



For their right to be safe

15 November 2022

### Yoorrook Justice Commission: Systemic Injustice in the Criminal Justice System

The Alannah & Madeline Foundation (the Foundation) is grateful for the opportunity to contribute to the important and ground-breaking work of the Yoorrook Justice Commission. We write in response to Yoorrook's Issue Paper 1: Systemic Injustice in the Criminal Justice System.

The Foundation is a national not-for-profit organisation dedicated to keeping children and young people free from violence and trauma wherever they live, learn and play. Through care, prevention and advocacy, we fight for children's right to be safe, so their future is strong.

Our organisation is not well-placed to make a substantial original submission in response to the issue paper. However, we respectfully encourage Yoorrook to consider broadening its scope to look at the experiences of First Peoples children and young people who have been victims of crime or otherwise adversely affected by crime, and the failures of the criminal justice system to support them appropriately to recover and heal.

Tragically, First Peoples children and young people seem to be much more vulnerable than their peers to being harmed by various types of crime and the overlapping issue of family violence. (See: Victorian Department of Education and Training, 2019 State of Victoria's Children: Aboriginal Children and Young People, 2021, and Australian Institute of Health and Welfare, Indigenous Child Safety, 2014.) This brings these children and young people into contact with the criminal justice system, and we are concerned they face particular risks there.

It is a priority for the Foundation to uphold the rights of children and young people who have experienced trauma as a result of exposure to crime. These children have many positive strengths that can be built upon. However, without timely, appropriate support, they are vulnerable to serious harm in relation to their development, health, behaviours, relationships and educational attainment.

Unfortunately, the criminal justice system was not designed originally to uphold children's rights or to support children's recovery. (We believe the system has been even less well-placed to support the recovery and rights of First Peoples children, although we cannot speak with expertise on that topic.) Key concerns about the criminal justice system include:

- Failure of policy- and decision-makers to recognise children as victims in their own right.
- Lack of a clear, consistent, joined-up approach to identify children affected by crime and provide timely and responsive support across all the systems that impact on their lives – e.g. education, health.
- Limited resources and options available to the Victim Assistance Program (VAP), which is often only able to support children indirectly and with limited brokerage funding.
- Limited policy guidance – for example, the 2020 Victorian Victim Services Review found that there was no practice guidance or policy position on VAP's role in assessing and responding to the impacts of crime on a victim's broader family, including children.

- Gaps in data collection and analysis about children's experiences – for example, we do not know exactly how many Australian children have lost a parent to intimate partner homicide, and we know even less about the experiences of First Peoples children in this tragic space.
- Negative experiences for many children who give evidence in court, where their wishes and needs may be sidelined in favour of a quick resolution between the adults present.
- Failure to facilitate children to have a meaningful voice in judicial decisions that affect their lives – e.g. shortage of appropriate support for children to make victim impact statements.
- Problems in design and function of court precincts, where children may attend as victims, witnesses, or accompanying a parent involved in summary proceedings. Court environments can be intimidating, distressing, or even unsafe for children. There have been positive changes, but ongoing work is needed to create more child-friendly spaces and hold children in sight at all times. See Recommendation 55 of the Report of the Protecting Victoria's Vulnerable Children Inquiry (2012)– 'Existing court facilities should be adapted as appropriate to meet the needs of children and their families' – and Recommendation 70 of the Royal Commission into Family Violence (2016): 'ensure all Magistrates' Court headquarter courts ... provide adequate facilities for children and ensure that courts are "child-friendly".'

We are concerned that such systemic shortcomings may be having an especially negative impact on First Peoples children and young people.

To this end, we encourage this inquiry to engage in safe and appropriate ways with individuals who have lived experience of children's treatment as victims of crime within the justice system, including any experience of the Victim Assistance Program. We also encourage engagement with VAP itself and with other services which support First Peoples children and young people who have been adversely affected by crime, in order to build understanding of how the system could be designed and function better to enable them to recover, heal, and enjoy their rights in full.

We would welcome the opportunity to discuss any of these matters further. Thank you again for the opportunity to take part. Please contact:

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