



# An evaluation of the Youth Koori Court Process

A final report prepared by Inside Policy for  
the NSW Department of Communities and  
Justice

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## Definitions

Aboriginal:	Where used it refers to Aboriginal and Torres Strait Islander peoples.
Acknowledgement of Country:	An opportunity for anyone to show respect for Traditional Owners and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country, often used at the beginning of a meeting, speech or event.
Action and Support Plan:	A court document that provides an overview of the young person's needs, actions to support them and responsible parties to complete the actions.
Children's Court:	The Children's Court of NSW is a specialist court that deals with criminal cases, child protection cases, apprehended violence order applications, traffic cases, compulsory schooling order applications and breaches of parole involving children and young people under the age of 18 years.
Community Panel Member:	Court appointed Aboriginal and/or Torres Strait Islander Elder (or respected person) who attends each Youth Koori Court (YKC) sitting to provide cultural advice to the court and support young people.
Elder:	An Aboriginal and/or Torres Strait Islander person who has gained recognition as a custodian of knowledge, lore and who has community permission to disclose knowledge and beliefs. Can also mean an Aboriginal and/or Torres Strait Islander person above a certain age.
Gross Value Add:	The economic measure of the value made by an individual producer, industry, sector or region.
Koori:	A demonym for Aboriginal people from the approximate region now known as southern New South Wales and Victoria.
Identified position:	Roles within the YKC process that are filled by Aboriginal or Torres Strait Islander people.
Sentencing Court:	The YKC process that applies to the sentencing of the young person for their offence(s). Young people must have pleaded guilty to the offence(s), or have their offences proven, prior to involvement with the YKC.
Welcome to Country:	A formal address delivered by Traditional Owners, or Aboriginal and Torres Strait Islander people who have being given permission from Traditional Owners, to welcome visitors to their Country often occurring at the beginning of a formal event.
Young person(s), young people and participants:	This report uses young person(s), young people and participants to refer to past and present participants of the YKC.
Youth Justice:	The system in New South Wales that supervises young offenders in the community and in Youth Justice Centres.

## Acronyms

ALS	Aboriginal Legal Service
AOD	Alcohol and Other Drugs
ASP	Action and Support Plan
BOCSAR	NSW Bureau of Crime Statistics and Research
CBA	Cost-Benefit Analysis
CCLS	Children's Civil Law Service – Legal Aid NSW
CPM	Community Panel Member
DCJ	NSW Department of Communities and Justice
DiD	Difference-in-Differences
GVA	Gross Value Add
JCO	Juvenile Control Order
NDIS	National Disability Insurance Scheme
NPV	Net Present Value
NSW	New South Wales
OOHC	Out-of-Home Care
RCIADIC	Royal Commission into Aboriginal Deaths in Custody
TAFE	Technical and Further Education
YKC	Youth Koori Court

## Acknowledgements

Inside Policy acknowledges the contributions made by evaluation participants, particularly YKC participants, their families and all staff, support services and other important stakeholders involved in the YKC. Thank you to each person who took time out of their busy lives to take part in the evaluation process, and for sharing their experience and expertise. Without them, work such as this cannot happen. We are grateful for their rich and diverse contributions.

Inside Policy also acknowledges the contribution of the staff of the Department of Communities and Justice. Without their assistance and guidance, this evaluation could not have taken place.

## Acknowledgement of Country

Inside Policy acknowledges the First Nations on which we live and work, as well as the First Nations on which activities for this evaluation were held. We pay our respects to the Elders, past and present. We also pay our respects to emerging leaders of these Nations, some of whom took part in this project. We thank them for their ongoing custodianship of land, waters, air and all aspects of Country and remind ourselves that it always was and always will be Aboriginal and Torres Strait Islander land.

## Referencing the voices of participants

This report uses the language as expressed by Aboriginal and Torres Strait Islander participants and is included here to ensure that the authenticity of their voices is captured in these pages.

## Key Findings

This evaluation reveals overwhelming support for the YKC from its staff and stakeholders, as well as participants and their family members. This strong support is based on the perception and experience that the YKC achieves better outcomes for Aboriginal young people and for the criminal justice system, compared to the standard Children's Court process. This perception and experience of benefit is supported by the review of court files, appearance recordings, court observations, the cost-benefit analysis undertaken and BOCSAR's statistical analysis of the impact of the YKC on youth justice outcomes. The specific key findings are outlined below.

### What is the YKC achieving?

- ▷ The YKC is achieving its short-term outcomes of identifying participant needs and risk factors for offending relating to housing (home), health, employment, education and skills, safety, and social/cultural outcomes.
- ▷ The YKC is also successful in empowering participants and the Aboriginal community through the process.
- ▷ For participants, the YKC is contributing to the achievement of intermediate outcomes in the areas of:
  - Empowerment through a high-level of engagement in the process and resulting in increasing trust in the system.
  - Social and cultural through reconnection to and engagement with cultural supports.
  - Safety through the reduced likelihood of reoffending and participants being 40 percent less likely to be sentenced to a Juvenile Control Order (JCO)<sup>1</sup>.
- ▷ Due to a lack of data and information, the evaluation could not determine if intermediate outcomes at the participant and population levels were being achieved in the areas of housing (home), education and skills, employment and health.
- ▷ The YKC is operating as it was intended and is being implemented in accordance with its documented procedures.
- ▷ Prior to COVID-19, referrals, acceptances and graduations had increased year-on-year, with the current graduation rate being 60 percent. A closer examination of withdrawals and discharges may be required to improve the graduation rate.
- ▷ Stakeholders of the YKC act in accordance with their roles and responsibilities.
- ▷ Participants have a clear supported journey through the process which involves regular engagement with their legal practitioner, caseworker and support services.
- ▷ The YKC as it currently operates returns \$2 for every \$1 invested.
- ▷ Expanding the YKC to one additional site would result in a benefit-cost ratio of 2:1, an estimated direct economic impact to the NSW economy of \$2.1 million and an estimated indirect economic impact of \$1.6 million.<sup>2</sup>

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<sup>1</sup> Juvenile Control Orders are a custodial sentence for offenders, comprising of a period of (up to two years of) custody in a youth detention centre.

<sup>2</sup> This is measured through the Gross Value Add (GVA). GVA is a measure of the net impact of the economy. It is defined as the increase in GVA directly attributable to investment in YKC. This calculation includes the measurement of the value that the YKC adds to the economy through its operations, this being the additional value to labour (through wages) and flow-on impacts to the economy.

## What factors and conditions enable the YKC's achievements?

- ▷ Operating as a sentencing court is an important precondition for success.
- ▷ Other successful factors, practices and conditions which contribute to the YKC achieving its objectives and outcomes include:
  1. CPMs and Aboriginal staff
  2. focus on culture
  3. participant-centricity
  4. team-work and relationships
  5. commitment to the YKC process and its objectives
  6. pre-conferencing
  7. physical layout of the court.

## What can be improved?

Attention should be paid to improving the following aspects of the YKC:

- ▷ Reporting by external support services to the court.
- ▷ Increasing the range of Aboriginal support services.
- ▷ Strengthening the focus on providing a diverse range of cultural support options and increasing Aboriginal staff representation.
- ▷ Supporting young people post-graduation.
- ▷ Improving record keeping.
- ▷ Improving information sharing.
- ▷ Focusing on the retention of staff to ensure a continuity of understanding of the YKC's intent, processes and practices as well as support for the participants.
- ▷ Formalising governance and oversight of the YKC process (as opposed to each participants' journey).
- ▷ Increasing operating costs to fund currently unfunded critical services.



## Executive Summary

The NSW Department of Communities and Justice (DCJ) engaged Inside Policy to design and implement the evaluation of the Youth Koori Court (YKC) process. This report captures the final evaluation findings and their implications for the continuation and expansion of the YKC.

### The YKC Process

Commencing in 2015 as an unfunded pilot program of the Parramatta Children's Court in Parramatta, then expanded to Surry Hills Children's Court in 2019 following the provision of \$2.7m in funding<sup>3</sup>, the YKC aims to contribute to a reduction in the overrepresentation of Aboriginal young people in the criminal justice system.

### The YKC evaluation

This evaluation:

- assesses whether the YKC is achieving its stated aims and objectives
- assesses the extent to which the intended outcomes from the YKC informs the continuous improvement of the YKC
- assesses whether factors relevant to the effectiveness of the YKC are specific to the local area and what implications this may have for the expansion of the YKC to other regions
- informs the ongoing collection and analysis of data on the YKC
- provides a cost-benefit analysis of the YKC.

The evaluation answers the following questions:

1. How is the YKC operating?
2. To what extent is the YKC achieving or not achieving its intended objectives and outcomes?
3. What features, conditions, and practices of the YKC are contributing/not contributing to the YKC achieving its objectives and outcomes?
4. What are the opportunities for improvement and key considerations for the future of the YKC?
5. What are the costs and benefits of the YKC?
6. What are the costs of continuation and expansion of the YKC?

The mixed qualitative and quantitative evaluation method involved 11 interviews with YKC participants and family members, 26 interviews with YKC staff and other stakeholders, nine court observations, the review of 30 YKC participant court files, the review of 62 appearance recordings, the review of 19 documents relevant to the YKC, an analysis of YKC participation data from 2015 - 10 June 2021, a review of nine Children's Civil Law Service (CCLS) Legal Aid NSW provided case studies, a cost-benefit analysis, and a review of BOCSAR's statistical analysis of the impact of the YKC on youth justice outcomes.

### Evaluation findings

The evaluation has found overwhelming support for the YKC from its staff and stakeholders as well as YKC participants and their family members. This strong support is based in the perception and experience that the YKC achieves better outcomes for Aboriginal young people going through the criminal justice system. This perception and experience of benefit is supported by the review of court files, appearance recordings, court observations, the

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<sup>3</sup> Funding announced in NSW Government, 2018, *NSW Budget: Youth Koori Court Expands to Surry Hills*. YKC Surry Hills opened on 6 February 2009 as specified in Children's Court NSW, 2019, Youth Koori Court.

cost-benefit analysis and BOCSAR's statistical analysis on the impact of the YKC on youth justice outcomes.

The specific findings against each of the evaluation questions are outlined below.

### How is the YKC operating?

Overall, the YKC is operating in accordance with its documented procedures and intent, and there is overwhelming support for the process.

The YKC is a sentencing court<sup>4</sup> that follows a six-stage process characterised by a high level of collaboration between YKC staff members, a high focus on the individual participant's needs and risk factors for offending where the participant is an active player, and a non-adversarial focus.

The court assesses the participant's eligibility and suitability, identifies and seeks to motivate the young person to address risk factors that contribute to their offending, and develops an Action and Support Plan (ASP) to address these risk factors.<sup>5</sup> The young person works towards achieving the ASP and the court monitors the process intermittently.<sup>6</sup> There are diverse views between stakeholders on whether approved ASPs are shared with participants and stakeholders as common practice.

At the end of the process, the magistrate sentences the young person after considering a range of factors, including progress and adherence to the ASP.<sup>7</sup> Following this, the participant successfully graduates from the YKC. A participant can exit the process prior to graduation by way of withdrawal (i.e. the participant voluntarily discontinues their participation) or by being discharged by the magistrate. In both instances, the participant is referred back to the Children's Court for sentencing.

The YKC has a 60 percent graduation rate. Since the YKC's inception in 2015, there have been 195 young people referred, 190 young people admitted and 96 graduations.<sup>8</sup> Little information could be gleaned from court file reviews and review of recordings about the reasons for withdrawal and discharge of participants from the YKC.

The YKC has clearly defined and implemented roles and responsibilities, including a role for the participant. Setting the YKC apart from mainstream courts (or even other special-purpose courts) is the inclusion of a Community Panel Member (CPM) – a respected Aboriginal and / or Torres Islander person – whose experience, advice and cultural knowledge play a pivotal role in the success of the YKC process.<sup>9</sup>

Central to the oversight of each participant's journey through the process is the high level of collaboration and engagement between all stakeholders (e.g. CPMs, case workers, legal practitioners and court staff) and participants. However, little governance and oversight of the YKC process outside of YKC Working Group meetings and this evaluation exists.

Participants are clearly supported journey through the court process by their legal practitioner, caseworker and support services.

### To what extent is the YKC achieving or not achieving its intended objectives and outcomes?

The YKC is achieving its short-term outcomes for participants who graduate. That is, the YKC is successful in identifying participant needs and risk factors to reduce offending in the areas of empowerment, housing (home), health, employment, education and skills, safety and social/cultural outcomes.

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<sup>4</sup> All young people referred to the YKC have indicated that they will plead guilty to the offence, or the offence has been proven following a hearing. Sentencing is then deferred for a period of no longer than 12 months from the date of the guilty finding.

<sup>5</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court.

<sup>6</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court.

<sup>7</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court.

<sup>8</sup> Children's Court of New South Wales, YKC administrative data.

<sup>9</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court.

The process of developing the ASP as well as the review of its implementation through review appearances before the court are critical processes for ensuring these needs and risks factors are assessed, appropriate supports are identified and implemented.

Participants and parts of the Aboriginal community are also being empowered by the process through the active engagement of participants and CPMs in the court.

Where the data on intermediate outcomes is available, the YKC is making the greatest contribution to the intermediate outcomes for its participants in the areas of:

- Empowerment (i.e. increasing trust in the system).
- Social and culture (i.e. reconnection to and engagement with cultural support).
- Safety (i.e. reduced probability of being sentenced to a JCO and reduced probability of reoffending).

While from court recordings and file reviews there is evidence that some participants are achieving goals in the areas of education, employment, housing and health, the lack of data on intermediate outcomes for all participants whose files were reviewed (n = 30) and the entire YKC population (N = 190) means it is difficult to assess if these intermediate outcomes are being achieved at the program and / or population levels. For example, while a participant has stable accommodation identified as a need to be addressed in their ASP, for most participants there is no data on file to confirm if they now have stable accommodation. Nor does the YKC administrative data does not capture this type of information.

### What features, conditions, and practices of the YKC are contributing to the YKC achieving its objectives and outcomes?

As observed in court observations, the file and recording reviews, and interviews with participants and stakeholders, the YKC's success is enabled by the pre-condition of being a sentencing court. Through these methods, seven critical conditions, features and practices were also identified to be contributing to the YKC achieving its objectives and outcomes:

1. CPMs and Aboriginal staff – the active engagement in the YKC of respected Aboriginal community members and Aboriginal case workers is critically important to participants.
2. Focus on culture – all participants interviewed described the importance of engaging and reconnecting with their culture as part of the YKC process.
3. Participant-centricity – the magistrate placing the participant at the centre throughout each step of the process increases their engagement, commitment and confidence.
4. Team work and relationships – participants are well supported through the process due to the YKC stakeholders working collaboratively.
5. Commitment to the YKC process and its objectives – all YKC stakeholders and participants adhere to YKC model as outlined in Practice Note No. 11.
6. Pre-conferencing – the informal and formal processes YKC stakeholders use to share information and coordinate the support for participants are critical.
7. The physical layout of the court – the informality, circular nature of the court layout being the opposite to the Children's Court is welcomed by participants.

### What are the opportunities for improvement and key considerations for the future of the YKC?

The YKC does not require significant change or reform. Rather, it requires some process enhancements to turn good practices into great systems. As the YKC is achieving its stated aims and objectives overall, identified opportunities for improvement include:

- strengthening the focus on culture and increasing the number of Aboriginal staff in the YKC and its stakeholder organisations

- improving record keeping and timeliness of information sharing, especially of the ASP to participants and key stakeholders
- providing post-graduation support to participants
- ensuring YKC staff, especially Aboriginal staff, are retained
- formalising governance arrangements at the YKC-level.

### What are the costs and benefits of the YKC Process?

The cost of operating the YKC, compared to the number of young people expected to benefit from participating in the process and accessing support services, indicates a benefit-cost ratio of 2:1.

Most importantly, the YKC can facilitate a range of positive outcomes for young people who participate in the process that can lead to further savings to government by preventing additional engagement with the criminal justice system or reliance on other government services.

### What are the costs of continuation and expansion of the YKC Process?

The benefit-cost ratio of 2.0 is maintained if the YKC is expanded to a new site that receives the same number of referrals as seen in Surry Hills and Parramatta. The ratio is reduced to 1.84 if it is expanded into another site that receives half the referrals seen in Surry Hills and Parramatta to date.

The ratio is reduced to 1.0 if the YKC's operating costs are increased by \$18.9m over an eight year period with no increase in referrals, acceptances and graduations.

Expanding the YKC to a new site delivers direct and indirect economic impacts to the NSW economy. The direct Gross Value Add (GVA)<sup>10</sup> of delivering a new YKC site is estimated at \$2.1 million, and the indirect GVA is estimated at \$1.6 million.

## Recommendations

The evaluation findings lead to the following recommendations which aim to build on the success of the YKC and position it strongly for any future expansion:

- **Recommendation 1:** Recognising the importance of the YKC in reducing Aboriginal young peoples' engagement with the criminal justice system, it is recommended that the YKC is expanded to at least one other location.
- **Recommendation 2:** To turn good conditions and practices into great systems to enable the successful continuation and expansion of the YKC, it is recommended that the YKC's critical conditions and practices<sup>11</sup> identified through the evaluation, are codified through an updated program manual and the provision of training.
- **Recommendation 3:** To improve aspects of the YKC's administration and funding to ensure program fidelity and its continued success, it is recommended that the following improvements are made:
  - improve record keeping on participants' progress on the court file
  - ensure participants and relevant stakeholders are provided with their ASP on all occasions

<sup>10</sup> GVA is a measure of the net impact of the economy. It is defined as the increase in GVA directly attributable to investment in the YKC. This calculation includes the measurement of the value that the YKC adds to the economy through its operations, this being the additional value to labour (through wages) and flow-on impacts to the economy.

<sup>11</sup> The seven critical conditions and practices are (1) CPMs and Aboriginal staff; (2) focus on culture; (3) participant-centricity; (4) team work and relationships; (5) commitment to the YKC process and its objectives; (6) pre-conferencing; and (7) physical layout of the court.

- focus on maintaining and growing Aboriginal representation amongst YKC stakeholders and support services
  - fund costs that are incurred but are currently unfunded (e.g. ALS paralegal support as well as judicial and court resources)
  - provide specialist ongoing training on the YKC model and its features of success to police prosecutors in all YKC locations
  - introduce a formal governance mechanism to oversee the YKC process and to monitor rates of graduation, withdrawal and discharge.
- **Recommendation 4:** To enhance the empowerment of YKC participants, it is recommended that the following supports are provided to participants:
    - more cultural support options that are fit-for-purpose and language-group specific
    - ensure participants are provided with their ASP on all occasions
    - increase reporting to the court by external support providers who are supporting participants throughout a participant’s time with the YKC
    - develop with participants a plan which identifies supports to help them manage their transition out of the YKC post-graduation.

## Introduction

In 2019 the NSW Department of Communities and Justice (DCJ) engaged Inside Policy to design and implement a mixed-method process, outcome and economic evaluation of the Youth Koori Court (YKC).

This report details the evaluation findings and its implications as well as the recommendations for the YKC.

## Structure of this report

The remainder of this report is structured accordingly:

Background:	Overviews the YKC process, its context and program logic.
Methodology:	Overviews the evaluation methodology including its purpose, design, questions, data collection methods and limitations.
Detailed findings:	Details the evaluation findings against each of the six evaluation questions: <ol style="list-style-type: none"><li>1. How is the YKC operating?</li><li>2. To what extent is the YKC achieving or not achieving its intended objectives and outcomes?</li><li>3. What features, conditions, and practices of the YKC are contributing / not contributing to the YKC achieving its objectives and outcomes?</li><li>4. What are the opportunities for improvement and key considerations for the future of the YKC?</li><li>5. What are the costs and benefits of the YKC Process?</li><li>6. What are the costs of continuation and expansion of the YKC Process?</li></ol>
Implications & Recommendations:	Details the implications and recommendations for the YKC resulting from the evaluation findings.
Appendices:	<ol style="list-style-type: none"><li>A. YKC Program Logic.</li><li>B. Court observations by location and appearance type.</li><li>C. Interview guides.</li><li>D. List of documents reviewed.</li><li>E. Profile of court files and appearance recordings reviewed.</li><li>F. Summary of the YKC administrative data.</li><li>G. Detailed benefits versus costs tables for the base case and each scenario contained in the cost-benefit analysis.</li></ol>

## Background

This section overviews the YKC, its rationale, findings from the YKC Paramatta Pilot Review 2017 and the YKC program logic.

### The YKC Process

The YKC commenced in 2015 as an unfunded pilot program of the Parramatta Children's Court. The YKC pilot expanded to the Surry Hills Children's Court in 2019 following the provision of NSW Government funding of \$2.7 million over three years.<sup>12</sup>

According to the Children's Court of New South Wales Practice Note No. 11 (Practice Note No. 11), the YKC aims to:

- increase Aboriginal and Torres Strait Islander community, including Aboriginal and Torres Strait Islander young people's, confidence in the criminal justice system
- reduce the risk factors related to the re-offending of Aboriginal and Torres Strait Islander young people
- reduce the rate of non-appearances by young Aboriginal and Torres Strait Islander offenders in the court process
- reduce the rate of breaches of bail by Aboriginal and Torres Strait Islander young people
- increase compliance with court orders by Aboriginal and Torres Strait Islander young people.<sup>13</sup>

The causes of over-representation of Aboriginal and Torres Strait Islander people in custody that the YKC aims to address include unstable accommodation, lack of engagement in education and employment, drug and alcohol misuse, and disconnection from culture.<sup>14</sup>

The YKC seeks to achieve its stated aims by involving the Aboriginal and Torres Strait Islander community in the court process, providing low volume case management mechanisms, identifying risk and protective factors, and monitoring therapeutic interventions to manage risk factors.<sup>15</sup>

To participate in the YKC, young people must apply for referral to the YKC, be aged between 10 and 17 years, identify as Aboriginal and/or Torres Strait Islander, and have entered a plea of guilty or be found guilty of a criminal offence.<sup>16</sup>

### The over-representation of Aboriginal young people in the criminal justice system

In 1991, the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) found that Aboriginal people are incarcerated at 29 times the rate of non-Aboriginal people.<sup>17</sup> Three decades later, the overrepresentation of Aboriginal and Torres Strait Islander people continues. In the June quarter of 2021, on an average night, Aboriginal and Torres Strait

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<sup>12</sup> Judicial Commission of New South Wales, 2019, Children's Court of NSW Resource Handbook, Children's Court Update 2019 (criminal jurisdiction), [https://www.judcom.nsw.gov.au/publications/benchbks/children/CM\\_Johnstone\\_Updates\\_2019.html](https://www.judcom.nsw.gov.au/publications/benchbks/children/CM_Johnstone_Updates_2019.html), accessed 23 February 2022.

<sup>13</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>14</sup> Children's Court NSW, Youth Koori Court, <https://www.childrenscourt.nsw.gov.au/childrens-court/criminal/koori-court.html>, accessed 7 April 2022.

<sup>15</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>16</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>17</sup> Royal Commission into Aboriginal Deaths in Custody, 1991, National Report, Volume 1, <http://www.austlii.edu.au/au/other/IndigLRes/rciadic/national/vol1/12.html>, date accessed 23 February 2022.

Islander young people represented 50 percent (or 410) of all young people in custody nationally despite being only six percent of the total population aged 10-17 years old.<sup>18</sup>

The high rate of Aboriginal youth incarceration is inextricably linked to broader social, cultural, and historical factors in Australia, with placement in Out-of-Home-Care (OOHC) being one of these. The connection between OOHC and youth justice for Aboriginal young people was examined by the 2019 independent review of Aboriginal Children in OOHC in NSW undertaken by Professor Megan Davis.<sup>19</sup> For example, a 2020 audit of court files of 92 young people in the NSW Children's Court found that 23.9 percent had been in OOHC and Aboriginal young people were more likely to be in OOHC than their non-Indigenous counterparts.<sup>20</sup> A separate study commissioned by DCJ in 2020 concluded that Aboriginal children in OOHC were at higher risk of offending.<sup>21</sup>

A widely accepted view of the cause of over-representation of Aboriginal people in the criminal justice system is social, economic, and cultural disadvantage, engendered by Australia's colonial history of dispossession and subjugation.<sup>22</sup> The effects of these deep social inequities results in disparities in justice system outcomes for Aboriginal young people, including:

- higher risk of adult imprisonment
- higher rate of prosecution instead of diversion or community-based intervention
- risk of community and cultural disconnection
- poor physical and mental health and increased risk of mortality
- higher risk of poor educational outcomes
- higher levels of unemployment<sup>23</sup>
- the overlap of involvement in the care and protection system as a child and involvement in the criminal justice system as a young person<sup>24</sup>
- greater likelihood to be involved in the care and protection system as an adult.<sup>25</sup>

Interactions with the criminal justice system are not only detrimental to a young person's physical and mental wellbeing, but the collective wellbeing of Aboriginal and Torres Strait Islander families and communities.<sup>26</sup> The age in which Aboriginal and Torres Strait Islander men have contact with the justice system is also significantly younger than that of their non-Aboriginal counterparts at ten compared to seventeen years.<sup>27</sup>

The YKC was established in response to this significant over-representation of Aboriginal young people in the NSW criminal justice system.<sup>28</sup>

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<sup>18</sup> Australian Institute of Health and Welfare, 2021, *Youth detention population in Australia 2021* <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2021/contents/summary>, page 3, date accessed 23 February 2022.

<sup>19</sup> Davis, M. (2019) *Family is Culture – Final Report. Independent Review into Aboriginal Out-of-Home Care in NSW.*

<sup>20</sup> Colvin, E., Gerard, A., and McGrath, A. (2020) *Children in out-of-home care and the criminal justice system: A mixed method study.* Report to the Criminology Research Advisory Council. Canberra: Australian Institute of Criminology.

<sup>21</sup> Zhou, A. (2020). *Pathways of Care Longitudinal Study: Outcomes of Children and Young People in Out-of-Home Care in NSW Offending Among Young People in Contact with the Out-of-Home Care System.* Research Report No. 18, page 28.

<sup>22</sup> Indigenous Law Resources, *Royal Commission into Aboriginal Deaths in Custody*, 1991, Vol 1., p. 15, accessed 23 February 2022; Australian Law Reform Commission, *Incarceration Rates of Aboriginal and Torres Strait Islander Peoples*, 2017, date accessed 23 February, 2022.

<sup>23</sup> Australian Law Reform Commission, *Incarceration Rates of Aboriginal and Torres Strait Islander Peoples*, 2017, date accessed 23 February 2022.

<sup>24</sup> Australian Institute of Family Studies, *The intersection between the child protection and the youth justice systems*, 2018, date accessed 7 April 2022.

<sup>25</sup> Human Rights and Equal Opportunity Commission (HREOC), 1997, *Bringing them home: report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families.*

<sup>26</sup> O'Brien, Grace, 'Racial profiling, surveillance and over-policing: The over-incarceration of young First Nations males in Australia', *Social Sciences*, 2021, no 2., vol. 68, 1-10.

<sup>27</sup> *Ibid.*

<sup>28</sup> <https://www.childrenscourt.nsw.gov.au/childrens-court/criminal/koori-court.html>, date accessed 23 February 2022.



## YKC Paramatta Pilot Review 2017

In 2017, the Children's Court of NSW engaged the Western Sydney University Aboriginal and Torres Strait Islander Employment and Engagement Advisory Board to review the YKC Parramatta Pilot Project.<sup>29</sup> Regarding the pilot program's processes, the review concluded:

1. Strong professional and personal relationships are key to many aspects of the YKC pilot's development and function.
2. There is a need for continuous building and refining of the relationships between YKC staff and key services to assist young people to connect with them, and with each young person's specific needs in mind.
3. A dedicated case coordinator is needed to manage this complex network of agencies and services and to increase the likelihood of ASPs being operational within a reasonable period.<sup>30</sup>

The Review also found that the YKC had proven effective in addressing the underlying social factors contributing to young Aboriginal people entering the justice system, such as a lack of access to secure housing, education, substance abuse issues, and unemployment.<sup>31</sup> The Review was used to inform the design of this evaluation of the YKC Process.

## YKC Program Logic

The YKC Program Logic (found at **Appendix A**) draws on evidence that distrust of and disconnection with the criminal justice system impacts Aboriginal and Torres Strait Islander over-representation. Evaluations of comparative programs indicate that Aboriginal and Torres Strait Islander specific sentencing courts may have an effect in reducing the risk factors related to the re-offending of Aboriginal and Torres Strait Islander young people and increase Aboriginal and Torres Strait Islander community and young people's confidence in the justice system.<sup>32</sup>

The immediate and short-term outputs of the YKC are:

- number of YKC participants
- ASPs
- referral to services
- uptake and engagement with services
- partial completion of / engagement with the YKC process
- sentencing and graduation.

The short, medium, and long-term outcomes of the YKC program exist across the following domains:

- empowerment
- social and community
- health
- safety
- economic
- home
- education and skills.

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<sup>29</sup> Williams, Melissa, Tait, David, Crabtree, Louise, and Meher, Mythily, *Youth Koori Court: Review of Parramatta Pilot Project*, Western Sydney University Aboriginal and Torres Strait Islander Employment and Engagement Advisory Board, 2017, accessed 23 February 2022.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Morgan, A. & Louis, E, 2010, *Evaluation of the Queensland Murri Court: Final Report*, 2010, date accessed 14 April 2022.

Each of these outputs and outcomes are based on the domains of the NSW Human Services Outcomes Framework.<sup>33</sup> Short-term outcomes across the above domains primarily focus on identifying the needs of participants. The intermediate outcomes focus on addressing the needs of participants, and long-term outcomes focus on the change created within the criminal justice system.

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<sup>33</sup> Department of Communities and Justice, *NSW Human Services Outcomes Framework*, 2021, date accessed 23 February 2022.

## Methodology

This section provides an overview of the evaluation methodology including its purpose, design, questions, data collection methods and limitations.

### Evaluation purpose

This evaluation:

- assesses whether the YKC process is achieving its stated aims and objectives
- assesses the extent to which the intended outcomes from the YKC process correspond to and realise relevant outcomes from the NSW Government's Human Services Outcomes Framework
- informs the continuous improvement of the YKC process
- assesses whether factors relevant to the effectiveness of the YKC process are specific to the local area and what implications this may have for the expansion of the YKC process to other regions
- informs the ongoing collection and analysis of data on the YKC process
- analyses the cost and benefits of the YKC process.

### Evaluation design

The evaluation is a mixed-method qualitative and quantitative examination of the YKC process, outcomes achieved, and its economic impacts. The evaluation examines the outcomes related to current participants and the entire YKC cohort in the context of BOCSAR's statistical analysis. As the evaluation is not longitudinal in nature, it does not examine longer-term outcomes and impacts that may have been achieved post-graduation.

The process evaluation assesses how the YKC is operating and whether it is operating as intended. It also assesses the YKC's inputs, activities, and outputs.

The outcome evaluation assesses the short and intermediate-term outcomes achieved.

The economic evaluation assesses the costs and benefits of the YKC and the costs of continuing and expanding the YKC.

### Evaluation questions

The evaluation answers the following six Evaluation Questions:

#### Process

1. How is the YKC operating?

#### Outcome

2. To what extent is the YKC achieving or not achieving its intended objectives and outcomes?
3. What features, conditions, and practices of the YKC are contributing/not contributing to the YKC achieving its objectives and outcomes?
4. What are the opportunities for improvement and key considerations for the future of the YKC?

#### Economic

5. What are the costs and benefits of the YKC Process?
6. What are the costs of continuation and expansion of the YKC Process?

### Data collection methods

The evaluation used the following mix of qualitative and quantitative data collection methods:

- Court observations
- Semi-structured interviews with YKC stakeholders
- Review of a selection of YKC participant court files
- Review of YKC documentation
- Review of appearance recordings
- Review of case studies provided by the CCLS Legal Aid NSW
- Journey mapping and case study development
- Review of YKC Administrative Data
- Cost-benefit analysis
- Review of BOCSAR Criminal Justice Outcomes analysis.

Each of these methods is described below.

### Court observations

Nine court observations took place from March to December 2021. Four court observations were undertaken at Surry Hills Children’s Court and five at Parramatta Children’s Court.

The court observations enabled the following:

- Observation of relationships, interactions, conversations and approaches to resolving issues during YKC sittings.
- Meeting and gaining the trust of young people, families, court workers and other stakeholders to facilitate evaluation activities.
- Engaging stakeholders such as Community Panel Members (CPMs) and family members for video or phone interviews.
- Identifying and securing access to data such as case records, court orders and other relevant documentation.

Observations took place with consent from CPMs, participants, the magistrate and court administration.

The data collected from the court observations has been used to answer all six Evaluation Questions.

Each court observation by date, court location, and appearance type observed is at **Appendix B**.

### Semi-structured interviews with YKC stakeholders

Semi-structured interviews with 37 YKC stakeholders were completed. Semi-structured interview guides based on key evaluation questions drew out views on, and experiences of, the YKC process, its impact, factors affecting its effectiveness, and opportunities for improvement.

The following interviews were undertaken:

- nine YKC participants
- two family members
- 26 YKC staff and other stakeholders including magistrate service providers, police prosecutors, legal services, CPMs, case workers, court staff and other organisations involved in the YKC process.<sup>34</sup>

The data collected from these was used to answer all six Evaluation Questions.

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<sup>34</sup> The term stakeholders is used throughout this report to connote the various stakeholders involved in a participants journey through the YKC. Stakeholders included staff employed directly in the YKC, external support providers, Judicial Officers, registry staff, legal practitioners.

The semi-structured interview guides are contained at **Appendix C**. To maintain confidentiality the details of the YKC staff, stakeholders, participants and family members who were interviewed are not provided.

### Review of a selection of YKC participant court files

The court files of 30 participants were reviewed: 19 (67 percent) from Paramatta and nine (33 percent) from Surry Hills with two files covering matters across both sites.

Documents contained on the court files reviewed included the following:

- Bench Sheets
- ASPs
- Initial Screens
- Youth Justice Background reports
- Other forms of supporting documentation such as handwritten letters from participants.

The status of the participants whose files were reviewed were as follows:

- Male participants: 67 percent.
- Female participants: 33 percent.
- Graduated: 14.
- Graduated with additional ongoing matter(s): 2.
- Withdrew/other: 8.
- Withdrew with second ongoing matter: 2.
- Ongoing matters (i.e. Not graduated or withdrawn): 4.

The data collected from the court file review was used to answer all six Evaluation Questions.

### Review of YKC documentation

The evaluation reviewed 19 documents related to the YKC and its operation. The purpose of this review was to ascertain the YKC's Theory of Change, operating model and practice guidance, roles, and responsibilities. Documents reviewed included the Children's Court of New South Wales Practice Note No. 11, court policies and procedures, handbooks and guides, fact sheets, reports, forms and templates.

The data collected through the document review was used to answer all six Evaluation Questions.

The specific documents reviewed can be found at **Appendix D**.

### Review of appearance recordings

The recordings of 62 appearances by YKC participants – 43 from Paramatta and 19 from Surry Hills – were reviewed. Recordings included previous and current participant suitability assessments, conferences, review of ASP compliance, and sentencing and graduation transcripts.

The data collected from the review of recordings was used to answer all six Evaluation Questions.

The profile of the court recordings by location, participant characteristics and appearance type is at **Appendix E**.

### Review of CCLS Legal Aid NSW provided case studies

The Children's Civil Law Service (CCLS) Legal Aid NSW provided nine case studies of YKC participants to whom they have provided civil legal assistance. These case studies capture the circumstances of the participant, the civil law assistance provided by the CCLS (including from the youth caseworker), and the outcomes achieved by the participant.

The data collected from these case studies were used to answer Evaluation Questions 1, 2, 5 and 6.

### Journey map and case studies

The case studies contained in this report comprise factual events from multiple data sources including court transcripts, court file reviews, interviews with participants, and interviews with stakeholders. To ensure anonymity of participants is maintained, case studies are compiled from facts gathered from a variety of participant experiences. Pseudonyms have been used, and gender may have been switched.

Case studies are contained throughout the findings section of this report to illustrate particular findings relevant to Evaluation Questions 2 and 3.

The journey map illustrates experiences of the YKC Process and identifies barriers, gaps, and factors affecting outcomes to illustrate findings relevant to Evaluation Question 1.

### Review of YKC Administrative Data

YKC administrative data for the period of 1 January 2015 to 10 June 2021 was provided by DCJ. This dataset contains the deidentified details of all referrals, acceptances, and withdrawals or graduations from the YKC.

YKC administrative data was used to answer Evaluation Questions 1, 2, 5 and 6.

### Cost-benefit analysis

The cost-benefit analysis (CBA) undertaken calculates and compares the benefits and costs of the YKC as it currently operates (the base case) with a range of alternative scenarios. The objective of the CBA was to weigh up risks and benefits versus costs to ensure the YKC delivers the best possible outcomes for the people of NSW. This CBA applied the methods supported by the NSW Government in its policy and guidelines paper entitled: *NSW Government Guide to Cost-Benefit Analysis*.<sup>35</sup>

Data inputs which inform the YKC CBA are:

- evidence from a literature review which examines the methods used to isolate and quantify the links between programs similar to the YKC, and socio-economic outcomes namely, health and housing
- YKC administrative data provided by DCJ for the period of 2015 to 10 June 2021
- YKC costs data provided by DCJ for the period of FY17/18 to FY19/20
- results from a sentiment analysis undertaken on the YKC participant interviews and CCLS Legal Aid NSW provided case studies.

The data collected for the cost-benefit analysis was used to answer Evaluation Questions 5 and 6.

### Review of BOCSAR Criminal Justice Outcomes analysis

In a research exercise separately commissioned by DCJ, BOCSAR analysed criminal justice data to determine the probability of imprisonment and probability of reoffending for YKC participants. To achieve this, BOCSAR examined youth justice outcomes for Aboriginal young people referred to the YKC ( $n = 151$ ) and compared them with outcomes for Aboriginal young people who had their matter finalised in a specialist NSW Children's Court through the usual court process ( $n = 2,883$ ).<sup>36</sup>

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<sup>35</sup> NSW Government, The Treasury, March 2017 TPP 17-03, Policy and Guideline Paper, NSW Government Guide to Cost-Benefit Analysis: [https://www.treasury.nsw.gov.au/sites/default/files/2017-03/TPP17-03%20NSW%20Government%20Guide%20to%20Cost-Benefit%20Analysis%20-%20pdf\\_0.pdf](https://www.treasury.nsw.gov.au/sites/default/files/2017-03/TPP17-03%20NSW%20Government%20Guide%20to%20Cost-Benefit%20Analysis%20-%20pdf_0.pdf)

<sup>36</sup> Ooi, E. J. & Rahman, S. (2022). *The impact of the NSW Youth Koori Court on sentencing and re-offending outcomes* (Crime and Justice Bulletin No. 248). Sydney: NSW Bureau of Crime Statistics and Research. Full report available at [www.bocsar.nsw.gov.au](http://www.bocsar.nsw.gov.au), page 7.

As stated in its report, BOCSAR used two estimation strategies to compare outcomes, a:

1. “regression model that included an extensive range of control variables, such as demographics, offence types and prior offending history”<sup>37</sup>
2. “Difference-in-Differences model that measured changes in youth justice outcomes at Parramatta Children’s Court after the establishment of the YKC in February 2015”.<sup>38</sup>

The findings contained in BOCSAR’s research report were used to answer Evaluation Questions 2, 5 and 6.

## Limitations

The findings of the evaluation should be interpreted in light of the limitations listed below.

### Impacts of COVID-19

Various public health orders issued throughout 2020 and 2021 in response to the COVID-19 pandemic resulted in:

- delays in obtaining ethics approval
- disruption to YKC operations i.e. Court proceeded by audio-visual link with a limited number of stakeholders in attendance
- ethics approval needing to be varied to allow virtual interviews with YKC participants and their family members.

The cumulative effect of the above resulted in the delay and truncation of court observations and YKC participant interviews to November / December 2021 when court resumed in-person, COVID-safe operations.<sup>39</sup> This enabled the research team to observe the court in-person rather than by audio-visual link and assisted in the recruitment of participants and their family members for interviews. However, this delay resulted in a shorter timeframe in which to undertake interviews and court observations, ultimately reducing the number of participants and family members that could be interviewed.

### Court file reviews: data gaps and challenges

Many files reviewed did not capture key information about changes in young people’s needs, new referrals, reasons for withdrawals, and outcomes achieved by the young person. Further, outcomes noted on file were not reported against the outcome domains in the YKC program logic or the ASP making it challenging to use the information held on court files assess the outcomes achieved by participants. Documents not being filed in chronological order also resulted in challenges to tracking a participant’s progress.

### Economic analysis: uncertainty and small sample size

The comparison of alternative scenarios contains forecasts of what is likely to happen in the future which relies on assumptions and therefore has inherent uncertainty. For example, in the absence of any actual data, the expansion scenario, is modelled from a set of evaluator defined assumptions on expansion costs, locations, and participant numbers.

Finally, the number of interviews undertaken with participants, upon which the CBA’s sentiment analysis relies, does not constitute a statistically significant sample size thus constraining the ability to generalise the findings across the entire YKC participant cohort.

### Statistical analysis: small population size, selection bias and some outcomes not considered

BOCSAR’s report notes three limitations related to its statistical analysis as follows:

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<sup>37</sup> Ibid, page 7.

<sup>38</sup> Ibid, page 7.

<sup>39</sup> Court observations and participant interviews were originally planned to occur over a longer period from June-November 2021.

1. The number of Aboriginal young people that have been referred to the YKC since its commencement in 2015 is very small. Small sample sizes are a common limitation of studies of youth justice programs and means that these studies have less power to detect small changes in outcomes (if they exist).<sup>40</sup>
2. While a wide range of variables were controlled for, selection bias could not be ruled out. Therefore, it is possible that confounding variables remain unobserved in the model. Consequently, the estimates presented should be interpreted as associative rather than causal<sup>41</sup>.
3. While reducing failure to appear and breach of bail conditions are objectives of the YKC, they were not included as outcomes in the study. They could not be examined because YKC participants spend substantially longer periods of time on bail and typically have a greater number of court appearances than young offenders whose matter proceeds through the usual court process.<sup>42</sup>

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<sup>40</sup> Ibid, page 16.

<sup>41</sup> Ibid, page 17.

<sup>42</sup> Ibid, pages 17-18.



## Detailed Findings

This section details the evaluation findings against the six Evaluation Questions.

### 1. How is the YKC operating?

The YKC has been operating at Parramatta since 2015, and was expanded to Surry Hills Children’s Court in 2019. The YKC process is a deferred sentence model. In this model, the participant’s sentence can be deferred for up to 12 months so the participant can develop and implement their ASP by engaging in programs and services to address factors that relate to their offending behaviour.

#### Activities undertaken

The YKC is implemented through a set of activities undertaken over six stages of:

1. Eligibility / referral
2. Suitability
3. Conference
4. Approval
5. Review
6. Sentencing / Graduation.

Focus: **Process**

Measures examined:

- nature of *activities* undertaken as part of the YKC process
- *roles and responsibilities* relating to the YKC process
- nature of *changes* in YKC process activities over time
- nature of *governance arrangements, partnerships and relationships* in place to support the YKC to achieve its objectives, and program outputs.

Figure 1. Snapshot of YKC deferred sentence model



Each of these stages, and the activities undertaken within each stage, is described below.

#### 1. Eligibility and Referral

To be referred to the YKC, the young person must be charged with an offence within the jurisdiction of the Children’s Court and indicate that they will plead guilty to the offence (or have been found guilty of a criminal offence).<sup>43</sup> Priority is given to young people likely to be sentenced to an order which involves Youth Justice supervision or detention.<sup>44</sup> In addition, the young person must meet the following criteria:

- be descended from an Aboriginal and/or Torres Strait Islander person

<sup>43</sup> Children’s Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

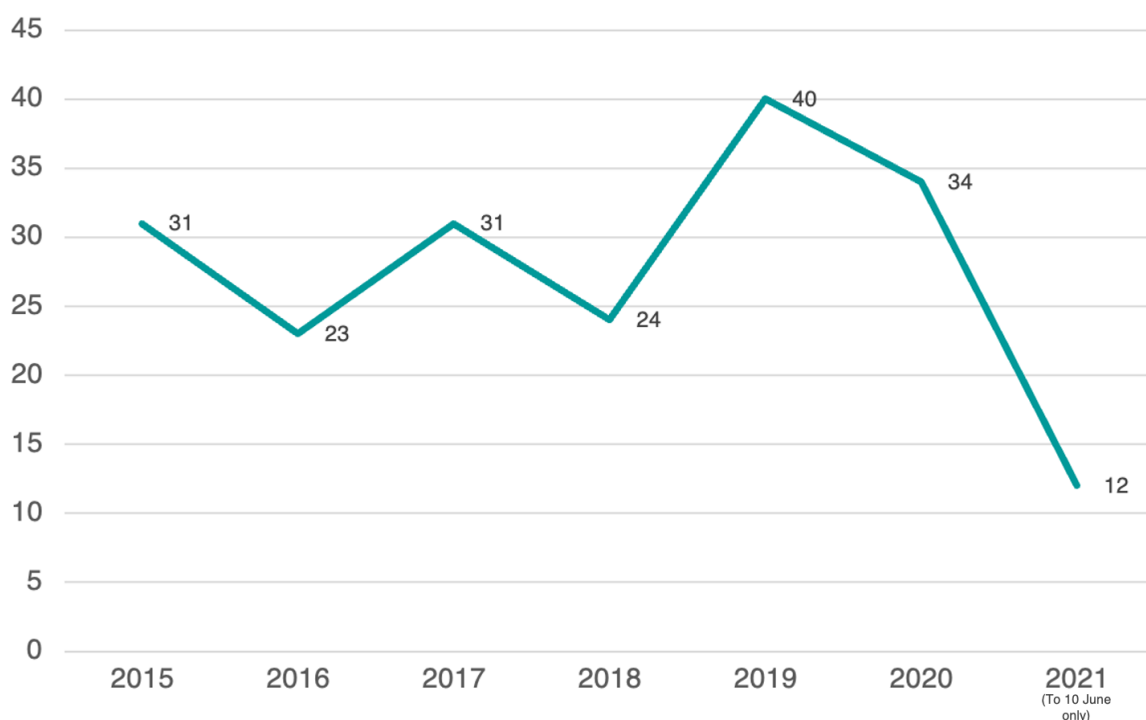
<sup>44</sup> Children’s Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

- identify as Aboriginal and / or Torres Strait Islander and must be accepted as such by the relevant community
- be between 10 and 17 years of age at the time of the commission of the offence(s) and under 19 years of age when proceedings commenced.<sup>45</sup>

A referral to the YKC can *only* be made on the application of the young person. The program is voluntary, and the young person’s willingness to participate is key to empowering them to take ownership of the process.<sup>46</sup> Most participants interviewed stated that their Aboriginal Legal Service (ALS) lawyer informed them about the YKC. Participants also cited caseworkers as their referral point to the YKC.<sup>47</sup>

As illustrated in Figure 2 below, referrals to the program ranged from 31 in 2015 to a peak of 40 in 2019. This represents a 29 percent increase over this period.<sup>48</sup> The reduction in referrals from 2020 were a result of the COVID-19 pandemic and the restrictions placed on court operations. Referral numbers per year is presented at **Appendix F**.

**Figure 2.** Number of young people referred to the YKC per year for the period of 2015-10 June 2021.



Refer to Appendix F for monthly referral figures.

## 2. Suitability

At the suitability stage a screening assessment is undertaken followed by a suitability meeting.

An initial screening assessment is undertaken to determine the needs of the participant and their current circumstances. The assessment covers demographic information, familial relationships, housing, cultural participation and connection, education / training, employment, substance abuse, health (including mental health), and offences before the court.<sup>49</sup>

<sup>45</sup> Children’s Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>46</sup> Interview with stakeholder.

<sup>47</sup> Interviews with participants.

<sup>48</sup> Children’s Court of New South Wales, YKC Administrative Data.

<sup>49</sup> Children’s Court NSW, Screening tool.

The YKC Casework Coordinator is responsible for undertaking a screening assessment of the referred young person. However, when the young person is already connected to Youth Justice or a community-based organisation, the YKC Casework Coordinator may seek assistance from these representatives in completing the screening process with the young person.<sup>50</sup>

Following the screening assessment, a suitability meeting is arranged with the young person and their family (or support people), the magistrate, the CPM and other YKC staff at the Children's Court.<sup>51</sup>

The court uses the screening assessment to consider the young person's suitability to participate in the YKC. The court considers the ability of the network of YKC services to meet the needs of the young person (such as available services in the area of the young person's residence), the availability of CPMs and the capacity of the YKC to accept new cases. The YKC also takes into consideration the nature of the offence/s and the impact that including the young person in the YKC may have on the victim/s.<sup>52</sup>

If the candidate is assessed as suitable, the young person's lawyer will request adjournment to a YKC Conference for the development of an ASP. If the young person is assessed as not suitable, they are referred back to the Children's Court by the magistrate for sentencing.<sup>53</sup>

YKC administrative data, which includes all referrals and admittances until 10 June 2021, shows that out of the 195 young people referred to the YKC by June 10, 190 were admitted. This data indicates that the significant majority of young people referred to the YKC are considered suitable and are admitted as participants.<sup>54</sup>

### 3. Conference

The conference is held approximately two weeks from acceptance into the YKC. The conference has two purposes, to:

1. generate "an environment that encourages frank and open discussion surrounding the risk factors that may be impacting on the young person's involvement in crime"<sup>55</sup>
2. motivate the young person to take action to address these risk factors.<sup>56</sup>

Interviewees talked about the positive court environment:

*"Aboriginal kids get to sit down with Elders at a table, sort out their situation. [It's] Heaps comfortable – more comfortable than being in the court room."<sup>57</sup>*

*"It was different to normal court, big round table – it was easy and better sitting at a table talking, [you] feel free to talk about your problems with everyone. Less daunting."<sup>58</sup>*

During this stage, the magistrate assists the young person and YKC staff to develop the ASP.<sup>59</sup> The ASP is the pivotal document of the YKC's operations, providing a comprehensive overview of the young person's needs. The ASP is structured around the risk factors related to offending identified in the screening assessment and circumstances surrounding the risks. Appropriate consideration is given in the ASP to addressing the harm caused to the victim(s) and society.<sup>60</sup>

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<sup>50</sup> NSW Government, [YKC Casework Coordinator fact sheet](#), date accessed April 7 2022

<sup>51</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>52</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>53</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>54</sup> Children's Court of New South Wales, YKC Administrative Data.

<sup>55</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court.

<sup>56</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>57</sup> Interview with young person.

<sup>58</sup> Interview with young person.

<sup>59</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>60</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court; Court observations.

Young people admitted to the YKC process are considered 'high risk' cases with multiple offences likely to require Youth Justice supervision or detention.<sup>61</sup> For example, young people admitted to the YKC may have experienced some or all of the following:

- OOHC including foster care, residential out of home care, moving around frequently from home to home and neglect
- poor school attendance, disrupted education, poor literacy skills, attendance at alternative educational settings
- little or no contact with biological family
- disconnection from culture
- grief and past trauma including intergenerational trauma
- mental health issues, including post-traumatic stress disorder
- behavioural issues
- substance abuse / histories of alcohol and substance misuse
- social and financial disadvantage
- have themselves been victims of crime.<sup>62</sup>

Stakeholders stated that these young people not only pose the greatest risk of re-offending but would benefit most from the social supports and greater attention afforded by the low case numbers at the YKC.<sup>63</sup> As one stakeholder noted:

*"...[we] need to focus on the young people that are really troubled, really need the social supports. They need it – and it's bang for buck."<sup>64</sup>*

According to YKC staff, the ASP can take between two to four weeks to prepare. The ASP may help the young person with the following:

- improving cultural connections, such as creating opportunities for young people to be with their family clan, learn language and connect with Country
- staying in school or finding work
- assisting with civil law issues, such as obtaining identity documents or doing OOHC advocacy
- securing stable accommodation
- reducing health, drug, or alcohol issues contributing to offending behaviour.<sup>65</sup>

Consistent with the participant-centric nature of the YKC, the participants have direct input into their ASP. Court recordings and observations confirmed that the participants commit to attending cultural activities, appointments, education, training, and / or sporting activities in accordance with their interests and understanding of their needs.<sup>66</sup> In a sample of 30 YKC files – which included 11 initial Screening Assessments and 16 ASPs – the most common needs identified for young people were as follows:

- cultural supports
- alcohol and other drug support
- health
- education
- housing.

A breakdown of identified supports can be found in the below table.

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<sup>61</sup> Children's Court NSW, Proposal July 2014; Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>62</sup> Interview with stakeholders; Legal Aid NSW case studies.

<sup>63</sup> Interview with stakeholders.

<sup>64</sup> Interview with stakeholder.

<sup>65</sup> Interviews with stakeholders, Children's Court NSW, Action and Support Plan.

<sup>66</sup> Interview with stakeholder; court transcripts; court observations.

**Table 2:** Participant support needs identified in Court file review.

Identified need	Frequency (Number of files the need appeared in out of 30)
Cultural supports	28
Alcohol and other drug supports	24
Education	24
Physical and mental health	23
Work and employment	18
Financial	17
Housing	21
Obtain drivers licence	8
Assistance with Police/Youth Justice engagement	6
Birth certificate / other identification	6
Transport / Travel (Opal) card assistance	6
Assistance with family issues / relationships	13
Anger management	5
Obtaining a phone	3

The document review, recording review and observations all found that the identification of needs and supports is individualised to the participant. This participant-centred approach ensures that the relevant needs identified, and their subsequent supports, are meaningful for the young person to reduce risk factors to re-offending.

For example, the file review included one young person who “has decided schooling was not for him” and employment opportunities were being explored instead. This finding was supported throughout interviews, court observations, and various court recordings for several YKC participants who needed to earn money and gain employment skills rather than continue their high school or tertiary education. The variety of supports available, from mentoring to assistance with opening bank accounts, was identified as a positive component of the YKC in several participant interviews. Such an approach also allows flexibility to identify and facilitate support for new issues when they arise.

#### 4. Approval

Following the development of the ASP over a two to four week period often involving a conference and out of court discussions, it is then approved. Following this approval, case management and coordination commences. Caseworkers provided by the YKC, Youth Justice and CCLS, Legal Aid NSW share case management and coordination responsibilities. In addition, local, external agencies, such as Daramu Aboriginal Youth Service and the Red Cross, provide significant case management support.<sup>67</sup>

Where Youth Justice supervision is ordered, a Youth Justice Caseworker takes the lead in coordinating court-ordered activity, although the YKC Casework Coordinator typically maintains some casework responsibilities. The YKC Intake Caseworker also provides support and assistance.<sup>68</sup> The CCLS Youth Caseworker works with the YKC participant

<sup>67</sup> Information from stakeholder; interview with stakeholders; interview with participants.

<sup>68</sup> Interview with stakeholders. The role of the YKC Intake Caseworker is described in Table 1.

whom they are assisting with civil law issues and who are identified as having complex needs. The Youth Koori Court Intake Caseworker, the YKC Casework Coordinator and the CCLS Youth Caseworker are Aboriginal identified positions.<sup>69</sup>

Interviews with YKC staff indicated that a high level of engagement is necessary to support the young people who enter the YKC. Extensive preparation is required before and after appearances, including regular communication with YKC team members. YKC stakeholders also noted the comparatively low case load of four to six cases per day is fundamental to effective YKC case management.<sup>70</sup>

Interviews with participants and stakeholders highlighted the importance of having Aboriginal caseworkers in the courtroom. The Youth Justice and YKC Aboriginal and Torres Strait Islander identified positions support the young people in learning more about their culture. Aboriginal caseworkers were seen as indispensable in connecting young people to external services through their established networks.<sup>71</sup>

*“Aboriginal voice is key in court.”<sup>72</sup>*

*“...all of the Aboriginal staff there are amazing at linking the clients into...original services or culturally appropriate services that they know the person is going to be able to...build a rapport with...”<sup>73</sup>*

## 5. Review

The Children’s Court of New South Wales Practice Note No. 11 states that YKC participants have a period of between three and 12 months to implement their ASP.<sup>74</sup> Deferred sentencing is fundamental to the YKC process. The extended period of time between the finding of guilt and sentencing enables participants to identify and address the underlying risk factors to offending as well as to improve connections to culture and community.<sup>75</sup> Within this period, the case may be listed before the YKC several times for review to monitor the young person’s progress with the ASP.<sup>76</sup> The court file review, transcripts and observations indicated that timeframes between appearances are flexible and often arranged with consideration to the needs and circumstances of the participant.<sup>77</sup>

When a participant requires more time to complete the ASP the YKC can request a Special Purpose Juvenile Justice report before the next court date.<sup>78</sup> Although one stakeholder noted that participants may stay in the YKC for periods exceeding 12 months when new matters arise after the finalisation of earlier matters.<sup>79</sup>

The court file review, transcripts and observations indicated that during this period the ASP is applied as a guiding plan to allow for reappraisal of a participant’s circumstances and incremental changes as the young person progresses through the YKC.<sup>80</sup> Typical changes to an ASP include the addition or removal of support services (e.g. psychological support), cultural activities (e.g. going out on Country) or training / certifications (e.g. acquiring white cards or attending TAFE).<sup>81</sup>

Interviews with stakeholders revealed diverse opinions on who should hold a copy of the ASP during the YKC process. There was however consensus that upon request the young

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<sup>69</sup> Information from stakeholders.

<sup>70</sup> Interview with stakeholders.

<sup>71</sup> Interview with participants; interview with stakeholders.

<sup>72</sup> Interview with stakeholder.

<sup>73</sup> Interview with stakeholder.

<sup>74</sup> Children’s Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>75</sup> Children’s Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court; interviews with stakeholders.

<sup>76</sup> Children’s Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>77</sup> Court file review; court transcripts; court observations.

<sup>78</sup> Children’s Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>79</sup> Information from stakeholder.

<sup>80</sup> Interviews with stakeholders.

<sup>81</sup> Court observations, court transcripts.

person can obtain their ASP.<sup>82</sup> One stakeholder explained that while the young people do not typically obtain a copy of their ASP, the young person's support person / s including their ALS lawyer, caseworker and family members brief the young person on the content.<sup>83</sup> A further stakeholder advised that the ALS lawyer, YKC prosecutor, magistrate and Case Coordinator are given the ASP, noting that other stakeholders may also receive a copy upon request and with the consent of the young person. Similarly, this stakeholder contended that the participant's ALS lawyer typically holds the ASP on their behalf.<sup>84</sup>

Four stakeholders interviewed expressed concern that, as the ASP is a court document, Youth Justice Caseworkers cannot update the ASP (or obtain a copy containing any changes to the ASP). As the Youth Justice Caseworkers often bear significant responsibility in case management, these stakeholders suggested that the court-based ASPs may diverge from the actual casework being delivered.<sup>85</sup>

At reviews, verbal reports are provided on participant progress against their ASPs. The magistrate interacts directly with the young person or (with consent of the young person) through their support person. The participants interviewed stated feeling prepared and comfortable in speaking up and advocating for themselves during discussions on their progress.<sup>86</sup> In addition, the police prosecutor may discuss any police interactions that had taken place since the last sitting. If relevant, new offences are also disclosed and discussed (court recordings and observations indicate that reports of new offences and interactions with police between review appearances are not uncommon). Bail review also occurs, with the participant often incurring curfews and mobility limitations.<sup>87</sup> Finally, the participants are reminded of the commitment they made to themselves, their family (or support person) and the YKC.<sup>88</sup>

## 6. Sentencing / Graduation

### Sentencing

Participants who successfully complete the YKC process are sentenced on a separate date following their final review.<sup>89</sup> Sentencing is comparatively formal and mainstream court practices are more closely followed.<sup>90</sup>

Most significantly, under the Children's Court of New South Wales Practice Note No. 11, the sentences imposed at the YKC are to be no more punitive than what may have been imposed had the young person *not* joined the program and complied with their ASP.<sup>91</sup> BOCSAR's analysis confirms that YKC participants are less likely to be sentenced to a JCO than Aboriginal young people sentenced in the Children's Court.

At sentencing, final consideration is given to:

- the participant's adherence to their ASP
- the progression the participant has made over the course of the YKC process
- the ALS lawyer's submissions
- any challenges the participant may have faced
- any attitudinal factors such as the level of maturity exhibited by the young person throughout the YKC process.<sup>92</sup>

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<sup>82</sup> Interview with stakeholders; information from stakeholder.

<sup>83</sup> Interview with stakeholder.

<sup>84</sup> Information from stakeholder.

<sup>85</sup> Interview with stakeholders.

<sup>86</sup> Court observations; court transcripts.

<sup>87</sup> Court observations; court transcripts.

<sup>88</sup> Court observations; transcripts; Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>89</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

<sup>90</sup> Court observations.

<sup>91</sup> Children's Court of New South Wales, 2019, Practice Note No. 11 - Youth Koori Court

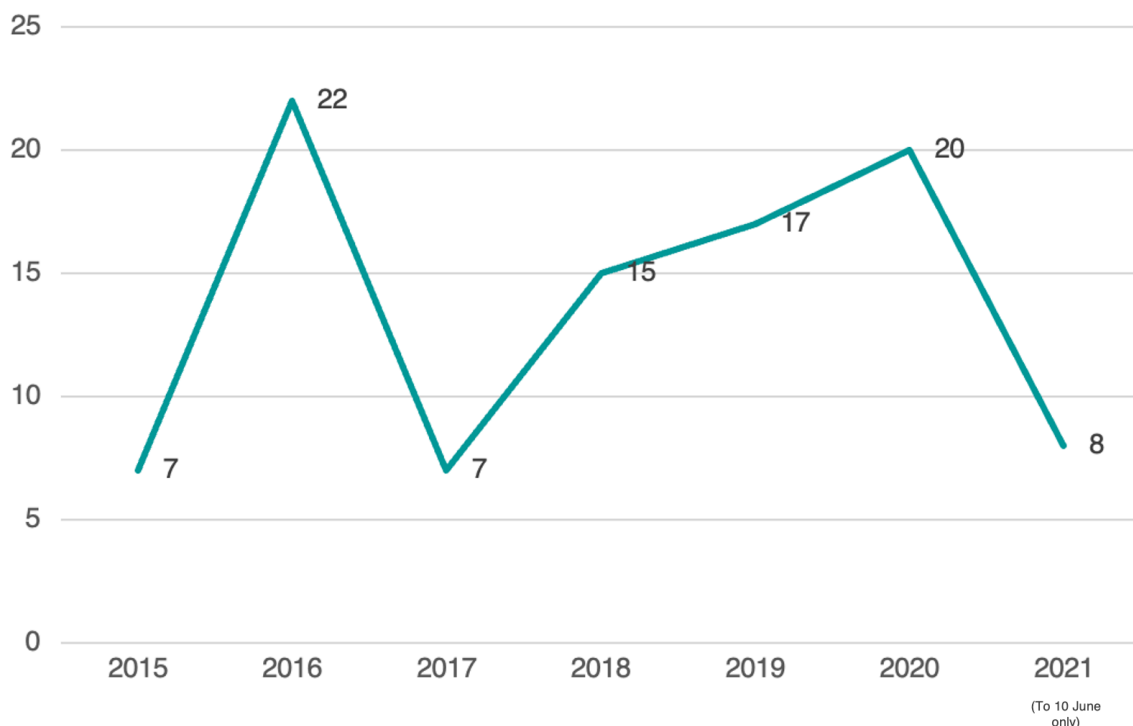
<sup>92</sup> Court observations; court transcripts.

The magistrate sentences in accordance with the *Children (Criminal Proceedings) Act 1987* and relevant case law.<sup>93</sup> Once the sentence has been imposed, the magistrate removes their robe to signal the end of the formal component and the beginning of the Graduation celebration.<sup>94</sup>

### Graduation

Since the YKC’s inception in 2015 until 10 June 2021, there have been 96 graduations. Since January 2015, there has been on average one graduation per month (until June 10, 2021). The total calculated graduation rate of the YKC from 2015 to 10 June 2021 is 60.0 percent.<sup>95</sup> Annual graduation numbers are presented at **Appendix F**.

**Figure 3.** Number of young people graduated per year for the period of 2015-10 June 2021<sup>96</sup>



Refer to Appendix F for monthly referral figures.

While brief, graduations are celebratory, with the participant receiving a card, personalised gift, and cake.<sup>97</sup> Court observations and recordings indicate that it is often a proud moment for the participant and the YKC staff:

*“Today is your day, you’re going to graduate. You should be really proud of today because it’s a very special day when you graduate from the program. It’s not an easy program to do. And you’ve made it all the way to the end. And you’ve done really well every time you’ve been here...”<sup>98</sup>*

### Withdrawals and discharges from the YKC

If a participant does not graduate, they either withdraw or are discharged from the process. Withdrawal is where a participant voluntarily discontinues their involvement in the YKC. Discharge refers to the magistrate discontinuing the participant’s involvement in the process.

<sup>93</sup> Children’s Court NSW, Proposal July 2014.

<sup>94</sup> Court observations.

<sup>95</sup> The YKC graduation rate (2015 to 10 June 2021) is calculated by taking the total number of graduates from the YKC (96), divided by the total number of young people admitted to the YKC (190) minus the young people currently admitted to the YKC as at 10 June 2021 (30). Or,  $96 / (190 - 30) = 96 / 160 = 0.6 = 60\%$ .

<sup>96</sup> 2021 data only includes referrals between January to June 10.

<sup>97</sup> Court observations, court transcripts.

<sup>98</sup> Stakeholder in court transcript.



In both withdrawals and discharges, the young person is returned to the general sittings of the Children's Court for sentencing. The number of people withdrawing or being discharged range from four to 13 each year (between 2015 and 10 June 2021).

Current YKC administrative data does not provide reasons for withdrawal or discharge. The review of court files and recordings provided no discernible emergent pattern to explain the reason for withdrawal or discharge from the YKC process, however they did contain some reasons.

Reasons recorded in court files and recordings for discharges include:

- participant not being Aboriginal or Torres Strait Islander<sup>99</sup>
- breaching bail.<sup>100</sup>

Reasons recorded in court files and recordings for withdrawals include:

- a young person wanting to return to their regional NSW hometown, with the matter referred to a regional Children's Court<sup>101</sup>
- impacts of bail conditions<sup>102</sup>
- fresh charges which necessitated all matters being referred to the general sittings of the Children's Court.<sup>103</sup>

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<sup>99</sup> Court transcript.

<sup>100</sup> Court transcript.

<sup>101</sup> Court transcript.

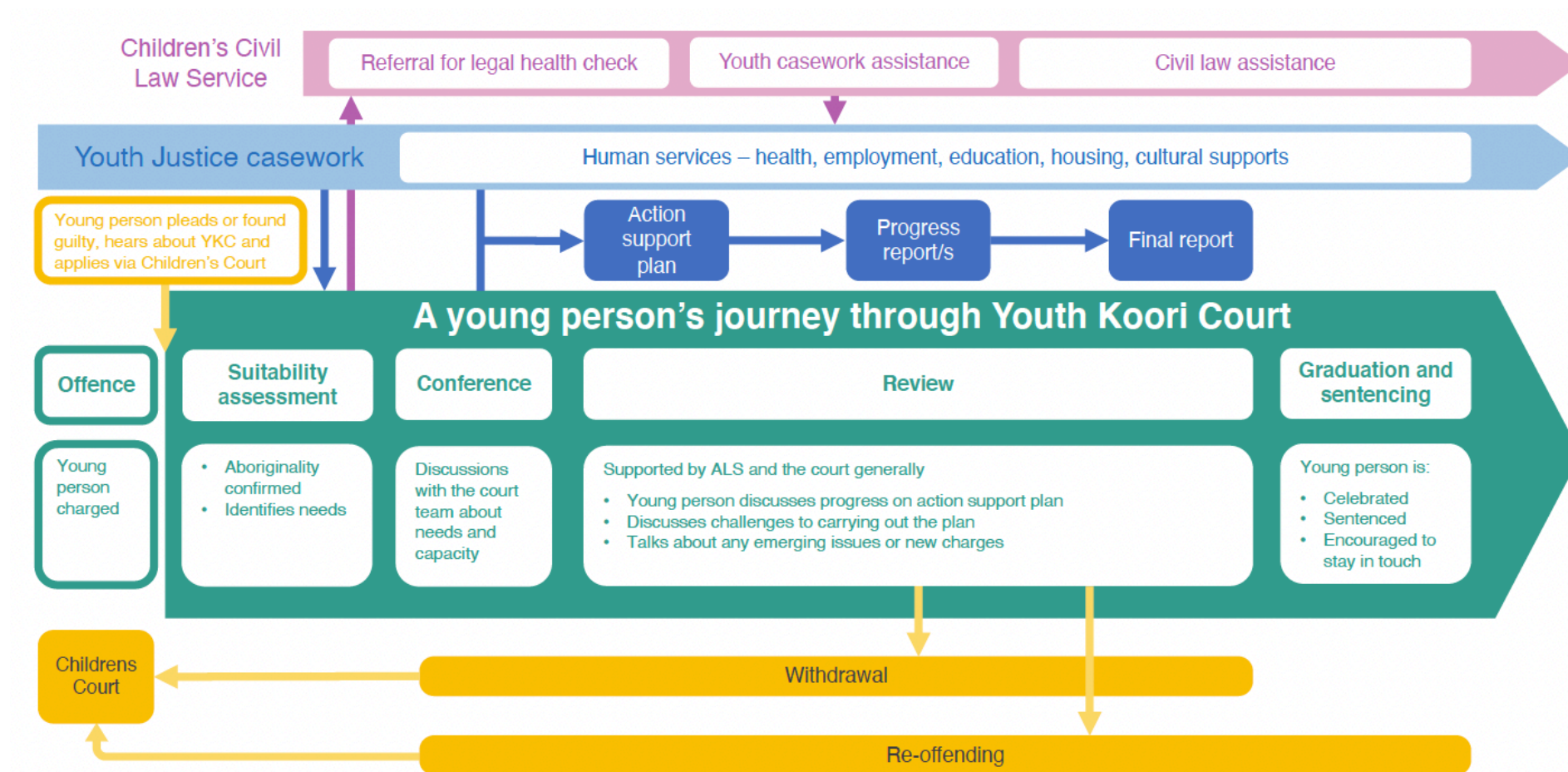
<sup>102</sup> Court transcript.

<sup>103</sup> Court transcript.

## A young person's journey through the YKC

The YKC process, from the generalised perspective of the young person participant, is illustrated in the journey map below.

**Figure 3.** A journey map illustrating a young person's journey through YKC



## Roles and Responsibilities

The YKC has clearly defined, well understood and implemented roles and responsibilities, including a role for the participant. The table below captures these as well as the key duties of each YKC staff member, as triangulated across data collection types.

**Table 1. Roles of the YKC staff and participants**

Role	Responsibility
Participant	<ul style="list-style-type: none"> <li>• plays an active role in proceedings, answering questions on progress and interacting in all matters</li> <li>• gives input and direction to the ASP</li> <li>• complies with ASP</li> <li>• alerts YKC to changes in circumstances.<sup>104</sup></li> </ul>
Children’s Magistrate	<ul style="list-style-type: none"> <li>• explains legal processes to the young person</li> <li>• guides and drafts the development of the ASP</li> <li>• analyses each offence before the court</li> <li>• may make clear the gravity of the crime(s) / offence(s)</li> <li>• encourages and supports the young person</li> <li>• discusses the day’s proceedings before court with the CPMs</li> <li>• at discretion, defers to CPMs to address matters such as connecting with culture, alcohol abuse or family matters.<sup>105</sup></li> </ul>
Community Panel Member	<ul style="list-style-type: none"> <li>• attends training for CPMs</li> <li>• attends court for each stage of the YKC process, as rostered</li> <li>• participates in YKC meetings</li> <li>• participates in discussions with each young person</li> <li>• maintains knowledge of Aboriginal specific services and support networks</li> <li>• contributes to the development of the ASP</li> <li>• supports the young people and / or their families in relation to culture</li> <li>• when required assists and advises judicial officer on culture, cultural protocols and expectations</li> <li>• supports the young person when sentence is passed</li> <li>• is a positive role model for the young person and their family.<sup>106</sup></li> </ul>
Aboriginal Legal Service Criminal Lawyer	<ul style="list-style-type: none"> <li>• represents the young people who enter the court</li> <li>• plays an active role in the court sittings</li> <li>• acts as a direct representative of the young person</li> <li>• understands the intricacies of the cases</li> <li>• makes any applications related to bail, sentence or withdrawal</li> <li>• refers any additional matters of the young person into YKC</li> <li>• develops relationships with young person and their family or support person.<sup>107</sup></li> </ul>
Civil Lawyer, Children’s Civil Law Service, Legal Aid NSW	<ul style="list-style-type: none"> <li>• conducts a Legal Health Check with every young person before the YKC (subject to their consent) to identify other legal needs</li> </ul>

<sup>104</sup> Court transcripts; court observations; stakeholder interviews.

<sup>105</sup> Court transcripts; court observations; stakeholder interviews.

<sup>106</sup> Court transcripts; court observations; stakeholder interviews, CPM Handbook (2020).

<sup>107</sup> Court transcripts; court observations; stakeholder interviews; information from stakeholder.

	<ul style="list-style-type: none"> <li>• assists young people with civil law matters based on their wishes and priorities (often well beyond the graduation/exit of the young person from the YKC)</li> <li>• provides advice and assistance with a wide range of civil law matters such as: <ul style="list-style-type: none"> <li>○ fines, work and development orders or fine write offs</li> <li>○ out of home care advocacy</li> <li>○ police complaints or actions against police</li> <li>○ conditions of detention or custody e.g. access to health care, isolation</li> <li>○ driving licence suspension or disqualification</li> <li>○ identification issues (change of name, birth registration)</li> <li>○ victims of crime support</li> <li>○ other niche, non-criminal areas of law specific to unique circumstances of clients</li> </ul> </li> <li>• attends YKC sittings for their clients</li> <li>• reports back to the YKC on civil law needs where these are included in a young person's ASP.<sup>108</sup></li> </ul>
Police Prosecutor	<ul style="list-style-type: none"> <li>• attends all YKC court sittings</li> <li>• plays less of a role at the YKC in comparison to mainstream courts</li> <li>• speaks on behalf of police, victim(s) and community safety</li> <li>• may address court in relation to the harm suffered by victim(s)/ society, as a result of the young person's crime(s)</li> <li>• may make submissions in relation to sentencing or bail applications</li> <li>• may offer advice to young person and be congratulatory to the young person's progress.<sup>109</sup></li> </ul>
Youth Koori Court Intake Caseworker (Youth Justice funded Identified position)	<ul style="list-style-type: none"> <li>• provides an objective, culturally relevant voice in the YKC process</li> <li>• provides support and assistance to YJ Caseworkers completing Youth Koori Court Documents</li> <li>• provides information and support to supervising YJCW's in relation to the YKC process and expectations of their role</li> <li>• advocates for young people engaged in YKC</li> <li>• works with other stakeholders to ensure that the court room is a culturally safe space for young people, their families and other Aboriginal people present</li> <li>• provides updates and documents to the Court where appropriate and relevant</li> <li>• builds stakeholder and community awareness / relationships,</li> <li>• explains the YKC process to young people and their families / support people</li> <li>• supports family to attend and engage with YKC</li> <li>• provides updates to the court when the Youth Justice caseworker is not available.<sup>110</sup></li> </ul>

<sup>108</sup> Legal Aid NSW, The Children's Civil Law Service (CCLS) overview of Youth Koori Court services; court transcripts; court observations

<sup>109</sup> Court transcripts; court observations; stakeholder interviews.

<sup>110</sup> Information from stakeholder interviews.

<p>Caseworker - Youth Justice (Youth Justice funded)</p>	<ul style="list-style-type: none"> <li>• prepares court documents such as Suitability Assessments, ASPs and Background Report</li> <li>• attends court and providing verbal updates to the court</li> <li>• provides written updates to the court and all stakeholders</li> <li>• provides support to YJ supervised young people who attend Youth Koori Court to complete the targets on their ASPs</li> <li>• liaises with relevant stakeholders in order to create the ASP and acts as the lead agent in these plans for YJ supervised young people.<sup>111</sup></li> </ul>
<p>Youth Caseworker (CCLS, Legal Aid NSW Identified position)</p>	<ul style="list-style-type: none"> <li>• works with some of the young people in the YKC who are being assisted by the CCLS with civil law issues and who are identified as having complex needs</li> <li>• provides a range of cultural support (including support to explore cultural identity) and referrals to culturally specific programs</li> <li>• provides short to medium term casework depending on their needs</li> <li>• support can include practical assistance (eg: obtaining Centrelink/ID), case coordination, advocacy and referrals to other services</li> <li>• attends YKC sittings for their clients and provides updates to the YKC.<sup>112</sup></li> </ul>
<p>YKC Casework Coordinator (Aboriginal Services Unit, DCJ) (Identified position)</p>	<ul style="list-style-type: none"> <li>• case management and co-ordination</li> <li>• builds stakeholder and community awareness / relationships</li> <li>• explains the YKC process to young people and their families / support people</li> <li>• supports family to attend and engage with YKC</li> <li>• provides updates to the court when the lead caseworker is not available, and</li> <li>• often supports young people beyond the court, for example, with cultural activities or sports.<sup>113</sup></li> </ul>
<p>YKC Court Officer (Children’s Court of NSW, DCJ) (Identified position)</p>	<ul style="list-style-type: none"> <li>• administrative tasks such as management of court papers, recordings and filing</li> <li>• technical assistance, such as setting up videoconferencing</li> <li>• rostering and co-ordination of CPMs</li> <li>• liaison with other courts and court workers.<sup>114</sup></li> </ul>

### Community Panel Members

Setting the YKC apart from mainstream courts (and other special-purpose courts), the YKC includes a CPM whose experience, advice and cultural knowledge play a pivotal role in the

<sup>111</sup> Information from stakeholder.

<sup>112</sup> Court transcripts: court observations: information from stakeholder.

<sup>113</sup> Court transcripts: court observations: stakeholder interviews.

<sup>114</sup> Court transcripts: court observations.

success of the YKC process.<sup>115</sup> Throughout the participants' journey, CPMs strengthen the young person's understanding of his / her cultural heritage, history and norms.<sup>116</sup> This may range from giving an Acknowledgment / Welcome to Country at court sittings, to offering life advice that is culturally relevant to Aboriginal people, as well as providing perspectives in alignment with traditional knowledge systems and ways of knowing. By reinforcing cultural connections through knowledge and care, CPMs promote pride in culture and positive identity.<sup>117</sup>

Stakeholders interviewed emphasised the importance of the CPM all of whom are Aboriginal or Torres Strait Islander Elders or respected persons.

*"Making commitments in front of Elders means something – more important than magistrates."*<sup>118</sup>

*"Young people are seeing Aboriginal people in powerful roles, important roles – court officers, CPMs. They're seeing people that have a great life and feel mentored by this."*<sup>119</sup>

### Children's Magistrate

The role the magistrate plays in building a trusting bond with the young person, and by extension, the relationship between the young person and the YKC was witnessed through observations and reviewing recordings. This connection was evidenced in the court observations which revealed the magistrate's intimate understanding of the factors that may contribute to the young person's conduct. Further, observations and court recordings exhibited the magistrate's knowledge of key dates, milestones, and small details of the participants' lives. This includes remembering birthdays and the due date of babies, the names of family members and the specific likes and dislikes of the young people.

### Aboriginal Legal Service criminal lawyers

Similarly, court recordings, observations and interviews with participants indicate that ALS lawyers have an excellent understanding of the young people, their matters, and their personal circumstances and backgrounds. In participant interviews, the ALS lawyer was mentioned as someone the young people felt they could turn to inside and outside the courtroom.<sup>120</sup> In line with the person centric, strength-based practice employed in the court, ALS lawyers never speak *for* the young person, only ever on their behalf.

*"[Lawyer's name] is amazing – he's really good with all the kids. Doesn't judge people, he's like... 'there'. You can have good talks with him."*<sup>121</sup>

### Governance arrangements

Supporting the YKC to meet its objectives are the internal and external partnerships of the following stakeholders:

- Judiciary
- Aboriginal Legal Service (ALS)
- Children's Civil Law Service (Legal Aid NSW)
- Police Prosecutions (NSW Police Force)
- Aboriginal Services Division (DCJ)
- Youth Justice (DCJ).

Observations indicate that governance arrangements regarding the above partnerships and ways of working at the YKC are informal and based on a shared understanding of the YKC

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<sup>115</sup> CPM Handbook (2020).

<sup>116</sup> CPM Handbook (2020); interviews with stakeholders.

<sup>117</sup> CPM Handbook (2020).

<sup>118</sup> Interview with young person.

<sup>119</sup> Interview with stakeholder.

<sup>120</sup> Interview with young person.

<sup>121</sup> Interview with young person.

and its processes. It was observed during court visits that various stakeholders play an active role in ensuring proper processes and procedures are followed, with magistrates taking on primary responsibility, followed by caseworkers/coordinators, solicitors and prosecutors. While these arrangements appear to be effective at the current YKC sites, their ad hoc nature presents a risk to the successful scaling up of the model. If the YKC is expanded to sites where relationships and practices are not yet established, improved documentation of governance arrangements may be required.

Stakeholders emphasised that relationships are key to service effectiveness. Court observations and recordings indicated that the CPMs, solicitors, and caseworkers / coordinators draw on their collective connections (which range from professional relationships to community and family connections) to address the needs of the young people who enter the court.

However, the YKC's reliance on its networks' collective connections also presents challenges, such as a lack of diversity and breadth of services. In addition, connections made through informal networks may not be subject to the same level of accountability to the YKC as more formal channels, which could affect the acquisition / management of reports from external providers.

External partners important for the continuation and expansion of the YKC include:

- job providers
- housing providers
- Aboriginal and Torres Strait Islander community partners
- NGO community partners / services
- disability assistance providers such as NDIS providers
- financial assistance providers
- health workers
- allied health providers
- vocational and tertiary education providers, such as TAFE and universities, which provide mutually beneficial outcomes for student placement, training, and employment.

### Key process findings: the YKC is operating in line with its intent and documented procedures

- ▷ The YKC is a sentencing court that follows a six-stage process. It is defined by a high level of collaboration between YKC staff members, a high focus on the individual participant's needs, and a less adversarial atmosphere than the usual Children's Court process.
- ▷ Since the YKC's inception in 2015, there have been 190 admissions and 96 graduations resulting in a graduation rate of 60.0 percent.
- ▷ Little information is known about the reasons for withdrawal and discharge from the YKC. A closer examination of withdrawals and discharges may be required to improve the graduation rate.
- ▷ The YKC has clearly defined, well understood and implemented roles and responsibilities, including a role for the participant.
- ▷ There is a diverse range of views on whether approved ASPs are shared with participants and stakeholders as common practice.
- ▷ The role of the CPM is key to the YKC process. The CPM's experience, advice and cultural knowledge play a pivotal role in the success of the YKC process.<sup>122</sup>
- ▷ The YKC governance at a participant-level is defined by a high degree of collaboration and engagement, however it lacks formal structure at the whole of program level.

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<sup>122</sup> CPM Handbook (2020).

## 2. To what extent is the YKC achieving or not achieving its intended objectives and outcomes?

This evaluation examines the short and intermediate term outcomes achieved by the YKC.<sup>123</sup>

Examined below is the extent to which the YKC has contributed to improvements over the short and intermediate terms in the following outcome domains identified in the program logic:

- empowerment
- social and community
- health
- safety
- economic
- home
- education and skills.

Focus: **Outcomes**

Measures examined:

- Extent to which the short-term outcomes identified in the Program Logic are being achieved or not achieved.
- Extent to which the YKC process is contributing to / or not contributing to intermediate outcomes identified in the Program Logic.

### Empowerment outcomes

The YKC aims to achieve the following empowerment outcomes in the short-term:

- Greater Aboriginal and Torres Strait Islander community involvement in criminal justice system processes.
- YKC participants have an understanding of and engage with the YKC process.
- YKC participants feel heard and feel they have agency, input and control through the process.
- YKC participants feel that they can trust government agencies and services.

### Greater Aboriginal and Torres Strait Islander community involvement in criminal justice system processes

Compared to the general sittings of the Children's Court, the YKC is enabling greater involvement of the Aboriginal community in the criminal justice system by including the CPM in the court proceedings. Court observations demonstrated that Aboriginal staff and CPMs draw on their connections to their community and Aboriginal support services during court proceedings, strengthening the involvement of community in the YKC.

*"[The community] have input into the development of a plan, they have input into dealing with crises along the way, these kids have crises all the time. They have input into managing those crises. The community has input into that... There are resources that are there. It's not all up to the magistrate to decide what's going on. And so there's a whole lot of respect issues, respect for the services, the processes, there's a comfort zone."*<sup>124</sup>

### YKC participants have an understanding of and engage with the YKC process

The data indicates that young people engage and develop their understanding of the justice system throughout the YKC process. Stakeholders consistently voiced that young people speak openly in the process, get a say on their matters, and seem more interested in the process compared to regular court settings.<sup>125</sup> Participants were vocal in interviews about the greater level of engagement they were afforded in the YKC than in the normal Children's

<sup>123</sup> An assessment of long-term outcomes achieved by the YKC was not possible in the context of this evaluation which was not longitudinal. However, the evaluation takes as true the notion that the achievement of short and intermediate term outcomes is likely to contribute to improvements in long-term outcomes overtime.

<sup>124</sup> Interview with stakeholder.

<sup>125</sup> 5 interviews with stakeholders.



Court. These findings were also seen in court observations and throughout the court recordings.

*“I think through the YKC process, we try and instil or get the kids to become their own advocates for their own self. And I think a lot of that comes down to our caseworkers as well, because if they see that they are being advocated for in a very unique setting, then it's just going to empower them.”<sup>126</sup>*

The court recordings and observations revealed that the magistrate consistently explains legal concepts for the benefit of the young person. This is particularly prevalent in the sentencing procedure.

### YKC participants feel heard and feel they have agency, input and control through the process

The observations and court recordings indicate that young people are consistently speaking up and having their say in the YKC process.<sup>127</sup> Importantly, participants who were interviewed also feel empowered through the process. Particularly, the young people like how the process allows them to report on their achievements to staff whom they respect and have built positive relationships with.

*“You just see it, you see it written all over their face, you know, they walk out ...when they come to us, they walk in heads down, sort of not sort of observing the room, not real, open, not real talkative. You know, there's not a lot of eye contact. But when they successfully graduate, you just see a different kid. Just say a different young person all together, they're full of confidence. They're able to, you know, eyeball everybody in the room. They're able to thank everybody they're able to speak. They're able to confidently communicate what their thoughts are, how they you know, sort of operated and work throughout [Youth] Koori Court. So yeah. And that's what's rewarding at the end of it.”*

### YKC participants feel that they can trust government agencies and services

Stakeholders agree that as young people engage through the YKC, they increasingly show respect for the process, especially to magistrates and CPMs.<sup>128</sup> The review of court recordings and participant interviews indicates that the participants are eager to engage with supports, especially cultural supports, and be accountable to the court for their engagement with these support services.<sup>129</sup> This suggests that young people have increased their respect and accountability to the court, and by extension government agencies and services. Trust levels in government agencies could not be determined from the available data.

*“Our young people ...they're all individual, like there's no one case that's similar. They're very different. They're very unique, but you also have to be able to work in this area where you're going to be able to build that trust, build that rapport with the young people, because they've just been so, and I'll use the phrase 'systematically abused', that they don't have any trust in anybody. Even our own kids don't have trust in some of our Aboriginal people because of the departments in the government agencies that they work with. So it, it's a long process, but a very rewarding process.”<sup>130</sup>*

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<sup>126</sup> Interview with stakeholder.

<sup>127</sup> 2 interviews with stakeholders.

<sup>128</sup> 3 interviews with stakeholder.

<sup>129</sup> 3 interview with participants.

<sup>130</sup> Interview with stakeholder.

*“A young person is more likely to respect the decisions made by a court, when people that they also respect have input into those decisions.”<sup>131</sup>*

The YKC aims to achieve the following intermediate-term empowerment outcomes:

- *Increased Aboriginal and Torres Strait Islander confidence in the criminal justices system.*
- *Improved understanding in the criminal justice system of the challenges and experiences of Aboriginal and Torres Strait Islander young people.*

#### **Increased Aboriginal and Torres Strait Islander confidence in the criminal justice system**

Due to the lack of data held on file or in the administrative dataset, this evaluation is unable to conclusively determine this outcome. However, interviews with stakeholders and participants, court recordings and observations indicate that this intermediate outcome is being met to some extent. Interviews with participants elicited general positive feelings about the YKC, and participants commented about how different it was to their experience in the Children’s Court.

*“Changes perspective a lot on Court. Once you go to YKC you get a whole different perspective.”<sup>132</sup>*

#### **Improved understanding in the criminal justice system of the challenges and experiences of Aboriginal and Torres Strait Islander young people**

Review of the court recordings, and court observations identify that understanding the challenges and experience of Aboriginal and Torres Strait Islander people are a focus of the court. For example, the magistrate will make note of inter-generational trauma and its impacts when discussing identified needs with a young person relevant to their ASP, or imposing a sentence. This evidence indicates that this intermediate outcome is being met.

*“And it is important for this court and all courts to recognise that Aboriginal people have been treated in a way of which we should all be ashamed for many centuries now. And that the effects of that disadvantage of that treatment don't go away.”<sup>133</sup>*

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<sup>131</sup> Interview with stakeholder.

<sup>132</sup> Interview with YKC participant.

<sup>133</sup> Court transcript.

### Case study: Empowerment

Nathaniel was 14 years old when he first entered the YKC. He was in out-of-home care and living in a residential out-of-home care placement as his residential placement was not stable. Nathaniel was referred to the YKC after pleading guilty to multiple offences, including offences involving violence.

On the day of the YKC Conference, the CPM and the magistrate gave an Acknowledgment of Country. Everyone introduced themselves and explained their role in the process, including Nathaniel. The magistrate explained to Nathaniel the purpose of the Conference, which was to finalise his ASP. The magistrate explained that the ASP was Nathaniel's, and that his input is most important. Each party in the room made a conscious effort to include Nathaniel and engage him in the rationale for their suggestions in developing the plan.

The magistrate, the young person's lawyer, the CPM, court staff and the Prosecution offered Nathaniel words of encouragement, but also realism, reiterating that he had an opportunity to receive a lot of support, but it was up to him what he chose to do from this point on. Nathaniel only spoke when he was asked a question and replied, generally with one-word answers, in a soft, monotone manner.

Nathaniel's plan included attending medical appointments, drug and alcohol counselling, cultural supports, and a plan to reengage with education. Nathaniel remained in the YKC process for a total of nine months.

At his YKC Graduation, Nathaniel appeared familiar with everyone. He spoke openly, without being prompted and with confidence about the progress he has made towards the goals in his ASP. Everyone in the room congratulated Nathaniel for the significant progress he had made. The magistrate spoke about how impressed he was with Nathaniel. Nathaniel spoke to his own change, and acknowledged his progress, and took ownership of his past actions by acknowledging that he is doing better for himself. Nathaniel spoke about his future plans, and what is happening in his life, including a positive work opportunity and stable accommodation.

## Social and community outcomes

*The YKC aims to achieve these social and community outcomes in the short-term:*

- *Identification and facilitation of relevant cultural and community connections and activities for YKC participants.*
- *Engagement by YKC participants with culture and community.*

### Identification and facilitation of relevant cultural and community connections and activities

The court recordings, court observations, file reviews and interviews with stakeholders and participants indicated that these short-term outcomes are being met in the YKC. The court recordings and file reviews indicate that the majority of participants have cultural and community connection needs identified and included in their ASP.<sup>134</sup>

Facilitation of cultural connections occurs in two ways in the YKC. Firstly, the process of the YKC enables young people to connect with culture and community within the process, as CPMs and Aboriginal staff are active in the proceedings. Secondly, the court recordings, and file reviews, and interviews with stakeholders identified that the majority of participants are provided with opportunities to connect with culture outside of the court.

### Engagement with culture and community by YKC participants

Court file review, court recordings, interviews with participants and stakeholders indicate that most young people engaged with culture and community during their time in the YKC, participating in cultural activities and connections outside the courtroom. Participants

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<sup>134</sup> A review of 30 participant files identified that cultural supports were an identified need in a total of 28 files.

articulate the positive impact and enjoyment of taking part in cultural activities such as going out bush.<sup>135</sup>

*“I will keep doing cultural things after I’ve finished YKC.”<sup>136</sup>*

Others expressed how the YKC provided them with opportunities to learn about their culture.

*“[they] show me things – artefacts. Gave me more understanding around my culture and other Aboriginal culture.”<sup>137</sup>*

However, court recordings and file reviews indicate that a small number of participants do not identify the need to connect with cultural activities or community as part of the YKC outside of the courtroom.

*The YKC aims to contribute to Aboriginal and Torres Strait Islander young people have increased engagement with and connection to culture and community in the intermediate term.*

This intermediate outcome is being met to some extent, with positive reports from participants and stakeholders about the opportunities for participants to engage with culture and community. Court recordings identify some instances of very strong engagement with culture, with participants embracing and engaging with cultural activities on an ongoing basis. Limitations to this outcome identified include the lack of Country-specific cultural supports. This limitation was also raised by participants in interviews. Participants and stakeholders suggested opportunities to improve engagement with culture could include cultural activities that align with a young person’s Country of belonging as well as engaging CPMs from a young person’s Country of belonging, where possible.

It was also raised that engagement with culture may be overlooked due to other areas taking precedence such as drug and alcohol issues.<sup>138</sup> Stakeholders articulated that connecting with culture should be a predominant focus as it can positively affect other issues and is a protective factor.<sup>139</sup>

*‘...the stronger their connection to country, the more likely they are going to be staying on track...’*

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<sup>135</sup> Interview with young person.

<sup>136</sup> Interview with young person.

<sup>137</sup> Interview with young person.

<sup>138</sup> Interview with stakeholder

<sup>139</sup> Interview with stakeholders

### Case study: Cultural engagement

Sabrina was 16 years old when she first entered the YKC. Sabrina pleaded guilty to several charges, including violent offences. At the YKC Intake, the magistrate questioned whether YKC was the most appropriate place for her. Sabrina said that she wanted to stay in the YKC because of the cultural aspect, and because there are Community members in the room.

A decision was made that Sabrina would stay in the YKC for the time-being. In discussing her ASP it was identified that Sabrina did not have strong cultural connections. Sabrina's plan subsequently included a number of cultural supports and opportunities to engage with her culture. Sabrina was also linked with an Aboriginal youth community support service.

During YKC appearances, the CPMs spoke directly to Sabrina about the importance of culture, and provided her with encouragement and both cultural and general advice. Sabrina responded positively to the CPM and actively engaged with the cultural supports and opportunities to connect with her culture that she was offered.

At Sabrina's YKC Graduation, the CPM spoke about how proud they were of her for becoming a young leader in the community and praised the work she had done in connecting with her culture. The magistrate also congratulated Sabrina on her cultural connection and acknowledged the positive influence it has had on her behaviour.

### Health outcomes

*The YKC aims to achieve the short-term health outcome of identification and facilitation of opportunities to improve physical and mental health for participants.*

Short-term outcomes for health needs are being met through the YKC. Health needs are outlined in ASPs, and the data identifies that participants are referred to health and mental health services to address these needs.

*The YKC aims to contribute to the intermediate-term health outcome that Aboriginal and Torres Strait Islander young people experience improved feelings of physical and mental health.*

Quantifiable evidence of improved feelings of physical and mental health directly attributable to the YKC is not available due to the lack of data. The court recordings indicate that this intermediate outcome is likely being met in relation to a small number of participants. For example, a young person had been referred to health services to address health needs prior to entering the YKC, but had not at the time of their YKC conference engaged with such services. The young person was encouraged to do so in the YKC. Engagement with health services was later reported back to the Court.

### Safety outcomes

*The YKC aims to achieve the short-term safety outcome of identification and facilitation of opportunities to increase safety, including risk factors that may contribute to re-offending for YKC participants.*

Short-term outcomes relating to safety are being met in the YKC with identification of risk factors that may contribute to re-offending a part of the process and included in the ASP. Court recordings also indicated that in-court discussions are an opportunity for stakeholders and the young person to discuss and address risk factors. For example, the parties may discuss with the young person alternative responses to triggering situations such as where they live, who they associate with, and the locations they frequent.

Facilitation of opportunities to increase safety, including risk factors are offered via case management and through referrals to external support services. The court recordings also elicited instances where the magistrate would consider and discuss with the young person potential risk factors when considering bail such as the risk of reoffending returning to a particular location.

*The YKC aims to contribute to the intermediate-term safety outcomes of:*

- *Reduced probability of imprisonment.*
- *Reduced probability of offending.*

BOCSAR's statistical analysis of the impact of the YKC on youth justice outcomes found that relative to Aboriginal young people sentenced via the standard Children's Court process, YKC participants are:

- 5.9 percentage points less likely to be sentenced to a JCO after the full set of variables are controlled for, equating to a 40 percent reduction in the probability of being sentenced to a JCO<sup>140</sup>.
- 7.6 percentage points less likely to be sentenced to a JCO if reconvicted within 12 months, equating to an 84 percent decrease in the probability of a JCO at re-conviction.<sup>141</sup>

Further regression analyses found that Aboriginal young people referred to YKC with no prior custodial episodes, or those charged with a violent or property offence are less likely to be sentenced to a JCO and re-offend within 12 months of finalisation.<sup>142</sup>

Evidence from participants interviews indicates that this intermediate outcome is being met in relation to some participants, with data indicating that the YKC process is positively deterring reoffending resulting in time spent in custody.

*"I'm very pleased that you've got this far, and that you're not in custody right now..."<sup>143</sup>*

*"I'm very pleased with what you were able to achieve with big gaps in offending. At some periods of time, despite all the challenges that you had, along the way, many, many challenges I know."<sup>144</sup>*

## **Economic outcomes**

*The YKC aims to achieve the short-term economic outcome of identification and facilitation of relevant work and economic opportunities for YKC participants in the majority of cases.*

The data indicates that the identification of work and economic opportunities where relevant to the participant are occurring in the YKC. Facilitation of relevant work and economic opportunities also occurs, with referrals made to employment agencies and/or job providers.

*The YKC aims to contribute to the intermediate-term economic outcome of Aboriginal and Torres Strait Islander young people having improved capacity to engage in and maintain relevant work and economic opportunities.*

Evidence from court recordings, file reviews and interviews with participants indicates that this intermediate outcome is being met in relation to some participants. Court recordings and file reviews show that some participants obtained employment during their time in the YKC, or obtained qualifications or equipment required to gain employment.

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<sup>140</sup> (Ooi, E. J. & Rahman, S. (2022). *The impact of the NSW Youth Koori Court on sentencing and re-offending outcomes* (Crime and Justice Bulletin No. 248). Sydney: NSW Bureau of Crime Statistics and Research. Full report available at [www.bocsar.nsw.gov.au](http://www.bocsar.nsw.gov.au), page 16.

<sup>141</sup> Ibid, pages 11 - 17

<sup>142</sup> Ibid, page 16

<sup>143</sup> Court transcript.

<sup>144</sup> Court transcript.

*“They changed everything. Help me to get a job. Opening a bank account. Getting paid. White card. Helped me get PPE (protective workwear for construction) for work”<sup>145</sup>*

## Home outcomes

*The YKC aims to achieve the short-term home outcome of identification and facilitation of relevant opportunities for stable and safe housing.*

The data indicates that this short-term outcome is being met in the YKC, with relevant opportunities for safe and stable housing being identified. Participants are also referred to housing support services, or if they are under the care of the Minister, alternative placement options are discussed if it is identified that change would benefit the participant.

*The YKC aims to contribute to the intermediate-term home outcome of Aboriginal and Torres Strait Islander young people having access to stable and safe housing.*

The available evidence indicates that this intermediate outcome is being achieved to some extent, mainly in relation to particular participants who during their time in the YKC transition from unstable or temporary housing to permanent accommodation.

*“Compared to when I first come into the court system, I've changed a lot. And I can see that change. So, I'm about to get my own house soon... which is very exciting for me. So finally get sort of like my own place for the semi-independent living, which is good. And then I've just been staying away from everything that will get me in trouble staying by myself to do better for myself.”<sup>146</sup>*

## Education and skills outcomes

*The YKC aims to achieve the short-term education and skills outcome of identification and facilitation of relevant education, skills and training opportunities for YKC participants.*

The available data indicates that this short-term outcome is being achieved. Relevant education, skills and training opportunities are identified, and facilitation of these opportunities is supported through discussions with schools.

*The YKC aims to contribute to the intermediate-term education and skills outcome of improving Aboriginal and Torres Strait Islander young people's capacity to engage in and complete education, skills and training.*

The available evidence indicates that this intermediate outcome is been achieved to some extent, mainly in relation to particular participants who during their time in the YKC return to school.

*“So her attendance wasn't so great. And in 2019 her attendance, as everyone knows, started off in the 30s and ended up in the hundreds at the end of term.”<sup>147</sup>*

## Other findings: rethinking achievement

Court recordings and observations demonstrate that young people achieve outcomes that are relevant to their needs to varying extents. Stakeholders and court staff identify that participant outcomes are incremental, and young people reducing their reoffending or achieving small goals should be considered positive outcomes.

Examples can be seen in the below quotes from graduation recordings:

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<sup>145</sup> Young person speaking in court recording.

<sup>146</sup> Young person speaking in court recording.

<sup>147</sup> Court transcript.

*“He achieved almost everything on his plan, but his licence which he's still working towards... it wasn't the most extensive plan, but they were very important goals on that plan. And namely, that was settling into [location], and continuing with his drug and alcohol counselling, which he did. Attending appointments with the... equivalent of youth justice, and you're going to see in the report, how remarkably well he went... and effectively becoming a leader in a lot of those programmes. Employment was one of the key goals as well. And of course, he's achieved that and he has his permanent job at the [location] and cultural work as well as part of the goals of the plan. So the court, of course, is extremely proud of him for, for achieving all those items.”<sup>148</sup>*

This acknowledges that for the young people, reducing factors to reoffending is an individual-specific process. It must take into account multiple factors including the initial criminal charges, background and current circumstances or issues, and intergenerational trauma.

In particular this can be seen in the graduation recordings. For example, one young person<sup>149</sup> did not meet the majority of the outcomes on their ASP and had a fresh charge at the time of their graduation. However, the young person consistently engaged with cultural supports. Through consistently engaging with these supports the young person made positive behavioural changes and kept themselves out of custody for nine months. Despite many goals not being met, the young person reduced the severity of their offending and achieved an overall positive outcome from the YKC.

**Key outcomes findings: The YKC is achieving its short-term outcomes and some intermediate outcomes for its participants.**

- ▷ All short-term outcomes are being achieved. That is, the YKC is successful in identifying participant needs regarding housing, health, employment, education, safety and social/cultural outcomes. Participants and the Aboriginal community are also being empowered through the process.
- ▷ The YKC is making the greatest contribution to the intermediate outcomes for its participants in the areas of:
  - Empowerment (i.e. increasing trust in the system).
  - Social and culture (i.e. reconnection to and engagement with cultural support).
  - Safety (i.e. reduced probability of being sentenced to a JCO and reduced probability of reoffending).
- ▷ For its participants, the YKC is providing avenues for young people to achieve intermediate outcomes through referrals to a range of support services to help address that need.
- ▷ While some participants are achieving some goals in the areas of employment, housing and health, the lack of data overall on intermediate outcomes for participants whose files were reviewed and the entire YKC population means it is difficult to assess if the intermediate outcomes relating to all participants' needs are being achieved at the program and / or population levels. For example, while a participant has stable accommodation identified as a need to be addressed in their ASP, for most participants there is no data on file to confirm if they now have stable accommodation. Nor does the YKC administrative data does not capture this type of information.

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<sup>148</sup> Court transcript.

<sup>149</sup> Court transcript.



### 3. What are the features, conditions and practices contributing to the YKC achieving its objectives and outcomes?

Evidence from the data sources identified one pre-condition and seven critical conditions, features and practices of the YKC contributing to the YKC achieving its objectives and outcomes. These are discussed below.

#### Pre-condition

Operating as a sentencing court was found to be an important pre-condition for the YKC's success. Deferred sentencing enables a less adversarial atmosphere. This allows the Court and participants to engage in detailed consideration of the factors contributing to offending rather than focussing on sentencing itself.

The YKC provides all parties, including the young person, an opportunity to understand and address the factors contributing to offending behaviour. The young person is offered the opportunity to address these risk factors, and have their efforts and achievements considered upon sentencing. Throughout the process, the magistrate can develop a greater understanding of the young person's background and current circumstances to also consider upon sentencing. These features are attributable to the deferred sentencing model of the YKC.

The deferral of sentencing for up to 12 months also allows the participant to implement their ASP and provide updates and other information to the Court that would not be available in the usual Children's Court process. Additionally, these processes enable the participant to address the factors that may be contributing to their offending behaviour and for the Court to witness this and take this into account in sentencing. The important role that this information plays in reducing the likelihood of a JCO was also noted by BOCSAR.<sup>150</sup>

#### Seven critical conditions, features and practices

The following seven conditions, features and practices were consistently raised, observed and identified across all data collection activities as being key enablers of the YKC's success:

1. CPMs and Aboriginal staff
2. focus on culture
3. participant-centricity
4. team-work and relationships
5. commitment to the YKC process and its objectives
6. pre-conferencing
7. physical layout of the court.

Each condition, feature and practice is discussed in detail below.

#### 1. Community Panel Members and Aboriginal staff

Evidence from the court observations, recordings, and interviews all strongly suggest that the roles of CPMs and Aboriginal staff is a critical feature of the YKC.

Focus: **Outcomes**

Measures examined:

- Perceptions of internal and external factors and circumstances that have influenced the effectiveness of the YKC process
- Stakeholder and participant perceptions of the most beneficial features of the YKC
- Nature of features, conditions, practices of the current YKC process that have contributed to its effectiveness, including features, conditions and practices specific to Parramatta / Surry Hills local areas.

<sup>150</sup> Ooi, E. J. & Rahman, S. (2022). *The impact of the NSW Youth Koori Court on sentencing and re-offending outcomes* (Crime and Justice Bulletin No. 248). Sydney: NSW Bureau of Crime Statistics and Research. Full report available at [www.bocsar.nsw.gov.au](http://www.bocsar.nsw.gov.au), page 16.

## Community Panel Members

The CPMs sit in Court with the Presiding judicial officer at each stage of the Youth Koori Court process and contribute to the process most significantly in the following ways:

- commencing sittings with Acknowledgment / Welcome to Country<sup>151</sup>
- providing cultural or general advice and support to the young person<sup>152</sup>
- occasionally providing external cultural supports to a young person.<sup>153</sup>

Throughout the court recordings and site visits, the magistrate often defers to the CPMs at different times to give the young person advice on sensitive matters or cultural issues.<sup>154</sup> The CPMs generally speak to the young person in a warm and caring manner.<sup>155</sup> The data indicates that this is received well by the young person.<sup>156</sup>

*“Elders give guidance – they really woke her up”<sup>157</sup>*

*“Very strong and deadly. And keep up the good work. You know, there's a lot of youth that are going to come under you, one day, you're going to be my age, believe it or not. And, you know, you will be looked at as leader. I'm sure you are now because what happens with leaders is that people follow. And that's a big thing in our culture. So be proud of who you are. And when you go on country, when you go out there, listen to the mother speak. She always has good advice for you. All the best.”<sup>158</sup>*

The court recordings and the interviews with stakeholders also highlighted that the role of the CPM is balanced against the functions of the Court.<sup>159</sup> The CPMs do not provide input into matters of law or legal procedure (e.g. submissions on sentencing, or applications for bail). This enables the role of the CPM to remain distinct and impartial to the other parties in the room, as the magistrate highlights below:

*“They [the community] don't make the ultimate decision [on the] sentence, but they have input into the development of a plan, they have input into dealing with crises along the way, these kids have crises all the time. They have input into managing those crises. The community has input into that... There are resources that are there. It's not all up to the magistrate to decide what's going on. And so there's a whole lot of respect issues, respect for the services, the processes, there's a comfort zone”<sup>160</sup>*

The court recordings, interviews with family members, participants and stakeholders also identify that young people respond well to the CPMs. Having CPMs and Elders in the room increases the young person's respect for the process and enhances their accountability to any set goals. This is attributed to the fact that people whom they respect – other Aboriginal people – are present, and having an Aboriginal person in the room provides a level of safety, increases a young person's comfort levels, and enhances a sense of responsibility.<sup>161</sup>

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<sup>151</sup> Court sittings begin with an Acknowledgment of/Welcome to Country by the CPM. This occurred in 28 of the 30 reviewed transcripts. In the 2 transcripts without an Acknowledgment of/Welcome to Country there were no Elders (CPMs) present.

<sup>152</sup> Court transcripts.

<sup>153</sup> Court transcript.

<sup>154</sup> Court transcript.

<sup>155</sup> Court transcripts.

<sup>156</sup> Court transcript.

<sup>157</sup> Interview with stakeholder.

<sup>158</sup> CPM in court transcript.

<sup>159</sup> Interview with stakeholder. In the reviewed court recordings, the CPMs did not provide input into submissions for sentencing or bail applications.

<sup>160</sup> Interview with stakeholder.

<sup>161</sup> Interview with stakeholders; interviews with participants.

*“...we bring our young people and not just young people, our families, our, you know, our support, you know, we all acknowledge the presence of Elders in the room. And we have to give that respect to the people that are sitting on that side with the magistrate. And that's our community panel members and our Aboriginal Elders. I mean, we all do it, not just a young people even the prosecution acknowledge the presence of our Elders and what they mean for our community. And what they mean for our young people going through this system.”<sup>162</sup>*

*“Like Aboriginal kids get to sit down with Elders at a table, sort out their situation ‘heaps comfortable – more comfortable than being in the court room... Making commitments in front of Elders means something – more important than magistrates... ‘With Elders, and the court I feel more that I can talk about what’s going on and asking for help.”<sup>163</sup>*

*“YKC [is] different because ‘they understand’ – there are ‘black fellas’ in the court – give you a chance to change.”<sup>164</sup>*

*“[The] Elder is known in community – you have to respect them.”<sup>165</sup>*

### *Aboriginal Staff*

Aboriginal staff include the YKC Intake Coordinator (Youth Justice, DCJ), Caseworker (Youth Justice, DCJ), Youth Caseworker (CCLS, Legal Aid NSW), YKC Casework Coordinator (Aboriginal Services Unit, DCJ) and the YKC Court Officer (Children’s Court, DCJ).

Qualitative data collected from interviews with participants and stakeholders indicate that young people respond better to Aboriginal workers than non-Aboriginal workers.<sup>166</sup>

*“...the interaction they have with other Aboriginal JJs [Youth Justice] or the Aboriginal people who are present in the court and the elders themselves, I think that's something that the kids get a huge amount out of, and that they just respond to a lot better.” – ALS Lawyer*

*“Clients respond better to Aboriginal figures and Elders.” – Youth Justice Worker*

As with CPMs, the presence of Aboriginal workers was seen to contribute to greater respect towards the process by young people.<sup>167</sup> Aboriginal staff were also seen as having great insight into connecting young people with the right supports.<sup>168</sup>

*“And all of the Aboriginal staff that are there are amazing at linking the clients in to either Aboriginal services or culturally appropriate services that they know that the young person is going to be able to... build a rapport with and not.”<sup>169</sup>*

*“...they see me as an older Aboriginal woman. Yeah. So they automatically assume cultural respect... So I think being an Aboriginal woman already gives them that sense of comfort and trust, and cultural respect.”<sup>170</sup>*

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<sup>162</sup> Interview with stakeholder.

<sup>163</sup> Interview with young person.

<sup>164</sup> Interview with young person.

<sup>165</sup> Interview with young person.

<sup>166</sup> Interviews with stakeholders.

<sup>167</sup> Interview with stakeholder.

<sup>168</sup> Interview with stakeholder.

<sup>169</sup> Interview with stakeholder.

<sup>170</sup> Interview with stakeholder.

## 2. Focus on culture

Evidence from court site observations, court recordings, document reviews, and interviews with stakeholders and participants identify that there is a focus on culture in the YKC, and this is a critical feature of the process. ‘Cultural / Supports Connection’ is included as part of a young person’s ASP.

The data indicates that the cultural aspect of the Court is a motivating factor for the young person to engage with the Court, with young people telling the Court they want to be a part of the process because of the cultural aspect.<sup>171</sup>

### *Acknowledgment/Welcome to Country*

Each Court sitting begins with an Acknowledgment of, or Welcome to Country by the CPM present. Everyone remains silent during this address.

*“It’s very culturally appropriate, you’ve got acknowledgement to country, everybody introduces themselves... you can see the support in the room.”<sup>172</sup>*

### *Connecting young person with cultural supports/connections*

Interviews with participants and stakeholders, document reviews, court recordings and site visits / observations identify that connecting a young person with cultural supports is an important practice of the YKC. This includes the young person attending cultural programs, cultural events, accessing Aboriginal-specific support services, and spending time with respected CPMs.<sup>173</sup>

*“YKC helped young people to connect with culture – YKC tell young people about mob and other mobs. Show me things – artefacts. Gave me more understanding around my culture and other Aboriginal culture”<sup>174</sup>*

Cultural support is also an inherent feature of the YKC, as CPMs and Aboriginal staff are present in the room, and provide advice and support to participants as part of the process.<sup>175</sup>

The court recordings and interviews with stakeholders indicate that many young people coming through the Court may not be strongly connected with their culture.<sup>176</sup>

Stakeholders identified that connecting young people with culture, and strengthening their identity is a protective factor for young people, and that young people respond well to opportunities to connect with their culture.<sup>177</sup>

*“It’s all about support, respect, place and connecting to culture. Some (most) don’t have much culture – trauma, removal.”<sup>178</sup>*

*“Cultural connection is a protective factor.”<sup>179</sup>*

*“When culture is implemented, outcomes are better for the youth – risk is reduced.”<sup>180</sup>*

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<sup>171</sup> Court transcript.

<sup>172</sup> Interview with stakeholder.

<sup>173</sup> Court transcript; interview with young person.

<sup>174</sup> Interview with stakeholder.

<sup>175</sup> Court recording; observations, interviews with stakeholders.

<sup>176</sup> In several court transcripts, the young person was living in out-of-home care; Interview with stakeholder; Youth Koori Court Case study. Client placed into out-of-home care and noted ‘Grief and trauma. Dislocation from culture.’

<sup>177</sup> Interviews with stakeholders.

<sup>178</sup> Interview with stakeholder.

<sup>179</sup> Interview with stakeholder.

<sup>180</sup> Interview with stakeholder.

### 3. Participant-centricity

Evidence from most sources identifies that active participation by YKC participants are central to the process, and that this is a critical feature of the Court. The court recordings, the court document review, and interviews with stakeholders and participants identified that the YKC provides young people with the opportunity to have a voice, and to provide input into the process.<sup>181</sup> The parties take time to ensure that the young person understands what is occurring. Stakeholders identified that participant-centricity encourages participants to take ownership of the process.<sup>182</sup> The evidence indicates that these aspects support young people to express themselves and increase their confidence.<sup>183</sup> A difference was noted in court recordings between early appearances (intake, conference) and later appearances (reviews, graduation). A pattern emerged where the participants' level of speaking and confidence in their voice increased from the early stages of the process to graduation. A lack of confidence was observed in the early stages then as participation progressed through the process, participants contributed in full sentences, interjected into conversation, and actively participated at points where court proceedings allowed.<sup>184</sup>

*"It's also really just about taking them through the process and letting them, encouraging them to be the ones that take ownership of the process, which is one of the main differences between Koori Court and normal court as well."<sup>185</sup>*

*"More talking about yourself, not about what you have done. At normal court – talk about what done don't ask what can do to improve, or what you think – YKC ask you what you can do to improve and things about you."<sup>186</sup>*

### 4. Teamwork & relationships

Central to the YKC's effectiveness is the high level of collaboration and engagement between all stakeholders. Informal, frequent discussions between colleagues underpins this high level of collaboration. For instance, ALS volunteer law students often compile summaries of outcomes during YKC sittings and share them with the ALS lawyer. These summaries are then edited and conveyed by the ALS lawyer to other services to ensure matters are progressed between court hearings. The magistrate may also confer with CPMs before hearings to relay the circumstances of the day's proceedings. These informal, ad hoc processes also contribute to the day-to-day running of the Court.

Evidence from the court recordings, site visits and observations, and interviews with stakeholders and participants identified that there is a strong element of teamwork present in the YKC process, with stakeholders working together to achieve the aims and objectives of the YKC.<sup>187</sup>

*"There's a feeling that this is a court that's working for and with Aboriginal people, not just the dominant culture managing it and listening but telling people what to do. There is an element of telling people what to do. That's part of the role of it - It's still a court. That's that. But it's, it's so different. It's so different. And so I hope respectful of Aboriginal culture, and you can see that in the young people's demeanour when they*

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<sup>181</sup> Court transcript.

<sup>182</sup> Interview with stakeholder.

<sup>183</sup> Interviews with stakeholders.

<sup>184</sup> Court transcripts.

<sup>185</sup> Interview with stakeholder.

<sup>186</sup> Interview with young person.

<sup>187</sup> Interview with stakeholder.

Interview with stakeholder.

Interview with stakeholder.

Interview with stakeholder.

*enter the room, and some of their responses really positive when they first walk in, as you know, we've got paintings hanging in the room.”<sup>188</sup>*

*But you've also then got the systems that are really trying as well. So again, it just goes back to that collaborative approach where everybody's working together, not us versus them...it's a very unique process to be a part of, and interesting. It's a real privilege to be a part of.”<sup>189</sup> – YKC Casework Coordinator*

Building relationships is also identified as a critical feature of the YKC. The same magistrate, police prosecutor, and participant's lawyers (both ALS and CCLS) consistently appear in a young person's matter. The data indicates that this consistency and continuity supports the development of relationships and rapport between the young person and these parties.<sup>190</sup> It also facilitates greater understanding of the young person, including their background, needs and current circumstances.<sup>191</sup> The accumulation of these factors indicates greater engagement by the young person with the process. Participants articulated that this relationship building leads to a sense of accountability and wanting to reach goals to please these people.<sup>192</sup>

*“Continuity of prosecutor – familiar magistrate, lawyer, prosecutor – works as an extended family, in sense that's it's a group of people that have agreed to work to the benefit of the YP, in that sense we have to be good parents, leadership, understanding mistakes and learning from them.”<sup>193</sup>*

*I think what's different from YKC to normal Children's Court is that on any given day... when you turn up to normal Children's Court, you can have any prosecutor you can have any solicitor you can have any magistrate. Whereas in YKC.. they get to know the young people, they get to know their circumstances, they get to know their families. But in return, the young people get to know who the magistrate is, they get to know who the prosecutor is, they get to know this solicitor, and that what makes it feel, I think, more comfortable for the young people to actively participate and engage.”<sup>194</sup>*

Stakeholders articulated that the YKC process provides participants with support to address issues through referrals and the court process itself.<sup>195</sup> These supports include:

- Youth Justice supervision and connections
- referring and connecting the young person with support services
- DCJ casework support (if the young person is in OOHC)
- advice and support within the court process from all of the participants, including the CPMs, the magistrate, the prosecutor, the young person's criminal lawyer, the Youth Justice workers, the YKC staff, and the CCLS lawyer
- vouchers donated from the NSW Advocate for Children and Young People which enabled the establishment of a gift register for graduate participants.

The impact of support facilitation is demonstrated through the graduation recordings, where most participants who graduated (n = 14) accessed supports, and subsequently had made improvements to their behaviour. A small number of participants who graduated (n = 4) did

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<sup>188</sup> Interview with stakeholder.

<sup>189</sup> Interview with stakeholder.

<sup>190</sup> Case Study notes rapport building between CCLS and young person over time. Young person initially very reluctant to engage, but over time and building rapport young person willing to accept help.

<sup>191</sup> Court transcript.

<sup>192</sup> Interviews with participants.

<sup>193</sup> Interview with stakeholder.

<sup>194</sup> Interview with stakeholder.

<sup>195</sup> Interview with stakeholder.

so without accessing supports to a great extent, but did reduce their offending behaviour, having not reoffended since entering the YKC or through a reduction in serious offending.

Within interviews, participants consistently noted that while they found referrals helpful and necessary, it was the support and advice provided by the YKC staff that assisted them most in achieving their goals.

*“It’s not just about the referrals – it’s what happens in court, actual change in course of working through the court process, from court workers’ advice and care - they’ve helped me with nearly everything.”<sup>196</sup>*

#### Case study: Referral and support

Ashlie was 15 years old when he entered the YKC. Ashlie pleaded guilty to several charges, including violent offences. Ashlie was living in out-of-home care and had experienced multiple placement breakdowns. He was living in temporary accommodation at the time he was charged and had disengaged from school.

Ashlie reoffended after entering the YKC and was placed in custody, before being granted bail. Prior to entering the YKC Ashlie had been offered support by a local support service. A caseworker from the service explained during the YKC Conference that Ashlie had not been engaging with the service consistently or taking up the offered supports, despite multiple attempts to engage him.

At the YKC Conference, the magistrate and Ashlie’s ALS lawyer explained the ASP and asked for Ashlie’s input. Ashlie explained his goals for each section and these were written into the plan. The goals included obtaining a green card to work in construction and to return to organised sports. Ashlie accepted an offer to join the YKC sponsored touch football team.

The CPM spoke directly to Ashlie about cultural issues including how he might benefit from visiting Country. They gave Ashlie encouragement and offered general advice about how to achieve change.

At his YKC Graduation, Ashlie’s lawyer and the Youth Justice Worker were able to report positively about Ashlie’s engagement with the original support service and his progress achieving the goals set in the Action Plan. The magistrate, CPM and all court workers congratulated Ashlie on the achievements they had made, including how well they had engaged with supports.

## 5. Commitment to the YKC process & its objectives

The data identified that commitment to the YKC process and the objectives by the people working in the court is a critical feature of the court.

The role of the prosecution is identified as distinguishable in the YKC compared with standard court.<sup>197</sup> Evidence from the court recordings, site visits/observations and interviews with participants and stakeholders indicated the following about the role, the prosecutor:

1. plays a less active role in the YKC<sup>198</sup>
2. was generally more supportive towards the young person.<sup>199</sup>

*“I think the current prosecutors are really good. There has just been times when it’s been someone else for a short time. But I think it’s good to have kind of, two kind of steady prosecutors who regularly there because... they get on the same page. I*

<sup>196</sup> Interview with young person.

<sup>197</sup> Interview with stakeholder; Court transcript.

<sup>198</sup> In several court transcripts, the prosecutor said minimal, and in more than once instance chose not to be heard regarding sentencing or applications for bail.

<sup>199</sup> As above.

*guess, if you get someone who's just stepped in from a regular court, they're not on the same page and they can come in all guns blazing which is not appropriate for that room, I don't think.”<sup>200</sup>*

*“Police prosecutors were really good in YKC. Police prosecutors would say things to me like, Is that really what you want to do? How do you really want to be? Police more supportive as opposed to normal court”<sup>201</sup>*

## 6. Pre-conferencing

### *In court pre-conferencing*

Courtroom observations and recordings highlight the importance of a five-minute discussion prior to young person’s arrival to the running of the Court.<sup>202</sup> Issues such as young people being late or coming from custody are discussed, allowing rearranging of the order of the day to ensure the day runs smoothly.<sup>203</sup>

In court, pre-conferencing also updates the magistrate and the Court on issues concerning the participant. One observation included advising the magistrate that the young person has had a recent death in the family and as such may appear unhappy or distracted.<sup>204</sup> In another observation the magistrate was informed that the young person had a preferred name other than that listed.<sup>205</sup> Stakeholder interviews confirm this process is beneficial for how the Court runs the matters, and it also ensures that the Court holistically understands the young person’s progress. It also avoids potential predicaments arising such as the Court being surprised by the young person having a fresh offence after praising them for 10 minutes or not exploring a new issue that Court would have otherwise been unaware of.<sup>206</sup>

### *Out of court pre-conferencing*

Pre-conferencing also happens out of court with communication occurring between different parties, but generally between the participant’s criminal ALS lawyer, Youth Justice, CCLS and any support services involved.<sup>207</sup> This is underpinned by the governance arrangements of the YKC, as described above.

This information sharing occurs in both a formal and informal manner. Parties will correspond to share information regarding a young person between court appearances. This facilitates a responsive approach to a young person’s situation, including whether there needs to be any changes or revision of the ASP, support services, adjournments or legal applications on the next date.<sup>208</sup>

Stakeholders articulated that both in-court and out of court pre-conferencing is critical to keep all parties informed with what is happening for a participant between and in preparation for court appearances. This feature of the Court aligns with the collaborative and non-adversarial nature of the YKC that places the young person at the centre of the proceedings. It facilitates a responsive team effort to support the young person to meet their ASP, and consequently the aims and objectives of the YKC.<sup>209</sup>

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<sup>200</sup> Interview with stakeholder.

<sup>201</sup> Interview with young person.

<sup>202</sup> Court observations, court transcripts.

<sup>203</sup> Court observation.

<sup>204</sup> Court observation.

<sup>205</sup> Court observation.

<sup>206</sup> Stakeholder interview.

<sup>207</sup> Stakeholder interview.

<sup>208</sup> Stakeholders interviews.

<sup>209</sup> Stakeholders interviews.



## 7. Physical layout of the court

The physical layout of the court room is considered a beneficial feature of the YKC process by participants and stakeholders<sup>210</sup> The data indicates that having all parties, including participants, sit around a table as opposed to the traditional court layout facilitates a greater level of comfort for participants, and supports the collaborative approach of the Court.

*“Around a table.. you can have your say, not a lot of pressure, it’s the way people act that makes the difference – working in a circle, less pressure, motivated me heaps”<sup>211</sup>*

The court recordings, site visits/observations and interviews with participants and stakeholders identifies that discussions in the YKC are conducted in a conversational manner, attributable at least in part to the physical set-up of the court. Distinguishable from usual court proceedings, these findings indicate this feature facilitates a more informal, relaxed and inclusive atmosphere which is beneficial to the process.

### **Key outcomes findings: There is one critical pre-condition and seven other practices / factors for success.**

- ▷ Operating as a sentencing court is an important precondition for success.
- ▷ Other successful factors, practices and conditions which contribute to the YKC achieving its objectives and outcomes include:
  1. CPMs and Aboriginal staff – the active engagement in the YKC of respected Aboriginal community members and Aboriginal case workers is critically important to participants.
  2. Focus on culture – all participants interviewed described the importance of engaging and reconnecting with their culture as part of the YKC process.
  3. Participant-centricity – the magistrate placing the participant at the centre throughout each step of process increases their engagement, commitment and confidence.
  4. Team-work and relationships – participants are well supported throughout the process due to YKC stakeholders working collaboratively.
  5. Commitment to the YKC process and its objectives – all YKC stakeholders and participants adhere to the different way in which in the YKC works.
  6. Pre-conferencing – the informal and formal processes YKC stakeholders use to share information and coordinate the support for participants are critical.
  7. The physical layout of the court – the informality, circular nature of the court layout being the opposite to the Children’s Court is welcomed by participants.
- ▷ Lessons learnt and conditions and practices that are not contributing to the success of the YKC are examined in the next section.

<sup>210</sup> Interview with stakeholders.

<sup>211</sup> Interview with young person.

## 4. What are the opportunities for improvement and key considerations for the future of the YKC?

The evaluation findings indicate that the YKC provides a high quality and cost-effective alternative sentencing program for young Aboriginal participants in an innovative, considered and culturally safe environment.

Overall the YKC is achieving its stated aims and objectives, with available data indicating that the short-term outcomes of the program are being achieved.

The available data indicates there is clearly a need for alternative and culturally appropriate sentencing programs for young Aboriginal youth that focus on addressing risk factors, and involving the community in the program. If the current program ceased to operate, it is likely that this need would not be met by the current judicial system.

### Focus: Outcomes

#### Measures examined:

- Nature of lessons learnt from the YKC Process to date
- Stakeholder and participant perceptions of opportunities for improvement for the YKC process
- Key considerations for the future of the YKC process

### Lessons learnt and opportunities for improvement

Based on the findings, the opportunities to improve the YKC focus on building on the success of the YKC for its continuation and possible expansion rather than making any major structural change or reform.

The below opportunities for improvement build on the findings discussed throughout the report, and focus on both strengthening the positive features of the YKC and addressing discrete gaps.

#### Strengthening focus on culture and increasing Aboriginal staff

The seven conditions, features and practices for the success of the YKC identified in the evaluation highlight the importance of focusing on culture and engaging Aboriginal staff as detailed in the previous section. Building on these critical features, stakeholders articulate that it is important for staff working in the YKC to be Aboriginal and that there should be a continued focus on increasing Aboriginal staff within the program.<sup>212</sup>

Stakeholders also identify that the YKC can be improved through greater resourcing of cultural programs to facilitate greater connection with culture for young people.<sup>213</sup> This includes increasing (and ensuring) the direct engagement of culturally appropriate external service providers in each participant's journey, increasing the consistency, diversity and targeted nature of cultural supports and increasing the presence of Aboriginal workers in the process and in support services. For example, stakeholders and participants articulated that aligning cultural supports and CPMs with a participant's Country of belonging where possible would be beneficial.

#### Improving record keeping and information sharing

The findings related to Evaluation Questions 1 and 2 indicate improvements can be made to record keeping and information sharing practices. Specifically the evaluation identified that:

- an accurate record of each participant's progress could not be extracted from the court files as the files contained limited information, and were difficult to follow
- limited information is contained on court files regarding the reasons for a participant's withdrawal or discharge

<sup>212</sup> Stakeholder interviews.

<sup>213</sup> Stakeholder interviews.

- the YKC administrative data collected and held by the Children’s Court does not contain the reasons for withdrawal or discharge from the YKC
- record keeping of appearances is undertaken by an ALS volunteer
- there is no central database of all YKC participants that can be accessed by the YKC Case Coordinator
- there is confusion about the ability to share and access approved ASPs with key stakeholders and participants.

The evaluation finds that a beneficial feature of the YKC process is each participant having the same magistrate for their entire journey. Court recordings indicate that **having the same magistrate enables them to develop a sound, general understanding of the individual participant, their background and progress, despite the lack of information on the court file.**

However, without the establishment of accurate and sufficient record-keeping practices, **a magistrate may not be aware of issues relevant to the considerations to be taken into account on sentencing.** It is noted that magistrates do keep their own notes which are not held on file and these notes can be shared with fellow magistrates upon request. Adequate record-keeping on the court file which documents the participant’s achievement of outcomes contained in the ASP as well as any changes to the ASPs will ensure accurate records are held. This will also enable each participants journey can be easily followed and accessed if magistrates and other staff change.

To ensure that all stakeholders can engage in the discussion in court, record keeping practices could be improved through a funded role dedicated to record-keeping in the YKC.<sup>214</sup>

### Provide post-graduation support

It was identified through interviews with participants and review of court recordings that one of the main drivers for young people is the accountability to the Court, and particularly the CPMs. Once a participant finishes the YKC, this direct accountability factor is no longer present. Stakeholders identified the need to provide longer-term supports to young people post-graduation. The rationale for post-graduation support as stated by stakeholders is to ensure young people maintain the positive outcomes they have achieved through the YKC process.<sup>215</sup> If this is a process within the YKC, it could utilise the accountability element to encourage participants to maintain and continue their positive progress.

### Ensure key YKC staff are retained

The YKC is considered largely dependent on particular people (i.e. ALS lawyers, magistrates, CPMs and YKC Case Workers) and relationships between stakeholders. While staff turnover is not currently an issue, staffing changes have the potential to cause disruptions to the relationships built through the process.<sup>216</sup> As a proactive measure, attention could be paid to maintaining the current staff complement of the YKC.

### Governance

As identified in the process evaluation, no formal mechanisms for governing the YKC process itself currently exist. Formal governance mechanisms could include frequent meetings between key stakeholders – magistrate, ALS and DCJ – to monitor and track the implementation of the YKC, its performance in terms of rates of referrals, admissions, graduations, withdrawals/discharges, funding requirements and identify any emerging risks and systems improvements.

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<sup>214</sup> Stakeholder interviews.

<sup>215</sup> Stakeholder interview.

<sup>216</sup> Stakeholder interview.

## External support services

The evaluation has found that external support services are not consistently engaged in a participant's journey through the YKC. Factors that constrain the engagement of external support services include the following:

- The timeframes of available support. For example, support services may be able to assist a young person for a maximum of 24 weeks, after which time a young person will need to engage with a different support service.<sup>217</sup>
- There is a reliance on particular services and engagement of external support services seems to be highly dependent on the networks of the solicitors and case workers.

Focus on strengthening external support service networks and connections, and referral pathways could assist the court.

## Aboriginal-specific services

Interviews with participants identified that Aboriginal-specific support services are highly valued. Court recordings, and interviews with stakeholders indicate that Aboriginal support services can provide participants with culturally-appropriate services where young people feel more comfortable speaking with other Aboriginal people, and are therefore likely to have better results.<sup>218</sup> Participants themselves emphasised how important it was for them to be supported, encouraged and guided by Aboriginal staff within support services.

*'It feels good to go where there are Aboriginal faces'*<sup>219</sup>

## Considerations for the future of the YKC

Stakeholders articulated that it would be beneficial for the YKC to be expanded to other regions.<sup>220</sup> In particular, the program could greatly benefit young people in rural and regional areas of NSW, as one young person clear articulated:

*"...what my views are on YKC, I think it's a wonderful programme and to be honest, I wasn't always on this view. So it wasn't until I actually started working in YKC...that despite it still being a Children's Court process, that things are changing, you know, people are changing, attitudes are changing. Some young people are changing for the better. And I think, you know, moving forward, if there's any, any scope to continue and expand YKC throughout New South Wales, I think it's only going to do justice for our community, for our kids and for the system itself."*<sup>221</sup>

*"It's a wonderful court and think should be approved all across the country. Very good for young people and gives them a fair go – so that other young Aboriginal and Torres Strait Islander offenders have same opportunity across country."*<sup>222</sup>

Stakeholders assert that expanding the YKC elsewhere may present difficulties as the relationships in the current YKC locations could be hard to reproduce.<sup>223</sup> Staff who deeply understand the process, issues, and the needs of YKC participants are required.<sup>224</sup>

However, applying the seven critical conditions, practices, and features identified throughout the evaluation and training for all key roles, as detailed in the previous section, is the key starting point for expanding the program.

<sup>217</sup> Court transcripts; interviews with stakeholders.

<sup>218</sup> Participant interviews.

<sup>219</sup> Interview with young person.

<sup>220</sup> Interviews with stakeholders.

<sup>221</sup> Interview with stakeholder.

<sup>222</sup> Interview with participant.

<sup>223</sup> Interview with stakeholder.

<sup>224</sup> Interview with stakeholder.

**Key outcomes findings: The YKC does not require significant change or reform, rather it requires some process enhancements to turn good practices into great systems**

- ▷ As the YKC is achieving its stated aims and objectives overall, identified opportunities for improvement of the YKC focus on building on current success rather than making any structural change or reform. These opportunities include:
  - strengthening focus on culture and increasing Aboriginal staff
  - improving record keeping and information sharing
  - providing post-graduate support
  - improving processes for managing external staff turnover
  - formalising governance arrangements at the YKC-level to monitor and oversee its performance especially regarding graduation, withdrawal and discharge rates.
- ▷ Key considerations focus on taking into account the factors that impact the engagement of external support services in YKC process, and participants valuing of Aboriginal support services.
- ▷ In addition, any expansion of the program into another location should include application of the seven critical conditions, features and practices that make the YKC successful:
  1. CPMs and Aboriginal staff
  2. focus on culture
  3. participant-centricity
  4. team-work and relationships
  5. commitment to the YKC process and its objectives
  6. pre-conferencing
  7. physical layout of the Court.

## 5. What are the costs and benefits of the YKC process? & 6. What are the costs of continuation and expansion of the YKC process?

The economic component of the evaluation considered the following two questions:

- What are the costs and benefits of the YKC process?
- What are the costs of continuation and expansion of the YKC process?

Due to similarities in the findings across both questions, the findings for these questions are reported here in combination.

The detailed cost and benefit tables which inform the below analysis can be found at **Appendix G**.

### Costs associated with the YKC process

#### Funded costs

The funded costs of the YKC are accrued over Court Services, Legal Aid NSW and the ALS. The aggregate costs associated with the administration of the YKC from financial year 2017/2018 to financial year 2019/2020 are summarised in the table below.

Service	Resources	FY 17/18	FY 18/19	FY 19/20	3-year total
Court Services	CPMs	60,000	61,500	63,080	184,538
	Project Officer clerk grade 9/10 (0.6 FTE)	86,453			86,453
	Case Worker Coordinator clerk grade 7/8	126,936	130,109	133,362	390,408
	YKC, Court Officer clerk grade 5/6 (0.5 FTE)	55,746	57,139	58,568	171,452
	Other operating expenses	28,000	14,700	15,068	57,768
	Evaluation			150,000	150,000
Legal Aid NSW	Legal Officer (Grade 1-3 IV)	147,333	151,016	154,792	453,141
	Youth Caseworker (Aboriginal Identified)	118,000	120,950	123,974	362,924
	Paralegal (Aboriginal identified)	102,000	104,550	107,164	313,714
	Lawyer	142,562	146,126	149,779	438,467

Focus: **Economic**

#### Measures examined:

- Costs associated with the YKC process
- Benefits associated with the YKC process
- Costs and benefits at individual, cohort and societal levels
- Costs for continuation of the YKC process
- Costs of expansion of the YKC process
- Potential efficiencies (if any) that can be realised through expansion to other locations.

Aboriginal Legal Service	Operating	21,335	21,868	22,415	65,618
	Capital	2,500			2,500

### Non-funded costs

In addition to these funded costs, the YKC relies on services provided by Police Prosecutors, the Children’s Court registry, Youth Justice, magistrates, additional support to deliver the YKC services including paralegal and higher grade staff engaged by ALS and Legal Aid NSW, and external support services. The cost of these services are estimated at 15 percent of the cost base.

### Benefits associated with the YKC process

Referrals to the YKC across its current locations (Surry Hills and Parramatta) are forecast at 30 referrals a year between 2021-22 and 2025-26. Of these referrals, most young people will be admitted to the program, and 16 to 19 young people are expected to graduate each year.

The forecast referrals, admissions, exits (withdrawals or discharged) and graduations for the YKC are summarised below.

Financial year	Referrals	Admissions	Exits	Graduations
21/22	30.1488	29.3389	10.0851	16.897
22/23	29.8484	29.4426	10.4004	17.4581
23/24	30.263	29.5729	10.4455	18.0689
24/25	30.0285	29.7155	11.7847	18.6278
25/26	30.0438	29.4231	10.9959	19.0118

### Costs and benefit ratio of the YKC

The costs of operating the YKC, compared to the value of the number of young people expected to benefit from participating in the program and accessing support services, indicates a benefit cost ratio of two. This ratio maintains if the program is expanded into an additional area and the participant numbers are equal to the current average of Parramatta and Surry Hills. However, the ratio is slightly reduced if the program is expanded to another site where the participant numbers will be half the current average of Parramatta and Surry Hills. It should also be noted that a regional or rural site may attract costs in addition to those incurred in the metropolitan sites of Surry Hills and Parramatta.

The net present value (NPV) and the benefit cost ratio is summarised below.

Option	NPV costs	NPV benefits	Benefit cost ratio
Base case (YKC continues as per current formulation)	\$8,280,345	\$16,119,216	2
Alternative scenario 1 – YKC is expanded into another area	\$13,319,923	\$24,178,944	2
Alternative scenario 2 – YKC is expanded into another site and the participant numbers will be half the current average of Parramatta and Surry Hills	\$16,258,074	\$29,959,925	1.84

Alternative scenario 2 + reduction in recidivism.	\$16,258,074	\$32,456,587	2.00
Alternative scenario 3 – YKC is expanded into another area <b>plus</b> operating costs are increased	\$36,167,286	\$36,194,720	1.00

The results of the CBA indicate that the preferred option is expansion of the YKC into at least one other area. The functioning of an additional site will increase coverage and accessibility and positively impact a greater number of young people.

The benefit cost ratio under all four scenarios is positive. The numbers themselves are relative and only serve to compare the various scenarios against each other.

A sensitivity analysis has been used to account for additional costs such as police prosecutor costs, court registry, ALS, Youth Justice and other external support services outside of DCJ and court case workers which are not currently funded by the YKC program. If the cost base is increased by 15 percent to account for these costs, the benefit/cost ratio is still positive at around 1.89. Alternatively, Alternative Scenario 3 models a benefit-cost ratio of 1.0 as a result of increasing operating costs by \$1.9m in the first year, then by 2.5 percent over the out years to account for inflation. This requires an additional \$18.9m in absolute terms over the eight-year forecast horizon.

Under Alternative Scenarios 1 and 2, the cost base is inflated by 17 percent and 20 percent respectively year-on-year (over the forecast horizon) to account for the cost of establishing an additional court. The difference in percentage between these two scenarios accounts for the difference in the number of young people entering and graduating from the program.

### Economic impacts of the YKC

Expanding the YKC into an additional site will deliver direct and indirect economic impacts to NSW economy through the impact of employment.

This is summarised in the table below.

Impact	Direct (\$ mil)	Indirect and induced (\$ mil)	Total (\$ mil)
Output	\$0	2.6	10.6
Gross Value Add (GVA)	2.1	1.6	3.7

### Additional economic impacts

In addition to the direct impacts associated with the YKC, the YKC is responsible for generating significant indirect socio-economic benefits. For the most part, these benefits accrue because of the services available to children, which have a flow on impact to their immediate social cohort including families and friends. The YKC has demonstrated a connection between vulnerable young people to a range of integrated services designed to meet high priority needs such as employment and accommodation.

Interventions such as the YKC, which facilitates employment opportunities, better access to accommodation, and greater access to healthcare, represents a net benefit to society either directly or indirectly. However, this does not mean that *any* kind of intervention will make a difference. To be effective, early intervention programs must be long-term, evidence-based and comprehensive.



**Key economic findings: The YKC as it currently operates and under the range of expansion scenarios results in a positive benefit-cost ratio, ranging from 1.0 to 2.0 depending on the scenario**

- ▷ The costs of operating the YKC, compared to the number of young people expected to benefit from participating in the program and accessing support services, indicates a benefit-cost ratio of 2:1: for every \$1 invested \$2 is returned in avoid cost savings. This ratio is maintained if the YKC is expanded to a new site with the same number of referrals seen in Surry Hills and Parramatta. However, the ratio is reduced to 1.84 if it is expanded into another site and the participant numbers are half the current referrals.
- ▷ In addition to maintaining a benefit cost ratio of 2.0, expanding the YKC to a new site delivers direct and indirect economic impacts to the NSW economy. The direct GVA of delivering a new YKC site is estimated at \$2.1 million, and the indirect and induced GVA is estimated at \$1.6 million.
- ▷ Expanding the YKC to include one additional site while also increasing its operating costs to account for current unfunded services / supports by \$1.9m in the first year, then by 2.5 percent in following years, will require an additional investment of \$18.9m over eight years. This will also maintain a positive benefit-cost ratio of 1.0.
- ▷ Most importantly, the YKC can facilitate a range of positive outcomes for young people who participate in the process that can lead to further savings to government by preventing additional engagement with the criminal justice system or reliance on other government services.

## Implications & Recommendations

The evaluation findings lead to a set of implications and recommendations which aim to build on the success of the YKC and position it strongly for any future expansion.

### Implication 1: Recognising the significance of the Youth Koori Court

The YKC should be recognised and celebrated as a unique and effective model that is successfully contributing to positive outcomes achieved by Aboriginal young people, the criminal justice system and the community more broadly.

The strong support for the YKC by participants, its contribution to a reduced likelihood that participants are given a custodial sentence, addressing of the factors that contribute to offending and the positive benefit-cost ratio of the YKC all combine to support the recommendation that at a minimum, the YKC continues and is ideally expanded to at least one other location.

#### Recommendation 1

Recognising the importance of the YKC in reducing Aboriginal young peoples' engagement with the criminal justice system, it is recommended that the YKC is continued as it currently operates, as well as expanded to at least one other location.

### Implication 2: Turning good conditions and practices into great systems

Codifying in a comprehensive practice manual, and embedding through ongoing training, the seven critical conditions, features and practices identified through the evaluation. This is particularly important if the YKC is expanded to further locations.

Codifying these conditions and practices will:

- mitigate the risk that the successful delivery of the YKC in its current locations is dependent on key stakeholders (i.e. the particular magistrates, case workers and legal practitioners)
- ensure the model continues to be implemented with fidelity leading to the achievement of similar outcomes in other locations and as staff and providers in existing locations change.

#### Recommendation 2

To turn good conditions and practices into great systems to enable the successful continuation and expansion of the YKC, it is recommended that the following seven critical conditions, features and practices, which were identified through the evaluation, are codified through an updated program manual and the provision of training on:

- CPMs and Aboriginal staff
- focus on culture
- participant-centricity
- team-work and relationships
- commitment to the YKC process and its objectives
- pre-conferencing
- physical layout of the court.

### Implication 3: Improving aspects of the Youth Koori Court's administration

Improvements identified by stakeholders need to be addressed. These improvements include record keeping, ensuring Police Prosecutors understand the model, that the YKC

continues to have a high representation of Aboriginal staff as well as CPM representation, ensuring funding of activities and supports that are currently unfunded (e.g. services provided by the Police Prosecutor, the Children's Court registry, Youth Justice, the magistrate, additional support to deliver the YKC services including paralegal and higher grade staff engaged by ALS and Legal Aid NSW, and external support services), and monitoring the performance of the YKC with respect to graduation and withdrawal/discharge rates.

These improvements would ensure fidelity of the model across expansion sites, help monitor YKC performance regarding graduation and withdrawal/discharge rates, as well as deepen the outcomes being achieved by participants through the YKC.

### Recommendation 3

To improve aspects of the YKC's administration to ensure program fidelity, its continued success and to monitor rates of graduation, withdrawal and discharge, it is recommended that the following improvements are made:

- improve record keeping on participants' progress on the court file
- ensure participants and relevant stakeholders are provided with their ASP on all occasions
- focus on maintaining and growing Aboriginal representation amongst YKC stakeholders and support services
- fund costs that are incurred but currently unfunded (e.g. ALS paralegal support as well as judicial and court resources)
- provide specialist ongoing training on the YKC model and its features of success to Police Prosecutors in all YKC locations
- introduce a formal governance mechanism to oversee the YKC process.

### Implication 4: Amplify the empowerment effect on participants

Future program fidelity and success requires building on particular factors that participants identified as important for maintaining what they have achieved through the YKC journey. In particular this includes bespoke or fit-for-purpose cultural supports, ensuring external providers are reporting back to the Court in support of the participant's progress, and helping participants to plan for life post-graduation.

### Recommendation 4

To enhance the empowerment of YKC participants, it is recommended that the following supports are provided to participants:

- more cultural support options that are fit-for-purpose and language-group specific
- ensure participants are provided with their ASP on all occasions
- increase reporting to the court by external support providers throughout a participant's time with the YKC
- develop with participants a plan which identifies supports to help them manage their transition out of the YKC post-graduation.

## Appendix A: YKC Program Logic

<b>Issue</b>	Overrepresentation of Aboriginal and Torres Strait Islander young people in the criminal justice system in NSW
<b>Program Objectives</b>	<ul style="list-style-type: none"> <li>• Increase Aboriginal and Torres Strait Islander community, including young Aboriginal and Torres Strait Islander people's confidence in the criminal justice system</li> <li>• Reduce the risk factors relating to re-offending by Aboriginal and Torres Strait Islander young people</li> <li>• Reduce the rate of non-appearances by young Aboriginal and Torres Strait Islander people in the court process</li> <li>• Reduce the rate of breaches of bail by young Aboriginal and Torres Strait Islander people, and</li> <li>• Increase compliance with court orders by young Aboriginal and Torres Strait Islander people.</li> </ul>
<b>Evidence</b>	Distrust and disconnection from the criminal justice system affects Aboriginal and Torres Strait Islander over-representation. Evaluations of comparative programs (Victorian Children's Koori Court, County Koori Court of Victoria, Queensland Murri Courts) indicate that Aboriginal and Torres Strait Islander specific sentencing courts may have an effect in reducing the risk factors related to the re-offending of Aboriginal and Torres Strait Islander young people and increase Aboriginal and Torres Strait Islander community and young people's confidence in the justice system.

Inputs	Participants	Activities	Outputs	Short-term outcomes	Intermediate outcomes	Long term outcomes
Children's Court of NSW Practice Note 11 – Youth Koori Court Community Panel Members Project Officer Clerk Grade 9/10 (2018-19 only) Case Work Co-coordinator Clerk Grade 7/8 YKC Court Officer (YKC Liaison Officer) Clerk Grade 5/6 Court Services operating expenses (\$57,768 over 3 years) Legal Aid NSW Children's Civil Law Service YKC services: <ul style="list-style-type: none"> <li>• Legal Aid Legal Officer Grade 4</li> <li>• Legal Aid Youth Caseworker (Aboriginal identified)</li> <li>• Legal Aid Paralegal (Aboriginal identified)</li> </ul> Aboriginal Legal Service Lawyer Operating costs including training, recruitment, library resources, accounting, fees, travel (\$65,618 over 3 years) Capital: Desktop, Ipad, Phone	To be eligible for the YKC Process the young person must: <ul style="list-style-type: none"> <li>•be an Aboriginal or Torres Strait Islander young person;</li> <li>•plead guilty to the offence or found guilty of the offence after a hearing;</li> <li>•be charged with an offence within the Children's Court's jurisdiction that is to be heard and determined by a magistrate;</li> <li>•be highly likely to be sentenced to an order which would involve Youth Justice supervision</li> <li>•be between 10 to 17 years of age at the time of the offence; and</li> </ul>	Screening assessment by a YKC Casework Coordinator for suitability Further assessment of suitability at first appearance, taking into account factors such as availability of suitable services and Community Panel Members Identifying the dynamic risk factors (i.e. those that are amenable to change) and appropriate protective factors that are likely to reduce the risk of offending for a particular young person Attendance at a YKC conference for the development of an Action and Support Plan Approval of an Action and Support Plan Engagement with government and non-government agencies to identify appropriate supports Monitoring and review of compliance and engagement with the Action and Support Plan	Number of YKC participants Action and support plan Referral to services Uptake and engagement with services Partial completion of/engagement with YKC Process Sentencing and graduation	<b>Empowerment</b>	Increased Aboriginal and Torres Strait Islander <b>confidence in the criminal justice system</b>  Improved understanding in the criminal justice system of the challenges and experiences of Aboriginal and Torres Strait Islander young people	Aboriginal and Torres Strait Islander people, including young people, are confident in and respect the criminal justice system  <b>Criminal Justice system processes are more culturally sensitive and relevant</b> to the young people
				Greater Aboriginal and Torres Strait Islander <b>community involvement in criminal justice system processes</b>  YKC participants have an <b>understanding of and engage with the YKC Process</b>  YKC participants feel <b>heard</b> and feel that they have <b>agency, input and control through the YKC Process</b>  YKC participants feel that they can <b>trust government agencies and services</b>		
				<b>Social and community</b>  Identification and facilitation of relevant <b>cultural and community connections and activities</b> for YKC participants  <b>Engagement</b> by YKC participants with <b>culture and community</b>		

<p>Promotional materials -fact sheet 2015 process evaluation Community Panel Members Handbook Eligibility Screening Tool Action and support plan template</p>	<p>•be willing to participate.</p>	<p>Case management to facilitate greater understanding and participation in the court process by the young person  Sentencing  Recognition, acknowledgement and rewards</p>				
<b>Health</b>						
<p>Identification and facilitation of opportunities to improve <b>physical and mental health</b> for YKC participants</p>	<p>Aboriginal and Torres Strait Islander young people experience improved feelings of <b>physical and mental health</b></p>	<p>Aboriginal and Torres Strait Islander young people experience <b>improved physical and mental health outcomes</b></p>				
<b>Safety</b>						
<p>Identification and facilitation of relevant opportunities to <b>increase safety</b>, including <b>risk factors that may contribute to re-offending</b> for YKC participants</p>	<p><b>Reduced probability of imprisonment</b>  <b>Reduced probability of re-offending</b></p>	<p>Reduction in the <b>over-representation</b> of Aboriginal and Torres Strait Islander young people in the criminal justice system.</p>				
<b>Economic</b>						
<p>Identification and facilitation of relevant <b>work and economic</b> opportunities for YKC participants</p>	<p>Aboriginal and Torres Strait Islander young people have improved capacity to <b>engage in and maintain relevant work and economic opportunities</b></p>	<p>Aboriginal and Torres Strait Islander young people <b>contribute to and benefit from our economy</b></p>				
<b>Home</b>						
<p>Identification and facilitation of relevant opportunities for <b>stable and safe housing</b></p>	<p>Aboriginal and Torres Strait Islander young people have access to <b>stable and safe housing</b></p>	<p>Aboriginal and Torres Strait Islander young people have a <b>safe and affordable place to live</b></p>				
<b>Education and skills</b>						
<p>Identification and facilitation of relevant education, <b>skills and training</b> opportunities for YKC participants</p>	<p>Aboriginal and Torres Strait Islander young people have improved capacity to <b>engage in and complete education, skills and training</b></p>	<p>Aboriginal and Torres Strait Islander young people engage in and complete <b>education, skills and training</b> opportunities  Aboriginal and Torres Strait Islander young people <b>transition from school to further education, training and work</b></p>				

## Appendix B: Court observations by location & appearance type

No.	Court location	Date of observation	Type of sitting observed				
			<u>Intake</u>	<u>Conference</u>	<u>Review</u>	<u>Withdrawal</u>	<u>Graduation</u>
1	Surry Hills	3.10.2021					
2	Parramatta	23.04.2021	1	0	1	1	0
3	Surry Hills	26.05.2021	0	0	3	1	0
4	Parramatta	26.11.2021	1	0	3	0	1
5	Parramatta	3.12.2021	0	0	3	0	3
6	Surry Hills	8.12.2021	0	1	3	0	0
7	Parramatta	10.12.2021	0	0	3	0	1
8	Surry Hills	15.12.2021	1	0	2	0	1
9	Parramatta	17.12.2021	0	0	4	0	0
	<b>Totals</b>		<b>3</b>	<b>1</b>	<b>22</b>	<b>2</b>	<b>6</b>

## Appendix C: Interview tools

### Interview Guide 1 – Court participants

Interview type	Semi-structured interview YKC Participants
Introduction (script for participants)	
<p>We want to know what you think about the Youth Koori Court and how we can make it better.</p> <p>Once we've talked to you and some other young people, their families, people at the court and people that provide services, we'll write a report about what we learned.</p> <p>We won't use your name in it, or the name of anyone else who talks to us about the Youth Koori Court. The Department of Communities and Justice has asked us to write this report. They will read it and think about how they can change the Youth Koori Court to make it better for the young people that go there.</p> <p>You do not have to be in this study if you do not want to be. If you decide to stop after we begin, that's okay. You can have a support person stay with you for the interview if you choose.</p> <p>If you are interviewed, you will get a \$50 voucher to thank you for your help.</p>	
Key question	How is the YKC operating?
<p>Can you tell me what happens at the Youth Koori Court?</p> <ul style="list-style-type: none"> <li>• How did you come to attend the Youth Koori Court?</li> <li>• What has happened since you started attending the Youth Koori Court?</li> <li>• How is the Youth Koori Court different from your other Children's Court experiences? <i>Prompt: Different from other Criminal proceedings?</i></li> </ul>	
Key question	To what extent is the YKC achieving or not achieving its intended objectives and outcomes?
<p>Has your involvement with the Youth Koori Court led to any changes in your life?</p> <ul style="list-style-type: none"> <li>• What does it mean to you to be Aboriginal?</li> <li>• Have there been any changes in what it means to you to be Aboriginal?</li> <li>• Do you feel your connection with your community is more, less or the same since becoming involved with Youth Koori Court?</li> <li>• Do you understand the court system more, less or the same since becoming involved with the Youth Koori Court?</li> <li>• Do you have more confidence to attend Youth Koori court and participate? <i>Prompt: Do you feel the same way for other Children's Court matters you may be involved in?</i></li> </ul> <p>Has anything changed about your...</p> <ul style="list-style-type: none"> <li>• Education?</li> <li>• Employment?</li> <li>• Health?</li> <li>• Mental health?</li> <li>• Housing?</li> <li>• Safety?</li> </ul>	
Key question	What features, conditions and practices of the YKC are contributing/not contributing to the YKC achieving its objectives and outcomes?
<ul style="list-style-type: none"> <li>• What are the good things about Youth Koori Court? Why?</li> <li>• What are the bad things about Youth Koori Court? Why?</li> <li>• Who is important to have at the Youth Koori Court? Why?</li> <li>• What do they do at Youth Koori Court that you think works? Why does it work?</li> </ul>	

<b>Key question</b>	What are the opportunities for improvement and key considerations for the future of the YKC?
<p>If you could change the Youth Koori Court what would you change? Why?</p> <ul style="list-style-type: none"> <li>• Is there anyone missing that could help the court run better?</li> <li>• Are there enough of the right services available to young people?</li> <li>• Are there any moments that are hard to deal with? Why?</li> <li>• Would the Youth Koori Court be good for other Aboriginal and Torres Strait Islander young people? Why?</li> </ul>	

## Interview Guide 2 – Court participant family members

<b>Interview type</b>	Semi-structured interview YKC Participant family members
<b>Introduction (script for participants)</b>	
<p>We want to know what you think about the Youth Koori Court and how we can make it better.</p> <p>Once we've talked to other young people and families, people at the court and people that provide services, we'll write a report about what we learned.</p> <p>We won't use your name in it, or the name of anyone else who talks to us about the Youth Koori Court. The Department of Communities and Justice has asked us to write this report. They will read it and think about how they can change the Youth Koori Court to make it better for the young people that go there.</p> <p>You do not have to be in this study if you do not want to be. If you decide to stop after we begin, that's okay. You can have a support person stay with you for the interview if you choose.</p> <p>If you are interviewed, you will get a \$50 voucher to thank you for your help. Your child or family member will also receive a \$50 voucher for their participation.</p>	
<b>Key question</b>	How is the YKC operating?
<p>Can you tell me what happens at the Youth Koori Court?</p> <ul style="list-style-type: none"> <li>• How did you come to be involved in the Youth Koori Court?</li> <li>• What has happened since your (child or family member) started attending the Youth Koori Court?</li> <li>• How is the Youth Koori Court different from your other court experiences?</li> </ul>	
<b>Key question</b>	To what extent is the YKC achieving or not achieving its intended objectives and outcomes?
<p>Has involvement with the Youth Koori Court led to any changes in your life and the life of your (child/family member)?</p> <ul style="list-style-type: none"> <li>• Are they more, less or the same in their connection to your Aboriginal culture?</li> <li>• Are they more, less or the same in their connected with your community?</li> <li>• Do you or your (child/family member) understand the court system more, less or the same since becoming involved with the Youth Koori Court?</li> <li>• Do you or your (child/family member) have more confidence to attend Youth Koori Court and participate? <i>Prompt; Do you feel the same way for other Children's Court matters they may be involved in?</i></li> </ul> <p>Has anything changed about your (child/family member's)...</p> <ul style="list-style-type: none"> <li>• Education?</li> <li>• Employment?</li> <li>• Health?</li> <li>• Mental health?</li> <li>• Housing?</li> <li>• Safety?</li> </ul>	



<b>Key question</b>	What features, conditions and practices of the YKC are contributing/not contributing to the YKC achieving its objectives and outcomes?
	<ul style="list-style-type: none"> <li>• What are the good things about Youth Koori Court? Why?</li> <li>• What are the bad things about Youth Koori Court? Why?</li> <li>• Who is important to have at the Youth Koori Court? Why?</li> <li>• What do they do at Youth Koori Court that you think works? Why does it work?</li> </ul>
<b>Key question</b>	What are the opportunities for improvement and key considerations for the future of the YKC?
	<p>If you could change the Youth Koori Court what would you change? Why?</p> <ul style="list-style-type: none"> <li>• Is there anyone missing that could help the court run better?</li> <li>• Are there enough of the right services available to young people?</li> <li>• Are there any moments that are hard to deal with? Why?</li> <li>• Would the Youth Koori Court be good for other Aboriginal and Torres Strait Islander young people? Why?</li> </ul>

### Interview Guide 3 – Community Panel members

<b>Interview type</b>	Semi-structured interview Community Panel Members
<b>Introduction (script for participants)</b>	
<p>We want to know what you think about the Youth Koori Court and how we can make it better.</p> <p>Once we've talked to you and other stakeholders, including young people, court staff, families and service providers, we'll write a report about what we learned.</p> <p>We won't use your name in it, or the name of anyone else who talks to us about the Youth Koori Court. The Department of Communities and Justice has asked us to write this report. Findings from the report will be used to help make decisions about the future of the Youth Koori Court.</p> <p>You do not have to be in this study if you do not want to be. If you decide to stop after we begin, that's okay.</p>	
<b>Key question</b>	How is the YKC operating?
	<p>Can you tell me what happens at the Youth Koori Court?</p> <ul style="list-style-type: none"> <li>• Why did you apply to be on the Youth Koori Court Community Panel?</li> <li>• What are your responsibilities in the Youth Koori Court process?</li> <li>• Why is the Community Panel important to the running of the Youth Koori Court?</li> </ul>
<b>Key question</b>	To what extent is the YKC achieving or not achieving its intended objectives and outcomes?
	<p>Do you think the Youth Koori Court changes the young people that attend?</p> <ul style="list-style-type: none"> <li>• Do you think their connection to their Indigenous culture is more, less or the same?</li> <li>• Do you think their connection to your community is more, less or the same?</li> <li>• Do you think their understanding of the Youth Koori Court process has improved?</li> <li>• Have you noticed any increased confidence to attend court and participate?</li> </ul> <p>Has you seen changes in their...</p> <ul style="list-style-type: none"> <li>• Education?</li> <li>• Employment?</li> <li>• Health?</li> <li>• Mental health?</li> <li>• Housing?</li> <li>• Safety?</li> </ul>

<b>Key question</b>	What features, conditions and practices of the YKC are contributing/not contributing to the YKC achieving its objectives and outcomes?
	<ul style="list-style-type: none"> <li>• What are the good things about Youth Koori Court? Why?</li> <li>• What are the bad things about Youth Koori Court? Why?</li> <li>• Who is important to have at the Youth Koori Court? Why?</li> <li>• What happens at Youth Koori Court that you think works? Why does it work?</li> </ul>
<b>Key question</b>	What are the opportunities for improvement and key considerations for the future of the YKC?
	<p>If you could change the Youth Koori Court what would you change? Why?</p> <ul style="list-style-type: none"> <li>• Is there anyone missing that could help the court run better?</li> <li>• Are there enough of the right services available to young people?</li> <li>• Are there any moments that are hard to deal with? Why?</li> <li>• Would the Youth Koori Court be good for other Aboriginal and Torres Strait Islander young people? Why?</li> <li>• Are there any cultural or community issues that affect your role on the Community Panel?</li> </ul>

#### Interview Guide 4 – Court staff and support workers

<b>Interview type</b>	Semi-structured interview court staff and court support workers
<b>Introduction (script for participants)</b>	
<p>We want to know what you think about the Youth Koori Court and how we can make it better.</p> <p>Once we've talked to you and other court staff, young people, their families, Community Panel Members and service providers, we'll write a report about what we learned.</p> <p>We won't use your name in it, or the name of anyone else who talks to us about the Youth Koori Court. The Department of Communities and Justice has asked us to write this report. Findings from the report will be used to help make decisions about the future of the Youth Koori Court.</p> <p>You do not have to be in this study if you do not want to be. If you decide to stop after we begin, that's okay.</p>	
<b>Key question</b>	How is the YKC operating?
	<p>Can you tell me what happens at the Youth Koori Court?</p> <ul style="list-style-type: none"> <li>• What is your role in the Youth Koori Court process?</li> <li>• What happens in Youth Koori Court process?</li> <li>• How is the Youth Koori Court process different from the court process of other criminal matters in the Children's Court?</li> </ul>
<b>Key question</b>	To what extent is the YKC achieving or not achieving its intended objectives and outcomes?
	<ul style="list-style-type: none"> <li>• Do you think the Youth Koori Court process increases Aboriginal and Torres Strait Islander young people's confidence in the justice system? Why?/Why not? If so, in what ways?</li> <li>• Are risk factors for re-offending being identified through the Youth Koori Court process? Are they being resolved through suitable services? If not, why?</li> <li>• Has the Youth Koori Court led to better decisions by young Aboriginal and Torres Strait Islander people? Are they more compliant with orders? Why or why not?</li> <li>•</li> </ul>
<b>Key question</b>	What features, conditions and practices of the YKC are contributing/not contributing to the YKC achieving its objectives and outcomes.

<ul style="list-style-type: none"> <li>• What are the good things about Youth Koori Court? Why?</li> <li>• What are the bad things about Youth Koori Court? Why?</li> <li>• Who is important to have at the Youth Koori Court? Why?</li> <li>• What happens at Youth Koori Court that you think works? Why does it work?</li> </ul>	
<b>Key question</b>	What are the opportunities for improvement and key considerations for the future of the YKC?
<p>If you could change the Youth Koori Court what would you change? Why?</p> <ul style="list-style-type: none"> <li>• Is there anyone missing that could help the court run better?</li> <li>• Are there enough of the right services available to young people?</li> <li>• Are there any moments that are hard to deal with? Why?</li> <li>• Would the Youth Koori Court be good for other Aboriginal and Torres Strait Islander young people? Why?</li> </ul>	

### Interview Guide 5 – Service providers

<b>Interview type</b>	Semi-structured interview service providers
<b>Introduction (script for participants)</b>	
<p>We want to know what you think about the Youth Koori Court and how we can make it better.</p> <p>Once we've talked to you and other service providers, young people, their families, Community Panel Members and court staff, we'll write a report about what we learned.</p> <p>We won't use your name in it, or the name of anyone else who talks to us about the Youth Koori Court. The Department of Communities and Justice has asked us to write this report. Findings from the report will be used to help make decisions about the future of the Youth Koori Court.</p> <p>You do not have to be in this study if you do not want to be. If you decide to stop after we begin, that's okay.</p>	
<b>Key question</b>	How is the YKC operating?
<p>Can you tell me what happens at the Youth Koori Court?</p> <ul style="list-style-type: none"> <li>• What is the extent of your involvement with the Youth Koori Court?</li> <li>• How did you come to be involved with the Youth Koori Court?</li> <li>• What has been your experience with young people attending the Youth Koori Court?</li> <li>• How is the Youth Koori Court work different from your other service provision</li> </ul>	
<b>Key question</b>	To what extent is the YKC achieving or not achieving its intended objectives and outcomes?
<p>Has your involvement with the Youth Koori Court led to any changes in your clients' lives?</p> <ul style="list-style-type: none"> <li>• Connection to culture?</li> <li>• Connection to community?</li> <li>• Education?</li> <li>• Employment?</li> <li>• Health?</li> <li>• Mental health?</li> <li>• Housing?</li> <li>• Safety?</li> </ul>	
<b>Key question</b>	What features, conditions and practices of the YKC are contributing/not contributing to the YKC achieving its objectives and outcomes?
<ul style="list-style-type: none"> <li>• What are the good things about Youth Koori Court? Why?</li> <li>• What are the bad things about Youth Koori Court? Why?</li> <li>• Who is important to have at the Youth Koori Court? Why?</li> </ul>	

	<ul style="list-style-type: none"> <li>• What do they do at Youth Koori Court that you think works? Why does it work?</li> </ul>
<b>Key question</b>	What are the opportunities for improvement and key considerations for the future of the YKC?
<p>If you could change the Youth Koori Court what would you change? Why?</p> <ul style="list-style-type: none"> <li>• Is there anyone missing that could help the court run better?</li> <li>• Do you have the resources you need to meet the needs of Youth Koori Court participants?</li> <li>• Are there enough of the right services available to young people?</li> <li>• Are there any moments that are hard to deal with? Why?</li> <li>• Would the Youth Koori Court be good for other Aboriginal and Torres Strait Islander young people? Why?</li> </ul>	

### Additional prompts for specific stakeholders

<b>Magistrates</b>	
	<ul style="list-style-type: none"> <li>• Does Youth Koori Court empower magistrates? In what way?</li> <li>• Is there any advice you would give a new magistrate coming into the Youth Koori Court?</li> </ul>
<b>Legal services</b>	
	<ul style="list-style-type: none"> <li>• Are there any legal risks for young people that participate in the Youth Koori Court?</li> <li>• Would you generally say Youth Koori Court leads to better legal outcomes for young Aboriginal and Torres Strait people? In what way?</li> </ul>
<b>Police and prosecutors</b>	
	<ul style="list-style-type: none"> <li>• Have you seen any difference in how Youth Koori Court participants view police?</li> </ul>
<b>Case workers</b>	
	Does the Youth Koori Court empower you as a case worker? In what way?

## Appendix D: List of Documents Reviewed

1. Children's Court of New South Wales, Practice Note No. 11 - Youth Koori Court (2019)
2. YKC Action and Support Plan template (2019)
3. CPM EOI Expression of Interest form (2020)
4. YKC CPM Handbook (2020)
5. YKC CPM Privacy and Confidentiality Agreement (2020)
6. CPM Recruitment Process Guide (2020)
7. CPM Casual Letter of Employment and Volunteer Letter of Engagement templates (2020)
8. Department of Justice Code of Ethics and Conduct (2016)
9. Department of Justice Employee Assistance Program FAQ sheet (2020)
10. NSW Government Sector Ethical Framework (2013)
11. NSW Human Services Outcomes Framework Guide (2017)
12. Media Release, Attorney General and NSW Treasurer, "NSW Budget: Youth Koori Court Expands to Surry Hills" (2018)
13. WWCC information for CPM applicants, Office of the Children's Guardian (2020)
14. YKC Costings (2018 – 2021)
15. YKC Fact Sheet for YKC Participants (2015)
16. YKC Proposal (2014)
17. YKC Suitability Form (2021)
18. Youth Koori Court Review of Parramatta Pilot Project, Western Sydney University, Aboriginal and Torres Strait Islander Employment and Engagement Advisory Board (2018)
19. Legal Aid NSW, Children Civil Legal Service, Overview of the YKC Service Factsheet (date unknown)

## Appendix E: Profile of court files and appearance recordings reviewed

ID	Court	Conference status	Graduation status
1	Parramatta	Completed	Current matter – no graduation at time of review.
2	Parramatta	Completed	Graduated
3	Parramatta / Surry Hills	Completed	Exit - had fresh charges. All matters were referred back to Children's Court.
4	Parramatta	Completed	Graduated
5	Parramatta	Completed	Unknown
6	Parramatta	Completed	Graduated
7	Parramatta	Completed	Graduated
8	Parramatta	Completed	Graduated
9	Parramatta	Completed	Graduated
10A	Parramatta	Completed	Graduated
10B	Parramatta	Completed	Graduated
11	Parramatta	Completed	Current matter – no graduation at time of review.
12	Parramatta	Completed	Current matter – no graduation at time of review.
13	Parramatta	Exit – participant not Aboriginal.	Exit
14	Parramatta	Completed	Graduated
15	Parramatta	Completed	Graduated
16	Parramatta	Completed	Unclear – appears to have gone to sentence.
18	Parramatta	Exit– wants to go back to [home location] not in Sydney. Matter referred to regional Children's Court.	
19	Parramatta / Surry Hills	Completed	Exit - unclear why.
20A	Parramatta / Surry Hills	Completed	Graduated
20B	Parramatta / Surry Hills	Completed	Graduated
21	Parramatta	Completed	Graduated
22	Parramatta	Completed	Graduated
23	Surry Hills	Completed	Graduated
24	Surry Hills	Completed	Graduated
25	Surry Hills	Completed	Graduated
26	Surry Hills	Completed	Current matter – no graduation at time of review.
27	Surry Hills	Completed	Exit
28	Surry Hills	Completed	Graduated
29	Surry Hills	Completed	Exit
30	Surry Hills	Completed	Exit – due to impacts of being on bail
31	Surry Hills	Completed	Graduated.

## Appendix F: Summary of the YKC administrative data

**Table F.1:** Number of people referred to YKC

	2015	2016	2017	2018	2019	2020	2021*
JANUARY	2	2	0	2	5	5	0
FEBRUARY	2	5	2	1	5	3	2
MARCH	1	5	1	2	5	1	6
APRIL	1	5	2	3	3	0	0
MAY	4	0	2	1	4	0	4
JUNE	1	3	1	2	5	0	0
JULY	9	0	9	2	2	7	
AUGUST	1	1	6	1	3	5	
SEPTEMBER	2	0	1	6	1	5	
OCTOBER	1	0	3	1	5	2	
NOVEMBER	3	1	1	2	0	2	
DECEMBER	4	1	3	1	2	4	
Total per year	<b>31</b>	<b>23</b>	<b>31</b>	<b>24</b>	<b>40</b>	<b>34</b>	<b>12</b>
<b>Total:</b>	<b>195</b>						

\*Only includes data up to 10 June 2021

**Table F.2:** Number of young people admitted to YKC

	2015	2016	2017	2018	2019	2020	2021*
JANUARY	0	3	0	2	0	3	1
FEBRUARY	3	4	0	2	7	2	2
MARCH	2	6	2	1	6	4	3
APRIL	0	6	3	3	2	0	3
MAY	3	1	1	2	4	0	4
JUNE	1	3	1	0	4	0	0
JULY	4	0	7	3	5	5	
AUGUST	7	1	7	2	1	2	
SEPTEMBER	1	0	2	1	4	8	
OCTOBER	3	0	3	4	4	2	

NOVEMBER	2	1	1	3	1	3	
DECEMBER	2	1	2	1	1	2	
Total per year	<b>28</b>	<b>26</b>	<b>29</b>	<b>24</b>	<b>39</b>	<b>31</b>	<b>13</b>
<b>Total: 190</b>							

\* only includes data up to 10 June 2021

**Table F.3:** Number of young people admitted to YKC per year by gender

	2015	2016	2017	2018	2019	2020	2021*
Male	19	20	22	20	29	23	8
Female	9	6	7	4	10	8	5
<b>Total Males: 141 (74%)</b>							
<b>Total Females: 49 (36%)</b>							
<b>Total: 190</b>							

\* only includes data up to 10 June 2021

**Table F.4:** Number of people who graduated from YKC

	2015	2016	2017	2018	2019	2020	2021*
JANUARY	0	1	0	1	1	2	2
FEBRUARY	0	4	1	2	0	1	2
MARCH	0	1	0	1	3	1	1
APRIL	0	0	2	1	0	3	0
MAY	0	1	0	1	4	1	1
JUNE	0	2	1	0	1	1	2
JULY	0	3	0	1	0	2	
AUGUST	1	1	0	2	3	0	
SEPTEMBER	2	3	0	2	2	0	
OCTOBER	0	0	1	0	0	4	
NOVEMBER	1	5	1	2	1	3	
DECEMBER	3	1	1	2	2	2	
Total per year	<b>7</b>	<b>22</b>	<b>7</b>	<b>15</b>	<b>17</b>	<b>20</b>	<b>8</b>
<b>Total: 96 (60.0% graduation rate, 2015-10 June 2021)<sup>225</sup></b>							

\*only includes data up to 10 June 2021

<sup>225</sup> The graduation rate is calculated by taking the total number of graduates from the YKC (96), divided by the total number of young people admitted to the YKC (190) minus the young people currently admitted to the YKC as at 10 June 2021 (30). Or,  $96 / (190 - 30) = 96 / 160 = 0.6 = 60\%$ .



**Table F.7:** Number of people exited (withdrawn or discharged)

	2015	2016	2017	2018	2019	2020	2021*
JANUARY	0	0	1	0	0	1	0
FEBRUARY	0	2	0	2	0	2	0
MARCH	0	1	1	3	1	2	1
APRIL	0	0	1	0	0	1	1
MAY	0	2	0	0	0	0	2
JUNE	0	0	1	2	2	1	0
JULY	1	0	0	1	0	0	
AUGUST	0	0	0	1	0	0	
SEPTEMBER	0	0	0	1	0	3	
OCTOBER	1	1	1	0	3	0	
NOVEMBER	2	3	0	2	3	1	
DECEMBER	0	0	2	1	0	1	
<b>Total per year</b>	<b>4</b>	<b>9</b>	<b>7</b>	<b>13</b>	<b>9</b>	<b>12</b>	<b>4</b>
<b>Total: 58</b>							

\*only includes data up to 10 June 2021

## Appendix G: Detailed benefits versus costs tables for the base case and each scenario contained in the cost-benefit analysis

**Table G.1: Benefits Vs Costs – Base Case**

		Forecast									
		Year 1	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	
		2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	
<b>Costs</b>											
<b>Capital Cost</b>											
Plant and equipment (exc. Depreciation)		\$2,627	\$2,693	\$2,760	\$2,829	\$2,900	\$2,972	\$3,047	\$3,123	\$3,201	
New plant and equipment		\$0	\$1,000,000	\$1,000,000	\$1,000,000	\$0	\$0	\$0	\$0	\$0	
<b>Operating Costs</b>											
		\$914,907	\$922,406	\$924,967	\$920,760	\$922,711	\$922,813	\$922,095	\$922,540	\$922,482	
<b>Total costs</b>		\$917,534	\$1,925,099	\$1,927,728	\$1,923,589	\$925,611	\$925,785	\$925,141	\$925,662	\$925,683	
<b>NPV Costs</b>	<b>\$11,271,364.06</b>										
<b>Benefits</b>											
Benefit 1 (Avoided cost of Homlessness/Health)		\$2,160,000	\$2,160,000	\$2,280,000	\$2,400,000	\$2,520,000	\$2,640,000	\$2,760,000	\$2,880,000	\$2,880,000	
No of youth bypassing conventional court process		18	18	19	20	21	22	23	24	24	
<b>Total Benefits</b>		\$2,160,000	\$2,160,000	\$2,280,000	\$2,400,000	\$2,520,000	\$2,640,000	\$2,760,000	\$2,880,000	\$2,880,000	
<b>NPV Benefits</b>	<b>\$22,560,808.75</b>										
<b>Benefit/Cost</b>	<b>2.00</b>										

**Table G.2: Benefits Vs Costs – YKC Expanded into one additional area (assuming the same average number of participants as Parramatta and Surry Hills)**

		Forecast									
		Year 1	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	
		2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	
<b>Costs</b>											
<b>Capital Cost</b>											
Plant and equipment (exc. Depreciation)		\$2,627	\$2,693	\$2,760	\$2,829	\$2,900	\$2,972	\$3,047	\$3,123	\$3,201	
New plant and equipment		\$0	\$1,000,000	\$1,000,000	\$1,000,000	\$0	\$0	\$0	\$0	\$0	
<b>Operating Costs</b>		\$1,097,889	\$1,180,080	\$1,286,223	\$1,425,677	\$1,556,792	\$1,707,477	\$1,875,978	\$2,056,098	\$2,255,821	
<b>Total costs</b>		\$1,100,516	\$2,182,772	\$2,288,983	\$2,428,506	\$1,559,692	\$1,710,449	\$1,879,025	\$2,059,221	\$2,259,022	
<b>NPV Costs</b>	\$17,378,451.22										
<b>Benefits</b>											
Benefit 1 (Avoided cost of Homelessness/Health)		\$3,120,000	\$3,480,000	\$3,600,000	\$3,960,000	\$4,200,000	\$4,200,000	\$4,560,000	\$4,560,000	\$4,680,000	
No of youth bypassing conventional court process		26	29	30	33	35	35	38	38	39	
<b>Total Benefits</b>		\$3,120,000	\$3,480,000	\$3,600,000	\$3,960,000	\$4,200,000	\$4,200,000	\$4,560,000	\$4,560,000	\$4,680,000	
<b>NPV Benefits</b>	\$36,167,286.19										
<b>Benefit/Cost</b>	2.08										

**Table G.3: Benefits Vs Costs – YKC Expanded into one additional area (assuming the same average number of participants as Parramatta and Surry Hills) including a reduction in recidivism**

		Forecast									
		Year 1 2021/22	Year 1 2022/23	Year 2 2023/24	Year 3 2024/25	Year 4 2025/26	Year 5 2026/27	Year 6 2027/28	Year 7 2028/29	Year 8 2029/30	
<b>Costs</b>											
<b>Capital Cost</b>											
Plant and equipment (exc. Depreciation)		\$2,627	\$2,693	\$2,760	\$2,829	\$2,900	\$2,972	\$3,047	\$3,123	\$3,201	
New plant and equipment		\$0	\$1,000,000	\$1,000,000	\$1,000,000	\$0	\$0	\$0	\$0	\$0	
<b>Operating Costs</b>		\$1,097,889	\$1,180,080	\$1,286,223	\$1,425,677	\$1,556,792	\$1,707,477	\$1,875,978	\$2,056,098	\$2,255,821	
<b>Total costs</b>		\$1,100,516	\$2,182,772	\$2,288,983	\$2,428,506	\$1,559,692	\$1,710,449	\$1,879,025	\$2,059,221	\$2,259,022	
<b>NPV Costs</b>	<b>\$17,378,451.22</b>										
<b>Benefits</b>											
Benefit 1 (Avoided cost of Homlessness/Health)		\$3,120,000	\$3,480,000	\$3,600,000	\$3,960,000	\$4,200,000	\$4,200,000	\$4,560,000	\$4,560,000	\$4,680,000	
Benefit 2 (Reduction in Recidivism)		\$260,000	\$290,000	\$300,000	\$330,000	\$350,000	\$350,000	\$380,000	\$380,000	\$390,000	
No of youth bypassing conventional court process		26	29	30	33	35	35	38	38	39	
<b>Total Benefits</b>		\$3,380,000	\$3,770,000	\$3,900,000	\$4,290,000	\$4,550,000	\$4,550,000	\$4,940,000	\$4,940,000	\$5,070,000	
<b>NPV Benefits</b>	<b>\$39,181,228.21</b>										
<b>Benefit/Cost</b>	<b>2.25</b>										

Note, to model the impact on recidivism we assume a reduction in associated (or avoided) costs per person of approximately \$45,000.00 per annum trending up to \$52,000.00 per annum over the forecast horizon. We assume that the reduction in recidivism will impact ~10 per cent of children each year over the forecast horizon.

**Table G.4: Benefits Vs Costs – YKC Expanded into one additional area (assuming the half the average number of participants as Parramatta and Surry Hills)**

		Forecast									
		Year 1	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	
		2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	
<b>Costs</b>											
<b>Capital Cost</b>											
Plant and equipment (exc. Depreciation)		\$2,627	\$2,693	\$2,760	\$2,829	\$2,900	\$2,972	\$3,047	\$3,123	\$3,201	
New plant and equipment		\$0	\$1,000,000	\$1,000,000	\$1,000,000	\$0	\$0	\$0	\$0	\$0	
<b>Operating Costs</b>		\$1,070,441	\$1,139,873	\$1,227,683	\$1,340,819	\$1,446,266	\$1,565,759	\$1,697,609	\$1,836,758	\$1,989,049	
<b>Total costs</b>		\$1,073,069	\$2,142,566	\$2,230,443	\$2,343,648	\$1,449,166	\$1,568,732	\$1,700,656	\$1,839,880	\$1,992,250	
<b>NPV Costs</b>	\$16,258,074.81										
<b>Benefits</b>											
Benefit 1 (Avoided cost of Homelessness/Health)		\$2,640,000	\$2,880,000	\$3,000,000	\$3,240,000	\$3,360,000	\$3,480,000	\$3,600,000	\$3,840,000	\$4,080,000	
No of youth bypassing conventional court process		22	24	25	27	28	29	30	32	34	
<b>Total Benefits</b>		\$2,640,000	\$2,880,000	\$3,000,000	\$3,240,000	\$3,360,000	\$3,480,000	\$3,600,000	\$3,840,000	\$4,080,000	
<b>NPV Benefits</b>	\$29,959,925.95										
<b>Benefit/Cost</b>	1.84										

**Table G.5: Benefits Vs Costs – YKC Expanded into one additional area (assuming the half the average number of participants as Parramatta and Surry Hills) including reduction in recidivism**

		Forecast									
		Year 1 2021/22	Year 1 2022/23	Year 2 2023/24	Year 3 2024/25	Year 4 2025/26	Year 5 2026/27	Year 6 2027/28	Year 7 2028/29	Year 8 2029/30	
<b>Costs</b>											
<b>Capital Cost</b>											
Plant and equipment (exc. Depreciation)		\$2,627	\$2,693	\$2,760	\$2,829	\$2,900	\$2,972	\$3,047	\$3,123	\$3,201	
New plant and equipment		\$0	\$1,000,000	\$1,000,000	\$1,000,000	\$0	\$0	\$0	\$0	\$0	
<b>Operating Costs</b>		\$1,070,441	\$1,139,873	\$1,227,683	\$1,340,819	\$1,446,266	\$1,565,759	\$1,697,609	\$1,836,758	\$1,989,049	
<b>Total costs</b>		\$1,073,069	\$2,142,566	\$2,230,443	\$2,343,648	\$1,449,166	\$1,568,732	\$1,700,656	\$1,839,880	\$1,992,250	
<b>NPV Costs</b>	<b>\$16,258,074.81</b>										
<b>Benefits</b>											
Benefit 1 (Avoided cost of Homlessness/Health)		\$2,640,000	\$2,880,000	\$3,000,000	\$3,240,000	\$3,360,000	\$3,480,000	\$3,600,000	\$3,840,000	\$4,080,000	
Benefit 2 (Reduction in Recidivism)		\$220,000	\$240,000	\$250,000	\$270,000	\$280,000	\$290,000	\$300,000	\$320,000	\$340,000	
No of youth bypassing conventional court process		22	24	25	27	28	29	30	32	34	
<b>Total Benefits</b>		\$2,860,000	\$3,120,000	\$3,250,000	\$3,510,000	\$3,640,000	\$3,770,000	\$3,900,000	\$4,160,000	\$4,420,000	
<b>NPV Benefits</b>	<b>\$32,456,587.69</b>										
<b>Benefit/Cost</b>	<b>2.00</b>										

Note, to model the impact on recidivism we assume a reduction in associated (or avoided) costs per person of approximately \$45,000.00 per annum trending up to \$52,000.00 per annum over the forecast horizon. We assume that the reduction in recidivism will impact ~10 per cent of children each year over the forecast horizon.

### Base Case Sensitivity analysis

**Table G.6: Benefits Vs Costs – Base Case (Cost base inflated by 15% to account for additional costs)**

		Forecast									
		Year 1	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	
		2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	
<b>Costs</b>											
<b>Capital Cost</b>											
Plant and equipment (exc. Depreciation)		\$2,627	\$2,693	\$2,760	\$2,829	\$2,900	\$2,972	\$3,047	\$3,123	\$3,201	
New plant and equipment		\$0	\$1,000,000	\$1,000,000	\$1,000,000	\$0	\$0	\$0	\$0	\$0	
<b>Operating Costs</b>											
		\$1,052,143	\$968,151	\$985,961	\$1,002,085	\$985,399	\$991,149	\$992,878	\$989,809	\$991,278	
<b>Total costs</b>		\$1,054,770	\$1,970,844	\$1,988,721	\$2,004,914	\$988,299	\$994,121	\$995,924	\$992,931	\$994,479	
<b>NPV Costs</b>		\$11,931,433.85									
<b>Benefits</b>											
Benefit 1 (Avoided cost of Homlessness/Health)		\$2,160,000	\$2,160,000	\$2,280,000	\$2,400,000	\$2,520,000	\$2,640,000	\$2,760,000	\$2,880,000	\$2,880,000	
No of youth bypassing conventional court process		18	18	19	20	21	22	23	24	24	
<b>Total Benefits</b>		\$2,160,000	\$2,160,000	\$2,280,000	\$2,400,000	\$2,520,000	\$2,640,000	\$2,760,000	\$2,880,000	\$2,880,000	
<b>NPV Benefits</b>		\$22,560,808.75									
<b>Benefit/Cost</b>		1.89									

Note: additional costs include: Police prosecutor costs, court registry, Aboriginal Legal Service, Youth justice and other external support services outside of DCJ and court case workers.

**Table G.7: Benefits Vs Costs – YKC Expanded into one additional area (assuming the same average number of participants as Parramatta and Surry Hills) including additional cost**

		Forecast									
		Year 1	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	
		2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	
<b>Costs</b>											
<b>Capital Cost</b>											
	Plant and equipment (exc. Depreciation)	\$2,627	\$2,693	\$2,760	\$2,829	\$2,900	\$2,972	\$3,047	\$3,123	\$3,201	
	New plant and equipment	\$0	\$1,000,000	\$1,000,000	\$1,000,000	\$0	\$0	\$0	\$0	\$0	
<b>Operating Costs</b>											
	<i>On Costs</i>	\$1,097,889	\$1,180,080	\$1,286,223	\$1,425,677	\$1,556,792	\$1,707,477	\$1,875,978	\$2,056,098	\$2,255,821	
		\$1,900,000	\$1,947,500	\$1,996,188	\$2,046,092	\$2,097,244	\$2,149,676	\$2,203,417	\$2,258,503	\$2,314,966	
<b>Total costs</b>		\$3,000,516	\$4,130,272	\$4,285,171	\$4,474,598	\$3,656,936	\$3,860,124	\$4,082,442	\$4,317,724	\$4,573,988	
<b>NPV Costs</b>		\$36,194,720.95									
<b>Benefits</b>											
	Benefit 1 (Avoided cost of Homelessness/Health)	\$3,120,000	\$3,480,000	\$3,600,000	\$3,960,000	\$4,200,000	\$4,200,000	\$4,560,000	\$4,560,000	\$4,680,000	
	No of youth bypassing conventional court process	26	29	30	33	35	35	38	38	39	
<b>Total Benefits</b>		\$3,120,000	\$3,480,000	\$3,600,000	\$3,960,000	\$4,200,000	\$4,200,000	\$4,560,000	\$4,560,000	\$4,680,000	
<b>NPV Benefits</b>		\$36,167,286.19									
<b>Benefit/Cost</b>		1.00									

Note: to reduce this ratio to 1 we have to increase costs by \$1.9m in the first year and inflate this cost by 2.5% over the out years to account for inflation including wages growth. The total additional funding required over the period (in absolute terms) is \$18.9m.