The mental health of justice-involved adolescents
Submission to the Royal Commission into Victoria's Mental Health System

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Although the rate of youth detention in Australia has been decreasing in recent years, this has happened more slowly for Indigenous youth, such that the over-representation of Indigenous children and adolescents in the youth justice system has continued to increase. Indigenous youth are currently 17 times more likely than non-Indigenous youth to be under youth justice supervision, and 23 times more likely to be in detention.[1] As such, responses to the health needs of justice-involved young people are relevant to Closing the Gap,[2] and to reducing health inequalities at the population level.[3]

Most young people who are detained spend a very short period of time in custody, such that unlike prisons, youth detention settings rarely provide the stability necessary to facilitate long-term support or treatment. However, contact with the youth justice system provides rare opportunities to identify and initiate treatment (or referral for treatment) for vulnerable young people who tend to under-utilise primary and preventive care in the community.[4] However, the available evidence suggests that current mechanisms for screening young people entering youth detention are inadequate. Comprehensive, valid screening of young people on reception into detention, for mental illness, substance use, cognitive disability, and psychosocial risk factors, should be routine.

A large proportion of young people in detention have significant mental health problems. A recent global systematic review found that 29% of girls and 11% of boys were diagnosed with major depression, and that adolescents in detention were about 10 times more likely than the general adolescent population to have been diagnosed with a psychotic disorder. Given that these vulnerable young people tend to under-utilise mental health services in the community, the prevalence of undiagnosed mental illness is likely considerable in this population.[5, 6] Justice-involved adolescents are also at markedly increased risk of self-harm, both in detention and in the community.[7-10]

Among justice-involved adolescents, mental health problems rarely occur in isolation. Complex, co-occurring health problems are normative and necessitate a coordinated, multi-disciplinary response.[11] However, the available evidence suggests that health service delivery in youth detention settings is often siloed, with mental health services poorly integrated with primary care, alcohol and other drug treatment, and other allied services.

On any given day, 83% of young people under youth justice supervision in Australia are supervised in the community rather than in detention.[1] Although the prevalence of poor mental health and substance misuse is slightly higher among those in detention than among those serving community-based orders, the preponderance of young people being supervised in the community means that the majority of the mental health and substance-related burden among justice-involved adolescents is among those being supervised in the community. However, the vast majority of research and policy attention has focused on those in detention.[11]

There is growing evidence that health outcomes after contact with the youth justice system are typically poor. Recent NHMRC-funded research by the Justice Health Group at MCRI and University of Melbourne has revealed that the rate of death among young people who have had contact with the youth justice system is more than 3 times higher than among age- and sex-matched members of the community. One in three deaths

in these young people is due to suicide, and one in seven is due to fatal drug overdose. Despite this, investment in programs to improve health outcomes for justice-involved young people is inadequate, and the very limited services and supports that are currently available are poorly documented, and have not been rigorously evaluated. There is an urgent need for further research on the long-term health trajectories of young people who have had contact with the youth justice system, and an equally pressing need for increased investment in evidence-based, therapeutically-oriented transitional and post-release care for young people who cycle through youth detention settings.

In Australia, section 19(2) of the *Health Insurance Act 1973 (Cwlth)* serves to exclude young people in detention from Medicare or PBS subsidies.[12-14] Two important consequences of this discriminatory policy are that (a) funding for mental health services in detention is woefully inadequate, and (b) in most settings there is no funding mechanism to support in-reach from community-based health services, importantly including Aboriginal Medical Services, to help facilitate transitional and post-release healthcare. Recognising this, in 2017 the Royal Commission into the Protection and Detention of Children in the Northern Territory recommended that the Commonwealth Health Minister:

> *15.4(a): make the necessary directions under section 19(2) of the Health Insurance Act 1973 (Cth) to enable the payment of Medicare benefits for medical services provided to children and young people in detention in the Northern Territory; and*
> *15.4(b): take all necessary steps to ensure that supply of pharmaceuticals to children and young people in detention in the Northern Territory is provided under the Pharmaceutical Benefits Scheme.*

Subsequently, the Australian Child Rights Taskforce recommended, in its 2018 report to the UN Committee on the Rights of the Child, that the Australian government:

> *65. grant an exemption under section 19(2) of the Health Insurance Act 1973 (Cth), to permit health care providers in custodial settings to claim Medicare and Pharmaceutical Benefits Scheme subsidies for the provision of health care services not currently funded by prison health services.*

Despite continued advocacy from multiple sectors, and demonstrable inequity associated with this exclusion, these recommendations have not yet been acted upon.

A critical barrier to evidence-informed responses to the mental health needs of justice-involved youth is a lack of evidence. There has been scant research on the health of justice-involved adolescents in Victoria or elsewhere in Australia, and almost none on health outcomes after contact with the youth justice system. Growing national capacity for data linkage will provide new opportunities to rigorously examine health-related trajectories for these vulnerable young people,[15] provided that the relevant data custodians (e.g., the Victorian Department of Justice and Community Safety) are willing to share their data for research purposes. Access to Victorian criminal justice for researchers in Victoria has been notoriously difficult.

Whereas Australia has reported nationally on prisoner health and prison health services since 2009,[16, 17] there is currently no mechanism for routinely reporting on the health status of justice-involved adolescents, or on health services in detention. A recent scoping exercise undertaken by the Australian Institute of Health and Welfare (AIHW) has determined that the most feasible way of routinely reporting on the health of justice-involved adolescents in Australia is through the use of linked administrative data.[18] The MCRI/University of Melbourne Justice Health Unit, in partnership with the AIHW, is currently undertaking proof-of-concept work to support development of this collection. Additional funding is required to take this work from proof of concept to a feasible, sustainable surveillance system.

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