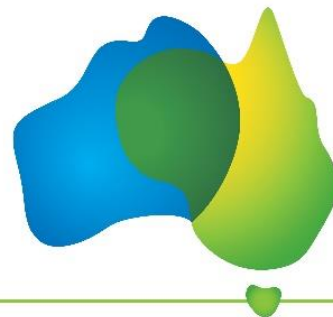


MARCH 2024



**Suicide Prevention
Australia**

Inquiry into an alternative diversion model for children under the minimum age of criminal responsibility

Submission

For general enquiries:

02 9262 1130 | policy@suicidepreventionaust.org | www.suicidepreventionaust.org

Imagine a world without suicide

Introduction

Suicide Prevention Australia welcomes the opportunity to provide feedback on the South Australian Government's inquiry into an alternative diversion model for children under the minimum age of criminal responsibility.

Suicide Prevention Australia is the national peak body for the suicide prevention sector. We have over 450 members representing more than 140,000 employees, workers, and volunteers across Australia. We provide a collective voice for service providers, practitioners, researchers, local collaboratives, and people with lived experience.

We are deeply concerned about the risk of suicide among children in contact with the criminal justice system. Sadly, children in contact with the criminal justice system are between two and four times more likely to die by suicide compared to their peers.^{1,2,3} Aboriginal and Torres Strait Islander children are seventeen times more likely to be incarcerated and three times more likely to die by suicide compared to non-Indigenous children.^{4,5}

“I found there are gaping holes in the judicial system. People born into disadvantage who may have experienced childhood trauma are more likely to commit crimes and I do not think penalising these people is helpful. Instead, we need to be helping people. The sentence does not end nice and neatly after incarceration instead it is a lifetime sentence. This creates significant psychological impacts including suicide.”

Person with Lived Experience

For further background on the link between suicide and the criminal justice system we refer the Attorney General's Department to a paper on the socio-economic and environmental determinants of suicide. The background paper contains an overview of the international and Australian evidence which shows the relationship between contact with the criminal justice system and suicide. The paper is attached to the submission and can be downloaded here:

- [Socio-economic and environmental determinants of suicide](#)

We would like to provide input relating to two items under consideration:

- Raising the minimum age of criminal responsibility
- Exceptions for serious offences
- The alternative diversion model

Summary of Recommendations

-
1. The South Australian Government raise the minimum age of criminal responsibility to 14 years.
-
2. The South Australian Government should at minimum limit the list of serious offences for which children under the minimum age of criminal responsibility can be prosecuted to only intentionally violent crimes, and should consider having no exceptions.
-

For general enquiries:

02 9262 1130 | policy@suicidepreventionaust.org | www.suicidepreventionaust.org

-
3. The South Australian Government incorporate screening to identify developmental disorders and health conditions among children under the alternative diversion model to facilitate access to treatment and ongoing support.
-
4. The South Australian Government recognise the importance of working with families to change child behaviour and ensure that all children can access family-based interventions under the alternative diversion model.
-
5. The South Australian Government ensure the specific needs of dual status children are met under the alternative diversion model.
-

Raising the minimum age of criminal responsibility

For children, incarceration can have a profound and devastating impact on mental health and wellbeing and can contribute to further reoffending which serves to heighten suicide risk.^{6,7} Isolation and forcible separation from family, peers, and school including diminished access to education opportunities also significantly increases risk of suicide for children. Given the strong link between contact with the criminal justice system and suicide, the South Australian Government should do all that it can to prevent children from entering the criminal justice system.

While we welcome that the South Australian Government is considering raising the minimum age of criminal responsibility from 10 to 12 years this still falls short of international standards. There is strong evidence that children under 14 years of age lack the maturity and developmental capacity to be judged criminally responsible.⁸ This indicates that they should be diverted away from the criminal justice system and redirected towards services and support systems which can address the underlying factors driving the harmful behaviour.

The United Nations Committee on the Rights of the Child recommends 14 years as the minimum age of criminal responsibility.⁹ This is supported by the Advisory Commission into the Incarceration Rates of Aboriginal Peoples in South Australia which identified the need to raise the age of criminal responsibility from 10 to 14 years in South Australia.¹⁰

In line with these recommendations, the South Australian Government should raise the minimum age of criminal responsibility from 10 to at least 14 years to help reduce suicide risk. This will also support the Commonwealth Governments Closing the Gap Implementation Plan to achieve a 30% reduction in the rate of incarceration among Aboriginal and Torres Strait Islander youth by 2031.¹¹

Raising the age of criminal responsibility to 14 years is an important first step but it is important that a trauma-informed and culturally safe alternative diversion model is in place to ensure that children are diverted to appropriate supports and services.

Recommendation

-
1. The South Australian Government raise the minimum age of criminal responsibility to 14 years.
-

For general enquiries:

02 9262 1130 | policy@suicidepreventionaust.org | www.suicidepreventionaust.org

Exceptions for serious offences

The broad range of potential exceptions for ‘serious offences’ set out in the discussion paper is concerning. These exceptions potentially include behaviour such as damaging a vehicle with fire. Research indicates that the frontal lobe which regulates emotion, decision-making and behaviour continues to develop until the age of 25,¹² and so is far from fully developed at ages 13 and below. Due to curiosity, impulsivity or risk-taking a child may light a fire which leads to property damage without fully understanding the consequences and repercussions of this act.

Considering this, at minimum, the serious offences which exempt children from the minimum age of responsibility should be limited to crimes which are intentionally violent. The South Australian Government should remove crimes such as ‘property damage to a building or motor vehicle by fire or explosives’ and ‘causing a bushfire’ from the serious criminal offence exclusion list.

Even in the cases of violent crimes a justice response will not necessarily be appropriate. To prevent children who have engaged in harmful behaviours from doing so again requires an alternate diversion model. The South Australian Government should consider having no exceptions to the minimum age of criminal responsibility. This will help reduce contact with the criminal justice system among children and help prevent suicide.

Recommendation

-
2. The South Australian Government should at minimum limit the list of serious offences for which children under the minimum age of criminal responsibility can be prosecuted to only intentionally violent crimes, and should consider having no exceptions.
-

The alternative diversion model

We welcome that the South Australian Government recognises the need for an alternative diversion model which is trauma-informed, restorative and culturally led. But we urge the South Australian Government to embrace this unique opportunity and develop an alternative diversion model which can provide sufficient support to change a child’s trajectory and reduce suicide risk.

The alternative diversion model should meet the needs of the specific vulnerabilities of children most likely to come in contact with the criminal justice system. Children in contact with the criminal justice system are an especially disadvantaged and vulnerable cohort, with high rates of trauma and complex, co-occurring health conditions such as mental illness, cognitive dysfunction and learning difficulties.^{13,14}

Data from the Australian Institute of Health and Welfare shows that one third of all children in detention in 2018-2019 were survivors of abuse and neglect.^{15,16} A study undertaken in Western Australia identified that nine out of ten incarcerated young people have a severe cognition impairment, and that nearly forty per cent are living with Fetal Alcohol Spectrum Disorder.¹⁷ Impairments were found across all population cohorts and it was sadly identified that many children had a history of trauma, school disengagement and substance misuse.¹⁸

For general enquiries:

02 9262 1130 | policy@suicidepreventionaust.org | www.suicidepreventionaust.org

Given these concerning findings the alternative diversion model should include screening and tailored support for children to ensure their needs are met. Screening would ensure that all children with a developmental disorder or health condition such as a mental illness or cognitive impairment are identified and provided with appropriate treatment and services. This will help improve health and wellbeing outcomes and reduce the risk of suicide among children in contact with the criminal justice system.

Research suggests that family relationships can play a key role in the development of criminal behaviour and in re-offending.¹⁹ To further improve outcomes for children and reduce suicide risk, the alternative diversion model should be amended to recognise that the family environment can help shape child development and criminal behaviour.

Under the alternative diversion model, it is proposed that children will be supported by a community action plan which sets out the supports and intervention that each child needs. Evidence-based family-based interventions should be considered and could help address the underlying factors driving the child's criminal behaviour and may help prevent recidivism. It should not be assumed that all children are raised in loving, safe homes and that all parents are engaged and supportive.

Sadly, many children in contact with the criminal justice system are victims themselves and have experienced early adversity including domestic violence, neglect, or abuse.²⁰ Family-based interventions could help improve family dynamics and family functioning and improve the quality of the parent-child relationship which could help reduce suicide risk. Research also indicates that family-based interventions can reduce recidivism rates significantly.^{21,22}

We note a report prepared by the South Australian Office of the Guardian of Children and Young People which draws attention to the overrepresentation of children in the child protection system in the criminal justice system.²³ There is increased vulnerability and disadvantage among dual status children, and the alternative diversion model should include special provisions to meet the needs of this high-risk cohort.

The evidence clearly shows that there is a much higher rate of suicide among children in contact with the child protection system compared to the general population.²⁴ A study undertaken in South Australia found that nearly seven per cent of children in home-based foster care required medical treatment following a suicide attempt compared to just under one per cent of the general community.²⁵ Sadly, the study also identified that nearly fifty five per cent of children required professional support for their mental health challenges but just over half received help.

Under the alternative diversion model dual status children must have access to tailored and appropriate trauma-informed and culturally safe interventions and support services which meet the child's needs. This will help improve long-term outcomes among this vulnerable cohort, reduce suicide risk and the likelihood of re-offending.

For general enquiries:

02 9262 1130 | policy@suicidepreventionaust.org | www.suicidepreventionaust.org

Recommendations

3. The South Australian Government incorporate screening to identify developmental disorders and health conditions among children under the alternative diversion model to facilitate access to treatment and ongoing support.
 4. The South Australian Government recognise the importance of working with families to change child behaviour and ensure that all children can access family-based interventions under the alternative diversion model.
 5. The South Australian Government ensure the specific needs of dual status children are met under the alternative diversion model.
-

Acknowledgements Statement

Suicide Prevention Australia acknowledges the unique and important understanding provided by people with lived and living experience. This knowledge and insight is critical in all aspects of suicide prevention policy, practice and research. Advice from individuals with lived experience helped guide the analysis and recommendations outlined in this submission.

As the national peak body for suicide prevention, our members are central to all that we do. Advice from our members, including the largest and many of the smallest organisations working in suicide prevention, as well as practitioners, researchers and community leaders is key to the development of our policy positions. Suicide Prevention Australia thanks all involved in the development of this submission.

For more information please contact:

Anne Leslie
Senior Policy Advisor
Suicide Prevention Australia
annel@suicidepreventionaust.org

There are crisis services available 24/7 if you or someone you know is in distress

Lifeline: 13 11 14 **Standby Support After Suicide: 1300 727 247**
www.lifeline.org.au www.standbysupport.com.au

Suicide Call Back Service: _____
1300 659 467 www.suicidecallbackservice.org.au

For general enquiries:

02 9262 1130 | policy@suicidepreventionaust.org | www.suicidepreventionaust.org

References

- ¹ Memory, J. (1989). Juvenile suicides in secure detention facilities: Correction of published rates. *Death Studies*, 13(5), 455-463. <https://doi.org/10.1080/07481188908252324>
- ² Gallagher, C. A., & Dobrin, A. (2006). Deaths in juvenile justice residential facilities. *The Journal of adolescent health : official publication of the Society for Adolescent Medicine*, 38(6), 662–668. <https://doi.org/10.1016/j.jadohealth.2005.01.002>
- ³ Stokes, M. L., McCoy, K. P., Abram, K. M., Byck, G. R., & Teplin, L. A. (2015). Suicidal Ideation and Behavior in Youth in the Juvenile Justice System: A Review of the Literature. *Journal of correctional health care : the official journal of the National Commission on Correctional Health Care*, 21(3), 222–242. <https://doi.org/10.1177/1078345815587001>
- ⁴ Sentencing Advisory Council. (2023, June 23). *Aboriginal and Torres Strait Islander Young People in Detention*. [Aboriginal and Torres Strait Islander Young People in Detention | Sentencing Council](#)
- ⁵ Australian Institute of Health and Welfare. (2023, October 25). *Deaths by suicide among First Nations people*. [Suicide among First Nations people - Australian Institute of Health and Welfare \(aihw.gov.au\)](#)
- ⁶ University of Western Australia. (2022, November 18). *Locking up kids has serious mental health impacts and contributes to further re-offending*. [Locking up kids has serious mental health impacts and contributes to further reoffending \(uwa.edu.au\)](#)
- ⁷ University of New South Wales. (2019, June 21). *Locking up kids damages their mental health and leads to more disadvantage. Is this what we want?* [Locking up kids damages their mental health and leads to more disadvantage. Is this what we want? \(unsw.edu.au\)](#)
- ⁸ Haysom L. (2022). Raising the minimum age of criminal responsibility to 14 years. *Journal of paediatrics and child health*, 58(9), 1504–1507. <https://doi.org/10.1111/jpc.16059>
- ⁹ United Nations. (2019, July 11). *Promotion and protection of the rights of children: promotion and protection of the rights of children: Global study on children deprived of liberty*. [n1921315.pdf \(un.org\)](#)
- ¹⁰ Advisory Commission into the Incarceration Rates of Aboriginal Peoples in South Australia. (2023). *Report of the Advisory Commission into the Incarceration Rates of Aboriginal Peoples in South Australia*. [Report of the Advisory Commission into the Incarceration Rates of Aboriginal Peoples \(agd.sa.gov.au\)](#)
- ¹¹ Australian Government. (2023). *Closing the Gap Implementation Plan 2023*. [Closing the Gap Implementation Plan 2023 \(niaa.gov.au\)](#)
- ¹² Arain, M., Haque, M., Johal, L., Mathur, P., Nel, W., Rais, A., Sandhu, R., & Sharma, S. (2013). Maturation of the adolescent brain. *Neuropsychiatric disease and treatment*, 9, 449–461. <https://doi.org/10.2147/NDT.S39776>
- ¹³ Fazel, S., Doll, H., & Långström, N. (2008). Mental disorders among adolescents in juvenile detention and correctional facilities: a systematic review and metaregression analysis of 25 surveys. *Journal of the American Academy of Child and Adolescent Psychiatry*, 47(9), 1010–1019. <https://doi.org/10.1097/CHI.ObO13e31817eefc3>
- ¹⁴ Borschmann, R., Janca, E., Carter, A., Willoughby, M., Hughes, N., Snow, K., Stockings, E., Hill, N. T. M., Hocking, J., Love, A., Patton, G. C., Sawyer, S. M., Fazel, S., Puljević, C., Robinson, J., & Kinner, S. A. (2020). The health of adolescents in detention: a global scoping review. *The Lancet. Public health*, 5(2), e114–e126. [https://doi.org/10.1016/S2468-2667\(19\)30217-8](https://doi.org/10.1016/S2468-2667(19)30217-8)
- ¹⁵ Australian Institute of Health and Welfare. (2020, October 15). *Young people under youth justice supervision and in child protection 2018–2019, Summary* - Australian Institute of Health and Welfare (aihw.gov.au)
- ¹⁶ University of Western Australia. (2022, November 18). *Locking up kids has serious mental health impacts and contributes to further re-offending*. [Locking up kids has serious mental health impacts and contributes to further reoffending \(uwa.edu.au\)](#)
- ¹⁷ Telethon Kids Institute. (2018, February 13). *Nine out of ten young people in detention found to have severe neuro-disability*. [Nine out of ten young people in detention found to have severe neuro-disability \(telethonkids.org.au\)](#)

For general enquiries:

02 9262 1130 | policy@suicidepreventionaust.org | www.suicidepreventionaust.org

Imagine a world without suicide

-
- ¹⁸ The Conversation. (2018, February 14). Almost every young person in WA detention has a severe brain impairment. [Almost every young person in WA detention has a severe brain impairment \(theconversation.com\)](https://theconversation.com)
- ¹⁹ Trotter, C., Evans, P., & Baidawi, S. (2020) Collaborative Family Work in Youth Justice. *Australian Social Work*. 73(3), 267-279, <https://doi.org/10.1080/0312407X.2019.1618886>
- ²⁰ The Australian Institute of Criminology. (2023). *Children aged 10 to 13 in the justice system: Characteristics, alleged offending, and legal outcomes*. [Children aged 10 to 13 in the justice system: Characteristics, alleged offending and legal outcomes \(aic.gov.au\)](https://aic.gov.au)
- ²¹ Boccio, C. M., & Beaver, K. M. (2019). The Influence of Family Structure on Delinquent Behavior. *Youth Violence and Juvenile Justice*, 17(1), 88-106. <https://doi.org/10.1177/1541204017727836>
- ²² Her Majesty's Inspectorate of Probation. (2021). *Collaborative Family Work in Youth Justice*. <https://www.justiceinspectors.gov.uk/hmiprobation/wp-content/uploads/sites/5/2021/02/Collaborative-Family-Work-in-Youth-Justice-KM2.pdf>
- ²³ Office of the Guardian for Children and Young People. (2019). *A PERFECT STORM? Dual status children and young people in South Australia's child protection and youth justice systems - Report 1*. [Dual-Status-CYP-in-SA-A-Perfect-Storm.pdf \(gryp.sa.gov.au\)](https://gryp.sa.gov.au)
- ²⁴ Hua, L. L., Lee, J., Rahmandar, M. H., Sigel, E. J., Committee on Adolescence and Council on Injury, Violence and Poison Prevention. (2024). Suicide and Suicide Risk in Adolescents. *Pediatrics*, 153(1), e2023064800. <https://doi.org/10.1542/peds.2023-064800>
- ²⁵ Sawyer, M. G., Carbone, J. A., Searle, A. K., & Robinson, P. (2007). The mental health and wellbeing of children and adolescents in home-based foster care. *The Medical journal of Australia*, 186(4), 181–184. <https://doi.org/10.5694/j.1326-5377.2007.tb00857.x>

For general enquiries:

02 9262 1130 | policy@suicidepreventionaust.org | www.suicidepreventionaust.org

Imagine a world without suicide