering with family rituals • Harsh/coercive or inconsistent parenting • Marital instability or conflict • Favourable parental attitudes towards risk-taking behaviour | <ul style="list-style-type: none"> • Connectedness to family • Feeling loved and respected • Proactive problem-solving and minimal conflict during infancy • Maintenance of family rituals • Warm relationship with at least one parent • Absence of divorce during adolescence |
| Individual/peer | <ul style="list-style-type: none"> • Alienation, rebelliousness, hyperactivity, aggression, novelty seeking • Seeing peers taking drugs • Friends engaging in problem behaviour • Favourable attitude toward problem behaviour • Early initiation in problem behaviour | <ul style="list-style-type: none"> • Temperament/activity level, social responsivity, autonomy • Development of special talents, hobbies and enthusiasm for life • Work success during adolescence |

Additionally, we know that developing effective responses to addressing overrepresentation requires engaging with the underlying drivers of multicultural youth offending. This requires looking beyond the young people and their offending behaviour to understand how individual, community, social and structural factors impact upon young peoples' opportunities to belong, participate and succeed.^{xxii} To do this successfully, we need to first understand and then adequately respond to the particular and complex lived experiences of multicultural young people.

Multicultural youth offending

Young multicultural Victorians are a diverse population that share some particular challenges, primarily as a demographic that is both “young” and “ethnic”.^{xxiii} For young offenders from migrant and refugee communities, we know that rather than individual factors or experiences alone, it is the intersection of complex, diverse life experiences with systemic issues that contribute most to their risk and vulnerability. Over the years, limited research has drawn attention to a number of shared experiences among diverse cohorts of young multicultural offenders, including significant disadvantage and vulnerability related to, among other factors, socioeconomic marginalisation and racism.^{xxiv}

The evidence shows that this cohort is neither inherently more vulnerable nor predisposed to offending, but are more likely to experience systemic barriers and face a range of complex needs that go unmet and place them at greater risk of justice engagement. On this, Ravulo et al. (2020) have described the need to understand how “the overlapping nexus between low socio-economic status and race”^{xxv} can intensify exclusion or “structural disadvantage”, increasing risk of involvement in offending behaviour and exposure to the youth justice system. It highlights the importance of engaging with the complexity of life experiences when exploring multicultural youth offending behaviour and justice engagement.

The following provides an overview of some of the particular risks and protective factors, as well as the complex experiences, which may interact and contribute to certain cohorts of multicultural young Victorians being overrepresented in our youth justice system.

Racism and discrimination

The history of colonisation and oppression of Indigenous Australians coupled with the history of overt racism through the White Australia Policy forms the backdrop to contemporary race discourse in Australia. Multiculturalism is a much-lauded success in Australia, however there remains a broader collective discomfort in acknowledging the presence of racism in our society. Despite shifts in government policies and a strong commitment to multiculturalism that have reduced racism in contemporary Australia, evidence shows that reported racism has increased in recent years.^{xxvi}

The 2017 Inquiry into Victoria’s Youth Justice System found that young multicultural Victorians’ feelings of exclusion based on their skin colour “drives their offending behaviour”.^{xxvii} Direct and indirect racism serves to reinforce existing inequalities, in terms of access to power, resources and opportunity, and strengthens inequalities and existing privilege based on ethno-racial grounds.^{xxviii} Racism is hugely damaging, negatively impacting upon the settlement and transition of young migrants and refugees, affecting personal and cultural identity and belonging to the broader community, and negatively impacting upon health and wellbeing.^{xxix} Racism also marginalises individuals and communities, decreasing social cohesion and participation in society and increasing social exclusion,^{xxx} all factors associated with greater risk of becoming involved in crime.^{xxxi}

“Imagine opening up your newspaper only to find a headline which suggests that all young people like me, who have my skin colour, are criminals... We’re not all criminals – in fact very few of us are. And we’re not all disengaged, although every time we see another instance of racial discrimination or racial stereotyping, it makes us feel just a little bit more disconnected from the very society that we call home.”^{xxxii}

Education

Problems at school, including educational disengagement and exclusion, and poorer outcomes in education are strongly linked to youth crime.^{xxxiii} During 2018/19, 68% of children and young people sentenced to detention or on remand in Victoria were previously suspended or expelled from school.^{xxxiv} Multicultural young people often experience a range of intersecting challenges that impact upon school, including racism and discrimination (including stereotypes, stigma, lack of cultural safety/awareness and unconscious bias), disrupted education, disadvantage and low socioeconomic status, and limited social and cultural capital within the family and networks.^{xxxv}

It is also recognised that young offenders often lack opportunities and the necessary support to successfully pursue their education in custodial settings, or to transition back into education post-release – this is “despite all that is known about the benefits of education and vocational pathways for young offenders.”^{xxxvi} This makes educational attainment even harder for those multicultural young people who become justice engaged.

Migration and refugee experience

Some of the recognised impacts of migration and the refugee experience on young people are also factors known to increase the risk of young people becoming involved in crime.^{xxxvii} For example, cultural dislocation and disconnection from culture and community, family fragmentation (including disruption and breakdown) and intergenerational conflict, as well as limited social, economic, and cultural capital, and socioeconomic disadvantage. Many of these factors are also recognised as impacting upon Pasifika and Māori youth migrating to Australia from New Zealand.^{xxxviii}

Mental health

Elevated rates of mental ill-health and trauma are recognised among young offenders.^{xxxix} Though research remains limited, untreated mental illness is likely to increase the susceptibility of refugee and migrant youth to disengagement and antisocial behaviours.^{xl}

Mental health services are underutilised by multicultural young people despite evidence that this cohort are particularly vulnerable to mental ill-health and poor wellbeing.^{xli} Contributing

factors range from trauma-related needs as a result of pre- and post-migration experiences, a lack of mental health education and stigma and low English proficiency, to experiences of racism and difficulty navigating complex and culturally unresponsive health and legal systems.^{xlii xliii}

High rates of mental ill-health among young offenders coupled with high rates of undetected mental ill-health and poor service utilisation among multicultural communities demonstrates a failure of our systems to respond to the particular needs of multicultural youth, placing them further at risk of justice engagement.

Barriers to economic participation

Young multicultural Victorians continue to be more likely to be unemployed and underemployed than other young Victorians, and more likely to face barriers to economic participation, labour market exclusion and financial instability and disadvantage.^{xliv} This cohort is also disproportionately affected by economic shocks, continually “battling against a social context that views them as ‘different’ or ‘less desirable’ at times due to their appearance or cultural background.”^{xlv}

Harmful public discourse

Negative public and media narratives (“moral panic”) and negative political discourse around race, crime and migration in Australia have had significant and lasting detrimental impacts upon young multicultural Victorians.

The period immediately following the Moomba “riots” in Victoria in 2016 provides an example of the incredibly damaging role of negative and racialised media and public narratives on the lives of young Victorians and their families. This period was marked by a protracted and sensationalised “ethnic youth gangs” narrative, in Victoria and nation-wide. It gave rise to malicious racialised media reporting and public commentary, leading to reports of increased racism and discrimination towards multicultural young people. It also gave rise to detrimental policy responses which continues to tear apart families and young people. An example is the tightening of the character test, which in one form or another, has been in the Migration Act since 1992. In 2014, the *Migration Amendment (Character and General Visa Cancellation) Act 2014* (Cth) broadened the grounds on which a person will fail the character test and introduced mandatory cancellation provisions. Visa cancellation occurs if someone is serving a prison sentence and they have a *substantial criminal record* (sentences of life imprisonment or a term of imprisonment of 12 months or more) or have been convicted of sexually based offences involving a child. Since 2015, there has been a sharp increase in visa cancellation of young people under 25 years of age on “character” grounds. These young people have been in the juvenile justice system and upon completing their sentence, they are taken immediately to immigration detention. The immigration detention environment is harmful and does not provide the opportunity for young people to continue to learn and develop. Families are torn apart when a young person is deported. Often, the young person will have limited or no family relationships in the countries to which they are deported to.

The incredibly damaging impact of this period, which continues to be felt, has been shown to directly affect young Victorians' sense of identity and belonging.^{xlvi}

“The hardest thing about growing up here would have to be, after the Moomba riots... the changes in people’s attitudes towards us (South Sudanese young person).”^{xlvii}

Exposure to criminal offending and involvement with justice.

Living in areas of low socioeconomic status can increase the likelihood of young people coming into contact with criminal behaviour and police.^{xlviii} The risk for multicultural young people from new and emerging communities to be exposed to antisocial or criminal behaviour is increased as many newly arrived families are drawn to settle in suburbs of relative socioeconomic disadvantage due to greater housing affordability and existing community and support networks.^{xlix}

Young peoples' offending behaviour and justice involvement can also be influenced by peers and siblings who are either young offenders themselves and/or encouragers of antisocial and criminal behaviour. For many young people, peers are a critical site for communal identity, trust, and support. In collectivist cultures, including Pasifika and South Sudanese communities, traditional family structures, roles and obligations often extend beyond the family to include non-family members. In these communities, peer relationships are an important site for maintaining connection to community values and identity.ⁱ It is important to note that for many young people, peers can also be an essential protective factor against offending and there is a strong need to preserve and support the protective nature of these relationships, rather than assuming they are solely negative influencers.ⁱⁱ

A lack of cultural safety and intercultural capability

Young multicultural Victorians are too often under-served by generalist organisations and services, which contributes to social exclusion, disengagement, and greater inequities. For example, youth justice settings continue to be regarded as culturally unsafe and culturally isolating.ⁱⁱⁱ Bail conditions continue to be unrealistic for many young offenders, failing to take into consideration their available supports and resources, including family and community support, and capacity to meet bail conditions. Families continue to report a lack of access to adequate and appropriate information and assistance to help them support their young people who are engaged with the justice system. As family and community support is a predictor of success for young people leaving the justice system, it is important that culturally appropriate support responses are designed which consider the complex experiences of young people and their wider social environment.ⁱⁱⁱⁱ

Attempts to address these challenges too often prioritise increasing workforce capability, in isolation from broader organisational development and structural and systemic change. While significant steps towards cultural diversity have been made by Victoria Police through training and awareness-raising, these efforts must be informed by a broader strategy which considers the needs and experiences of specific multicultural communities.^{liv}

Inequitable outcomes – policing, sentencing, in custodial settings and post-release.

The over-policing of migrant and refugee communities contributes to their disproportionate criminalisation and imprisonment. Aboriginal (18.29%) and culturally diverse young people, specifically from African (15.48%) and Pasifika (7.07%) backgrounds, are significantly overrepresented in police contacts in Victoria, based on data from 2018, with the proportion of young people from African backgrounds in contact with police doubling in the four years from 2014 to 2018.^{lv}

Discrimination in the use of discretionary powers is of particular concern, including how fines and other infringements are used with this population group. It has been shown to impact unequally on marginalised groups, including young people and people from refugee and migrant backgrounds, drawing them disproportionately into the court and criminal justice systems.^{lvi lvii}

Despite efforts to address discriminatory practices, data from 2018 showed young people born in South Sudan are significantly less likely to be cautioned by police and more likely to be issued with a fine instead.^{lviii} More recently, data from March to June 2020 showed young people received 42% of the fines for breaches of COVID-19 rules during this period, with those identifying as Aboriginal and/or Torres Strait Islander and those born in Sudan or South Sudan overrepresented in fines issued.^{lix}

Multicultural young people are also held on remand in high numbers.^{lx} Data from 2018 shows higher rates of police refusing bail for young people born in Africa, including South Sudan, compared to their peers. In some areas of metropolitan Melbourne, data shows that this cohort of young people are almost twice as likely as their peers to be charged and bail refused.^{lxi} Furthermore, in detention, this cohort is shown to experience more severe conditions compared to their peers. A 2019 report from the Victorian Ombudsman reported that as at 28 February 2019, 25% of the population at Malmsbury were identified as having African cultural backgrounds and 82% of this cohort were subject to “behavioural isolation” over a 12-month reporting period were identified as Sudanese.^{lxii}

Poorer outcomes for multicultural young people and negative experiences with law enforcement reinforces exclusion whereby young people develop strong anti-police or anti-authoritarian sentiments and disillusionment with the justice system, desensitising them from the consequences of offending behaviour or, in some circumstances, even encouraging continuous antisocial behaviour.^{lxiii}

“I kind of feel they have, they’ll have this mentality of where because I’m a police officer I have the power. But and they’re like, ‘Because I’m white and I’m privileged, I’m not gonna be told I’m in the wrong.’ So they kind of use that power, do you know what I mean?”^{lxiv}

Disadvantage and exclusion

There is a wealth of evidence highlighting the links between socioeconomic disadvantage and youth offending.^{lxv} Attempts to address these challenges too often focus on the deficits of individuals, thus prioritising interventions at the individual level, whilst failing to address structural and systemic issues.

Young multicultural Victorians share some particular challenges that make them much more likely to experience disadvantage and fewer opportunities than the general population.^{lxvi} Although, as a diverse population group, these challenges are not experienced equally. Systemic barriers commonly result in young multicultural Victorians being under-served by generalist organisations and services, limiting their access to the support and opportunities they need, and to which they are entitled.^{lxvii}

What is needed?

Victoria is embarking on a course of action and reform that proposes to re-imagine our youth justice system. This is in response to the learnings and momentum generated by a number of recent reviews and inquiries. The direction put forward outline important commitments and strategies for reform, including: strengthening targeted diversion, early intervention and prevention mechanisms; the need for young people to be supported by family and members of their own community through tailored, local solutions and partnerships; prioritising responding to underlying factors for youth offending, including “social disadvantage” and “social and economic exclusion.”^{lxviii}

Achieving the vision behind these reforms rests on the ability to appropriately and effectively respond to the particular needs of the 48% of young Victorians from refugee and migrant backgrounds.^{lxix} While there is some recognition of the particular needs of this group of young people, these do not go far enough to comprehensively identify and address the underlying drivers of multicultural youth offending and to respond to systemic issues contributing to their overrepresentation. Not addressing this now would be a missed opportunity that would continue to place many young multicultural Victorians unfairly and unnecessarily at increased risk of justice engagement.

We urgently need a Multicultural Youth Justice Strategy to support a bold change of course for how we respond to overrepresentation and address the needs of young multicultural Victorians at risk of and engaged in our justice system. In 2017, the Victorian Government review into Victoria’s Youth Justice System recommended the Government work with CMY on such a strategy^{lxx} – we believe Victoria is uniquely placed to deliver on this as a priority.

A Multicultural Youth Justice Strategy

1. Informed by multicultural young people and families with lived experience of the justice system

Young people are the experts in their own lives, and they bring valuable knowledge, strengths, skills and insights to inform the development and delivery of effective, culturally safe programs and responses for young people.

Drawing on their inherent expertise is vital in achieving the goals of the Youth Justice Strategic Plan 2020-30. Recent examples from the public health crisis in Victoria during the onset of the COVID-19 pandemic clearly demonstrated the considerable assets and social capital that exist within multicultural communities in Victoria, and in particular the resources and capabilities of young people, to identify, develop and implement responses to best meet their needs.^{lxxi}

The Multicultural Youth Justice Strategy must be developed and implemented with a committee of experts, alongside multicultural young people, their families and communities, those with lived experience of the justice system, community leaders and elders from overrepresented communities, and service providers with knowledge and experience working directly with this group of young Victorians.

2. Underpinned by up-to-date evidence

We know that problems not only involve individuals, whose capabilities, beliefs and attitudes may play a part in the difficulties they experience, but, and more importantly, that their “problems are also a function of how institutions behave, of policy decisions, of the way markets operate, and even of public attitudes and cultural norms.”^{lxxii} We need to identify the underlying drivers of multicultural youth justice engagement from early in adolescence, and the interrelationships that operate at individual, family, peer-group, school, community, and policy levels

The Multicultural Youth Justice Strategy will be underpinned by robust, up-to-date evidence that:

- Examines the lived experience of multicultural young people, families and communities in the youth justice system to better understand drivers of multicultural youth offending in our community and the long-term trend in overrepresentation of different cohorts of multicultural youth in the justice system.
- Looks beyond traditional risk and protective factors for youth offending to explore the underlying systems and structures that contribute to overrepresentation of multicultural children and young people.

- Takes a “deep dive” investigation into innovative models and approaches, both local and international, that could be adapted to our context to support multicultural youth pre-offending and at-risk, as well as those engaged in the justice system and post-release.

3. Learn from other cultural approaches

Explore and draw on the considerable learnings from the recent systemic inquiry into the overrepresentation of Aboriginal children and young people in Victoria's youth justice system, as published in the *Our Youth, Our Way* (2021) report.^{lxxiii} Multicultural communities have much to learn from First Nations' approaches and engagement with the justice system, e.g. the Koori Court and other forms of restorative justice. The good practice elements of these approaches must be tested for transferability to the context of multicultural communities and young people.

4. Prioritise youth outcomes and strengthen accountability mechanisms

Specific, targeted outcomes and measures for this cohort within youth justice is absolutely fundamental to addressing overrepresentation and reducing risk of justice engagement because of the intersections between the vulnerabilities and inequities this group face that cross-cut and compound their risk of entering and re-entering the justice system.

Additionally, the Multicultural Youth Justice Strategy would promote the establishment of an independent body to provide oversight, advocacy and strategy for young multicultural Victorians engaged in the justice system, together with responsibility for monitoring and reporting on the outcomes of multicultural youth within youth justice. This body would include young people and families with lived experience of the justice system and work closely with and/or include membership from existing multicultural youth bodies and organisations.

5. Early intervention and prevention focused

We know that addressing underlying drivers of offending behaviour for young people at a much earlier stage diverts them from the justice system.^{lxxiv} However, evidence consistently reveals most of the state's justice expenditure focuses on the acute end of the system, with little expenditure on prevention and early intervention activity.^{lxxv} Early intervention and prevention initiatives are vital to prevent young people resorting to criminal and antisocial behaviours as well as minimising their return to offending further into adulthood.^{lxxvi}

“Young people are calling for age and culturally appropriate, community-based initiatives to address disadvantage among those at risk of involvement with the justice system. Crucially, they want us to address the over-representation of Aboriginal young people and young people from some CALD backgrounds in the justice system.”^{lxxxvii}

Evidence shows that place-based, targeted interventions that work with young people in their communities and with their families is central to an effective approach, and works to strengthen a sense of belonging and connectedness to address disadvantage.^{lxxxviii} Community-led models that build collaboration and join up services and communities work because communities are best placed to identify, develop and implement responses to best meet their needs.^{lxxxix} Such models are also “more likely to have a real and sustainable impact on the complex social issues underpinning youth crime (and have) flexibility and responsiveness to support communities to identify and deliver... long-term positive outcomes.”^{lxxx}

It is for these reasons that we urge investment in community-based supports and for new ways of working with communities to change the system and the structures that continually drive disadvantaged young people to a negative engagement with the justice system. To this end we urge the adoption of integrated, long-term collective impact approaches to decriminalise young people’s engagement with the justice system through a focus on the intersectional systemic drivers to youth offending. CMY and WEstjustice have developed “Target 0” as an early intervention long term collective impact model that adopts new way of working with communities to achieve sustainable systemic changes that can be piloted and then scaled up across Victoria.^{lxxx}

6. Improve and prioritise diversion with detention of children and young people used as a measure of ‘last resort’

A key theme arising from a number of recent reviews of youth justice within Victoria and across Australia was “the need for youth justice detention to be a measure of last resort.”^{lxxxii} Tied to this is the urgent call to raise the age of criminal responsibility from 10 to 14 years. Data demonstrates widespread and increased use of detention, including among children and young people, in Victoria with particular cohorts of young multicultural Victorians overrepresented.^{lxxxiii} The disproportionate criminalisation and detention of multicultural youth must be addressed through the development and prioritisation of a plan for Victoria to deliver on its commitment to detention of children and young people as a measure of “last resort”.

The detention of children and young people is inconsistent with Victoria’s commitment to “detention as a measure of last resort” that underpins our youth justice system, as well as with a range of national and internationally human rights obligations.^{lxxxiv} Detention has a

criminogenic effect on children and young people who are still developing.^{lxxxv} The Sentencing Advisory Committee’s warning that “each contact with the justice system exacerbates the risk of further contact, trapping children in the revolving door of youth justice”^{lxxxvi} is a poignant reminder of the harms of detention. This is supported by recent figures that show 80% of remanded children in Victoria had had ongoing charges while on remand and 40% had previously been detained.^{lxxxvii} Early and continuous exposure to detention increases the risk of young people disengaging from community and family and their likelihood of reoffending, further entrenching them in the justice system and contributing to their long-term disadvantage.^{lxxxviii}

Current reforms are an opportunity to re-imagine how we actively apply the principle of “detention as a last resort” and deliver on this commitment to divert children and young people away from the justice system. This must include a targeted plan to address the overrepresentation of multicultural youth in detention and custody settings alongside a number of parallel measures, as outlined comprehensively by JSS (2013) and others, including:

- Stronger legislative protections to ensure that children and young people are diverted away from the criminal justice system, including raising the age of criminal responsibility to 14 years.
- Mandated regulations to strengthen cultural responsiveness in assessment, decision-making and review processes for determining whether to detain or remand a child or young person.
- Improved measures to promote and support effective diversion, such as:
 - o investment to ensure timely, adequate assessment and service coordination, to ensure young people are adequately assessed and diverted to appropriate services and supports,^{lxxxix} and
 - o education and systems reform, to address inconsistent diversion knowledge and practice across the state and improve culturally responsiveness.

7. Address recidivism through stronger service integration and supports that engage young people and their families

In addition to targeting the drivers of youth justice engagement and promoting diversion, it is also necessary to focus on needs and outcomes of multicultural young people once they are engaged in the justice system and post-release.

Research shows young people are uniquely receptive to criminal justice interventions^{xc} and in Victoria there is a recognised need for intensive, multi-layered, community-based and culturally responsive services and youth support that engages multicultural young people and their families in custody and post-release.^{xc1} Addressing recidivism will require long-term investment in improved service coordination and supports that engage young people with their families and communities.^{xc2}

Culturally responsive youth- and community-led approaches, including new and innovative models of support, must be investigated and trialled. This should include options for embedding community-led approaches within established services and programs to focus on bringing young people together with the support of their communities and families.

Evidence-based models and approaches to be explored include those that:

- engage communities and families directly in provision of support for justice engaged young people, with a focus on programs developed and delivered with communities and that draw on community knowledge and expertise, including bicultural workers such as Community Support Groups (CSGs) and the Le Mana Pasifika Project.^{xciii}
- approaches that address gaps and barriers to community, youth and family support and knowledge;^{xciv}
- cultural strengthening programs;^{xcv}
- models of service integration that draw on collective goals and decision-making;^{xcvi}
- group support and peer mentoring models and approaches, including models that engage peers with lived experience of the justice system;^{xcvii} and
- family-centred supports and programs.

8. Commit to action to address and eradicate all forms of racial discrimination

The complex lived experiences of multicultural young Victorians are underscored by inequity and discrimination within our systems and society.^{xcviii} Eliminating racism and all forms of discrimination is critical to addressing the overrepresentation of young multicultural Victorians in our justice system. Victoria urgently needs a whole-of-government plan to eliminate racism and CMY welcome the announcement in the Victorian Budget 2020/21 of an Anti-Racism Taskforce to guide the design and implementation of a Victorian Anti-Racism Strategy.

The Multicultural Youth Justice Strategy must work hand-in-hand with Victoria's Anti-Racism Strategy across all levels of government (and with other state and federal mechanisms) to reform our systems and services to ensure they are equitable, actively anti-racist, youth-centred, and culturally appropriate. The strategy must be developed in collaboration with young Victorians and commit to proactive actions to remove structural and systemic barriers to participation and promote equality of outcomes for all young Victorians.

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- ^{xc} For example, learning from Aboriginal and Torres Strait Islander community programs in Victoria that engage 'at risk' or justice-engaged young people in group and peer programs with a cultural strengthening focus, such as Dardi Munwurro. See <https://www.dardimunwurro.com.au/>.
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