



The Salvation Army Australia Territory

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Committee Secretary
Community Support and Services Committee
Parliament House
George Street
Brisbane QLD 400

Via email: CSSC@parliament.qld.gov.au

Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021

Dear Committee Secretary,

The Salvation Army welcomes the objective of the Queensland Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021 (Bill) to ensure children under 14 years of age are not incarcerated or otherwise punished under the criminal legal system, by raising the minimum age of criminal responsibility in Queensland from 10 to 14 years old and transferring any children under 14 years old out of custody. The Salvation Army also supports the implementation of an alternative model that delivers early intervention and prevention initiatives and appropriate therapeutic responses for children under 14.

The Salvation Army is one of the largest providers of social services and programs in Australia. We interact with people from all walks of life, including the most marginalised and excluded in society. This includes the provision of homelessness, family and domestic violence, youth, and family services, among others. Our vision is to confront hardship and injustice by living, loving, and fighting alongside others to transform Australia one life at a time, with the love of Jesus.

Consistent with the United Nations Child Rights Committee's call to raise the minimum age of criminal responsibility to at least 14 years of age, The Salvation Army strongly believes that this Bill would have a significant effect in reducing the rate of incarceration of young people in Queensland. It would achieve substantial positive social outcomes, particularly considering that the immense majority of children interacting with the criminal justice system are amongst the most vulnerable in our communities.

Raising the age of criminal responsibility to 14 years would also work directly towards addressing the overrepresentation of Aboriginal or Torres Strait Islander children and young people in the criminal justice system and lead to a reduction in crime if accompanied by culturally and age-appropriate prevention, early intervention, and diversion initiatives.

According to the Australian Institute of Health and Welfare, there were 798 people in youth detention on an average night during the June quarter 2020 in Australia (80% of these were aged

Founders **William & Catherine Booth**
General **Brian Peddle**

*Wherever there is hardship or injustice, Salvos will live, love and fight
alongside others to transform Australia one life at a time with the love of Jesus*

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10-17).¹ Almost 2 in 3 (64%) were unsentenced (that is, they were awaiting the outcome of their court matter or sentencing). Approximately, 48% of all young people in detention were Aboriginal or Torres Strait Islander (Indigenous Australians are only 6% of the Australian population aged 10-17). This means that young Indigenous Australians are 17 times as likely as young non-Indigenous Australians to be in detention.²

The Salvation Army notes the substantial medical and social research evidence from around the world, which supports raising the minimum age of criminal responsibility. Nationally, different sectors, including academics, advocates, non-government organisations, medical experts and others have called for this reform for many years. This is because children aged 10 to 14 are still developing their cognitive skills. At this life-stage, they are often not able to distinguish and reflect upon the nature and significance of criminal conduct, their decision-making capacity and impulse control is far from fully developed, and they do not comprehend the lifelong consequences of criminal actions.³

Our experience working with children and young people reaffirms that children who interact with the justice system also present a wide range of complex issues, including health and mental health issues, cognitive disabilities, trauma, and poverty. Evidence shows that it is often the most vulnerable and disadvantaged children who are the ones more likely to interact with the justice system. These are children who are also often survivors of abuse, neglect, and domestic violence. Some have also experienced the child protection system and homelessness.⁴ Unfortunately, these circumstances are exacerbated when interacting with the justice system at such an early age and can result in profound long-term effects on an individual's life.⁵

The Salvation Army shares the view that raising the minimum age of criminal responsibility provides an opportunity to avoid criminalising young children with complex needs and entrenching them in the justice system, while also reducing long-term offending and increasing community safety. Evidence shows that the earlier that children have contact with the criminal justice system, the more likely it is that they will be involved in crime in the long-term⁶. These children are also prevented from engaging in education, which has consequential impacts on their future employment prospects.⁷ Instead of criminalising young people, this Bill also represents a significant opportunity to consider the most effective responses to bring hope and

¹ New South Wales had the largest number of young people in detention between June 2016 and June 2020 (221-300 young people in each quarter), followed by Queensland (146-265), Victoria (167-200), and Western Australia (98-163).

² Australian Institute of Health and Welfare (2021), *Youth detention population in Australia 2020*. <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2020/contents/summary>

³ Cunneen, C (2017) *Arguments for raising the minimum age of criminal responsibility*. <www.cypp.unsw.edu.au/node/146>; Kelly Richards (2011), *What makes juvenile offenders different from adult offenders?* Laurence Steinberg (2007), *Risk taking in adolescence: new perspectives from brain and behavioural science*

⁴ Lucinda Jordan and James Farrell (2013), *Juvenile Justice Diversion in Victoria: A Blank Canvas?*

⁵ Cunneen, C (2017) *Arguments for raising the minimum age of criminal responsibility*. <www.cypp.unsw.edu.au/node/146>; Dowse, L., Cumming, T. M., Stimadová, I., Lee, J.-S., & Trofimovs, J. (2014), *Young people with complex needs in the criminal justice system*

⁶ Australian Institute of Health and Welfare. (2019), *Young people returning to sentenced youth justice supervision 2017-18*; Chris Cunneen (2017), *Arguments for raising the minimum age of criminal responsibility*; Sentencing Advisory Council (2016), *Reoffending by Children and Young People in Victoria*

⁷ Australian Institute of Health and Welfare. (2019), *Young people returning to sentenced youth justice supervision 2017-18*; Chris Cunneen (2017), *Arguments for raising the minimum age of criminal responsibility*; Sentencing Advisory Council (2016), *Reoffending by Children and Young People in Victoria*



support to vulnerable children from disadvantaged backgrounds. Well-timed and high-value preventative interventions are clearly preferable in comparison to addressing problems once they occur with more intensive and expensive actions.

The Salvation Army also believes that detention or imprisonment of children should only be a measure of last resort. It has been demonstrated that criminal justice interventions are far more expensive than other types of interventions. Public investment should favour efforts grounded in evidence and credible information that inform early intervention and prevention programs focusing on social skills and peer influences. To be effective, these initiatives should respond to the individual risk and protective factors for young people, using holistic health and wellbeing interventions.

Children in our country have the right to a childhood where they can thrive, be supported and empowered. We acknowledge that children's needs can vary depending on different factors (cultural, geographic and socioeconomic) and that there is no 'one-size-fits-all' solution, but we recognise that essential support for all children must include safe and secure accommodation, health services, family support, disability support services, counselling and access to culturally appropriate community controlled organisations. Furthermore, carefully planned, and targeted early intervention and prevention programs would reduce personal and community harms, thus generating substantial social and economic benefits. Effective diversionary programs would also free up resources currently used for law enforcement and incarceration in general.



Marks's story

Mark's prior experiences at mainstream primary and high school were disadvantageous. He required tutoring from grade 2 through grade 7. He felt a lack of belonging and safety at school and subsequently demonstrated behaviours that were challenging to manage. He felt dismissed when he tried to articulate his needs and a sense of shame when his behaviours were publicly addressed in front of the class and broader school. In addition, he received ridicule from his peers.

Mark disengaged from any learning and believed he was a below average student. When his mum expressed concerns about learning difficulties and the potential need to test for barriers, she was assured that her son's issues stemmed from his refusal to learn. Early in year 8, Mark disengaged entirely from school as his mental health became an overwhelming issue.

At 13 years of age, Mark developed a friendship circle of older adolescents. For the first time he felt a sense of belonging. One night, Mark and his friends stole a car. Subsequently, Mark was charged and remanded in custody for several weeks before being granted bail and eventually placed on a community supervision order. This experience was traumatic for Mark and, over the next year, he disengaged from his family and began using substances to cope with his increasing mental health symptoms.

Following a self-harming incident, Mark and his mother approached TSA's Youth Service in Brisbane for support. Mark's mother had serious concerns for Mark's well-being and future, explaining she had observed a significant deterioration in her son's mental health since he was placed in custody. Mark was introduced to a Case Manager and provided access to safe spaces. Mark's Case Manager stated that Mark was heavily influenced by older friends and she believed Mark's behaviours were a means of maintaining these friendships. Mark had expressed to her his desire to become a mechanic, however, he believed that he was not smart enough to complete the required studies.

Mark engaged in case management and began addressing his substance misuse, mental health and family conflict issues. Mark attended an interview to participate in the Independent Education program and was offered a placement. An individual learning plan and safety plan was developed that included learning and assessment adjustments. Mark continued to attend school and thrived. He expressed his love for learning and achieving academic success. Mark's Case Manager believes that, had he been provided therapeutic support at an earlier age and around the time he was arrested, his contact with the criminal justice system and its subsequent impacts could have been completely avoided, resulting in better outcomes for Mark, his family and the broader community.

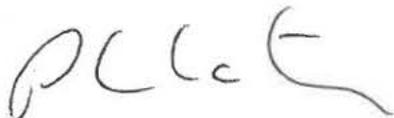
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The Salvation Army would again like to thank the Committee for the opportunity to make a submission to discuss this issue and remains committed to working alongside stakeholders towards improving the lives of children and preventing the significant negative effects associated with children's early exposure to the criminal justice system in Queensland and across our nation.

Please contact me at on [REDACTED] or at [REDACTED] if you require additional information or would like to discuss this letter further.

Yours sincerely,



Paul Hateley, Major
Head of Government Relations
The Salvation Army Australia

29 November 2021

The Salvation Army acknowledges the Traditional Owners of the lands and waters throughout Australia.

We pay our respect to Elders and acknowledge their continuing relationship to this land and the ongoing living cultures of Aboriginal and Torres Strait Islander peoples across Australia.

We also acknowledge future aspirations of all First Nations peoples. Through respectful relationships we will work for the mutual flourishing of Aboriginal and Torres Strait Islander Australians and non-Indigenous Australians.

We commit ourselves in prayer and practice to this land of Australia and its people, seeking reconciliation, unity and equity.

