

The Senate

Legal and Constitutional Affairs
References Committee

Australia's Youth Justice and Incarceration
System

September 2026

© Commonwealth of Australia 2026

ISBN 978-1-76093-982-3 (Printed version)

ISBN 978-1-76093-982-3 (HTML version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 4.0 International License.



The details of this licence are available on the Creative Commons website:
<https://creativecommons.org/licenses/by-nc-nd/4.0/>.

Printed by the Senate Printing Unit, Parliament House, Canberra

Members

Chair

Senator Leah Blyth LP, SA

Deputy Chair

Senator Jana Stewart ALP, VIC

Members

Senator Alex Antic LP, SA

Senator Dorinda Cox ALP, WA

Senator Andrew McLachlan CSC LP, SA

Senator David Shoebridge AG, NSW

Participating Members

Senator Lidia Thorpe IND, VIC

Secretariat

Jane Thomson, Committee Secretary

Anika Khwaja, Principal Research Officer

Tegan Scott, Principal Research Officer

Lachlan McCarron, Senior Research Officer

Sarah Braga, Graduate Research Officer

Ben Veave, Indigenous Liaison Officer

Grace Caddaye, Administrative Officer

PO Box 6100

Telephone: 02 6277 3560

Parliament House

Canberra ACT 2600

Email: LegCon.sen@aph.gov.au

Contents

Members	iii
Abbreviations	ix
List of recommendations	xi
Chapter 1—Introduction.....	1
Inquiry referral and terms of reference	1
47th Parliament inquiry	2
Previous inquiries	3
Conduct of the inquiry	4
Context of the inquiry	5
Report structure	8
Note on terminology	8
Note on references to submissions	9
Acknowledgments	9
Chapter 2—Australia's youth justice system	11
Introduction	11
Demographic overview of children in the youth justice system	11
Risk factors for children and young people	13
Health and disability	14
Engagement with education.....	17
First Nations children and young people	18
Engagement with the child protection system	21
Other socioeconomic risk factors	25
Chapter 3—Experiences of children and young people in Australia's youth justice system	29
Introduction	29
Death of Cleveland Dodd	29
Experiences of young people in the youth justice system.....	31
Initial contact with law enforcement	31
Police watchhouses	33
Children held on remand	35

Lived experience of remand	39
Sentencing	40
Transporting children to youth detention facilities	42
Conditions in detention	44
Extended isolation and lockdowns	44
Use of restraints	47
Access to healthcare and education in detention	48
Education in detention	48
Healthcare in detention	50
Cost of detention	52
Monitoring of places of detention and complaints	54
Ongoing impacts of youth detention	54
Exiting detention	55
Health and socio-economic consequences	56
Education and employment prospects	58
Recidivism rates	59
Chapter 4—Early intervention, diversion and justice reinvestment.....	61
Introduction	61
Calls for a new approach	61
Principles underpinning the reforms sought	63
Detention as a last resort	63
Recognising the root causes of childhood offending	64
Moving to a preventive approach – early intervention, rehabilitation and diversion .	64
Types of reform	66
Alternative first responders	66
Early intervention	67
Diversion	81
Justice reinvestment.....	90
Chapter 5—Calls for national minimum standards	97
Principles underlying national minimum standards for youth justice	97
Enforceability with ongoing oversight and monitoring	98
Consistency with Australia’s obligations and commitments	101

Based in evidence and informed by lived experience	102
Holistic approach to youth justice	103
Specific national standards	104
Minimum age of criminal responsibility	105
Detention as a last resort for the least amount of time	108
Prohibition of harmful practices	109
Implementation of the Optional Protocol to the Convention against Torture.....	111
Access to health, education and other supports.....	112
Connection to community and culture.....	113
Minimum staff training.....	114
Chapter 6—Committee view and recommendations	117
National standards and consistency	118
Commonwealth, state and territory coordination of justice reinvestment	119
Preventive and early intervention measures with schools at the centre	120
National Child and Community Safety Taskforce	120
A community safety education campaign.....	121
Factors contributing to youth incarceration.....	122
Labor Senators' Additional Comments.....	123
Additional Comments from Senator Shoebridge and Senator McLachlan	145
Senator Lidia Thorpe's Additional Comments	151
Appendix 1—Submissions and additional information	163
Appendix 2—Public hearings and witnesses	171
Appendix 3—International framework	181

Abbreviations

AARJ	Australian Association for Restorative Justice
AASW	The Australian Association of Social Workers
ACCOs	Aboriginal Community Controlled Organisations
ACT	Australian Capital Territory
ADHD	Attention Deficit Hyperactivity Disorder
AIHW	Australian Institute of Health and Welfare
ALA	The Australian Lawyers Alliance
ANZCCGA	The Australian and New Zealand Children’s Commissioners, Guardians and Advocates
AOD	alcohol and other drug
ARACY	Australian Research Alliance for Children and Young People
AYTC	South Australia’s Kurlana Tapa Adelaide Youth Training Centre
Bimberi	Bimberi Youth Justice Centre in Canberra
CYATS	Child & Youth Assessment & Therapeutic Service
FASD	Fetal Alcohol Spectrum Disorder
HNPP	Health Navigator Pilot Program
HYDC	Holtz Youth Detention Centre
JEC	Justice and Equity Centre
JSS	Jesuit Social Service
JTYGT	JTYouGotThis program
MACR	minimum age of criminal responsibility
Mandela Rules	the United Nations Standard Minimum Rules for the Treatment of Prisoners
MAYCS	Mounty Aboriginal Youth & Community Services
MST	Multi-systemic Therapy
MYAN	Multicultural Youth Advocacy Network
NAAJA	The North Australian Aboriginal Justice Agency
National Agreement	National Agreement on Closing the Gap

NATSILS	National Aboriginal and Torres Strait Islander Legal Services
NOFASD	The National Organisation for Fetal Alcohol Spectrum Disorders
NPMs	National Preventative Mechanisms
NSW	New South Wales
NT	Northern Territory
OPCAT	the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
QLD	Queensland
RACGP	The Royal Australian College of General Practitioners
SJYP	Smart Justice for Young People
SNAICC	The Secretariat of National Aboriginal and Islander Children Care – National Voice for our Children
SPP	School Partnership Program
the ‘Help way earlier!’ report	<i>Help way earlier!’: How Australia can transform child justice to improve safety and wellbeing</i>
the Beijing Rules	the United Nations Standard Minimum Rules for the Administration of Juvenile Justice
the committee	Legal and Constitutional Affairs References Committee
the Havana Rules	the United Nations Rules for the Protection of Juveniles Deprived of their Liberty
the South Australian Guardian for Children and Young People	the South Australian Guardian
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	
USA	United States of Australia
VACCA	Victorian Aboriginal Child and Community Agency
WA	Western Australia
YETI	Youth Empowered Towards Independence
YJGC	Youth Justice Group Conferencing

List of recommendations

Recommendation 1

- 6.16** The committee recommends that the Attorney-General work with state and territory counterparts to take the necessary steps to introduce national minimum standards in relation to youth justice in Australia.

Recommendation 2

- 6.32** The committee recommends that the Attorney-General, in cooperation with state and territory counterparts, establish a cross-portfolio National Child and Community Safety Taskforce comprising Commonwealth, state and territory child justice and policing bodies as well as education, social services, health services including disability services, legal services and employment departments and agencies to coordinate national reform to Australia's youth justice system.

Recommendation 3

- 6.36** The committee recommends that the Australian Government undertake an education campaign focused on children and young people in conflict with the law which provides evidence-based information on youth crime, as well as highlighting the benefits of alternatives to the incarceration of children to community safety and wellbeing.

Recommendation 4

- 6.39** The committee recommends that the Senate Community Affairs References Committee undertake an inquiry into the factors that contribute to youth incarceration in Australia including access to health, education, disability, community, social and legal services.

Chapter 1

Introduction

Content Warning

This report contains information that some readers may find distressing as it refers to the experiences of young people (aged 10 to 17 years) in the youth justice and incarceration system. This report also contains information about Aboriginal and Torres Strait Islander (First Nations) young people in this system.

If you need to speak to someone, you can contact these free support services:

- Lifeline: 13 11 14
- 13YARN: 13 92 76
- Kids Helpline: 1800 55 1800

Inquiry referral and terms of reference

- 1.1 On 28 October 2025, the Senate referred the following matter to the Legal and Constitutional Affairs References Committee (the committee) for inquiry and report:

Australia's youth justice and incarceration system, with particular reference to:

- (a) the outcomes and impacts of youth incarceration in jurisdictions across Australia;
- (b) the over-incarceration of First Nations children;
- (c) the degree of compliance and non-compliance by state, territory and federal prisons and detention centres with the human rights of children and young people in detention;
- (d) the Commonwealth's international obligations in regards to youth justice including the rights of the child, freedom from torture and civil rights;
- (e) the benefits and need for enforceable national minimum standards for youth justice consistent with our international obligations; and
- (f) any related matters.¹

- 1.2 In conducting this inquiry, the Senate directed the committee to engage with young people with lived experience in the youth justice system, and to seek

¹ *Journals of the Senate*, No. 17, 28 October 2025, pp. 577–578. See also Senate Legal and Constitutional Affairs References Committee, *Australia's youth justice and incarceration system, Terms of Reference*, www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/YouthJustice2025 (accessed 28 July 2026).

evidence of effective alternative approaches to incarceration for young people, including diversionary programs.² For the purpose of the inquiry, the committee was authorised to consider and use the records of the Legal and Constitutional Affairs References Committee appointed in the previous parliament.³

- 1.3 The initial reporting date for the inquiry was 31 March 2026. However, given the large number of detailed submissions received, the reporting date was first extended to 30 June 2026 and then 31 August 2026.⁴

47th Parliament inquiry

- 1.4 This inquiry commenced in the 47th Parliament on 11 September 2024, when the Senate first referred the issue of Australia's youth justice and incarceration system to the Legal and Constitutional Affairs References Committee.
- 1.5 The Senate initially required the committee to report on this inquiry by 26 November 2024.⁵ However, due to the large number of submissions received, the reporting date was extended first to 28 February 2025, and then to 1 July 2025.⁶ In the time available to the committee before the 2025 Federal Election, it held one public hearing on 3 February 2025.
- 1.6 An interim report, which set out some of the key issues arising from the submissions and hearing, was tabled in February 2025.⁷ The purpose of this report was to provide an update with respect to the evidence received by the committee, and to serve as a basis for the Senate to consider a future inquiry.
- 1.7 The interim report highlighted recent data from the Australian Institute of Health and Welfare (AIHW) regarding young people in detention, including the overrepresentation of First Nations children in this cohort. The report considered the social determinants of justice, including poverty, violence and trauma, among other factors, as well as the outcomes of detention on young people from a health and wellbeing standpoint.

² Senate Legal and Constitutional Affairs References Committee, *Australia's youth justice and incarceration system, Terms of Reference* (accessed 28 July 2026).

³ Senate Legal and Constitutional Affairs References Committee, *Australia's youth justice and incarceration system, Terms of Reference* (accessed 28 July 2026).

⁴ *Journals of the Senate*, No. 33, 2 March 2026, p. 1168 and *Journals of the Senate*, No. 47, 12 May 2026, p. 1689.

⁵ *Journals of the Senate*, No. 130, 11 September 2024, pp. 3976–3977.

⁶ *Journals of the Senate*, No. 138, 10 October 2024, p. 4169 and *Journals of the Senate*, No. 146, 28 November 2024, p. 4495.

⁷ Senate Legal and Constitutional Affairs References Committee, *Interim report - Australia's youth justice and incarceration system*, February 2025. The interim report can be accessed online at: https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc_pdf/Australia%e2%80%99syouthjusticeandincarcerationsystem.pdf.

- 1.8 The interim report also set out, in some detail, Australia's international law obligations to children and young people, particularly under the United Nations Convention on the Rights of the Child (UNCRC), as well as domestic obligations under the National Agreement on Closing the Gap (National Agreement). Finally, the interim report discussed the role of the Commonwealth in youth justice matters, which was raised in evidence as a key issue in need of clarity.
- 1.9 In the interim report, the committee recommended that the Senate continue to pursue the matters raised in the inquiry, with a particular focus on the Commonwealth's responsibilities as they relate to:
- (a) the incarceration of children, including the disproportionate incarceration of First Nations children;
 - (b) compliance with international obligations relating to the detention of children;
 - (c) responding to the recommendations of the National Children's Commissioner's report entitled *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (the *'Help way earlier!'* report); and
 - (d) any other related matter.⁸
- 1.10 A brief final report was tabled in June 2025, which recommended that the Senate take note of the interim and final reports into this matter.⁹ It also urged the Senate to re-refer an inquiry into this matter in the 48th Parliament, which the Senate did.¹⁰

Previous inquiries

- 1.11 The committee recognises that over decades there have been several significant inquiries into the issue of youth justice. These include:
- the 2024 Australian Human Rights Commission's *'Help way earlier!'* Report;
 - the 2023 Yoorrook Justice Commission's *Report into Victoria's Child Protection and Criminal Justice Systems*;
 - the 2021 Commission for Children and Young People, *Our youth, our way: Inquiry into the over representation of Aboriginal children and young people in the Victorian youth justice system*;
 - the 2018 Australian Law Reform Commission's *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*;

⁸ Senate Legal and Constitutional Affairs References Committee, *Interim report – Australia's youth justice and incarceration system*, February 2025, p. 128.

⁹ Senate Legal and Constitutional Affairs References Committee, *Final report – Australia's youth justice and incarceration system*, June 2025, p. 2. The final report can be accessed online at: https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000617/toc_pdf/Australia%e2%80%99syouthjusticeandincarcerationsystem.pdf.

¹⁰ *Journals of the Senate*, No. 17, 28 October 2025, pp. 577–578.

- the 2016 Royal Commission into the Protection and Detention of Children in the Northern Territory; and
 - the 1991 Royal Commission into Aboriginal Deaths in Custody.
- 1.12 These inquiries examined various aspects of the youth justice system in Australia and revealed the inherent complexities in understanding the causes and issues contributing to youth crime. Some have examined the ‘root causes’ of why children engage in antisocial or criminal behaviour, ways to prevent this from happening and, where children are already engaged in the justice system, what is needed to help turn their lives around.
- 1.13 These inquiries have contributed to a growing volume of recommendations for change in Australia. However, evidence to the committee indicates that many of these recommendations have not been implemented. In fact, the committee was told that there were over 100 recommendations that remain outstanding.¹¹

Conduct of the inquiry

- 1.14 In accordance with its usual practice, the committee advertised the inquiry on its website and wrote to individuals and organisations inviting submissions by 19 December 2025. The committee published 127 submissions, which are listed at Appendix 1.
- 1.15 Given the nature and scope of this inquiry, at the outset, it was important to the committee to hear from organisations and individuals in every state and territory to inform its views and recommendations. To this end, the committee held nine public hearings as per Table 1.1 below:

Table 1.1 Public hearings

Date	Location
16 March 2026	Melbourne, Victoria
17 March 2026	Perth, Western Australia
10 April 2026	Parramatta, New South Wales
28 April 2026	Darwin City, Northern Territory
29 April 2026	Darwin City, Northern Territory
26 June 2026	Sydney, New South Wales
2 July 2026	Canberra, Australian Capital Territory
3 July 2026	Canberra, Australian Capital Territory
11 August 2026	Canberra, Australian Capital Territory

¹¹ Federation of Community Legal Centres Victoria, *Submission 77*, p. 2.

- 1.16 The committee also conducted site visits in Mount Druitt, Darwin and Groote Eylandt. These public hearings and site visits provided invaluable insights for the committee.
- 1.17 A full list of witnesses who appeared at the committee's hearings is at Appendix 2 of this report.

Context of the inquiry

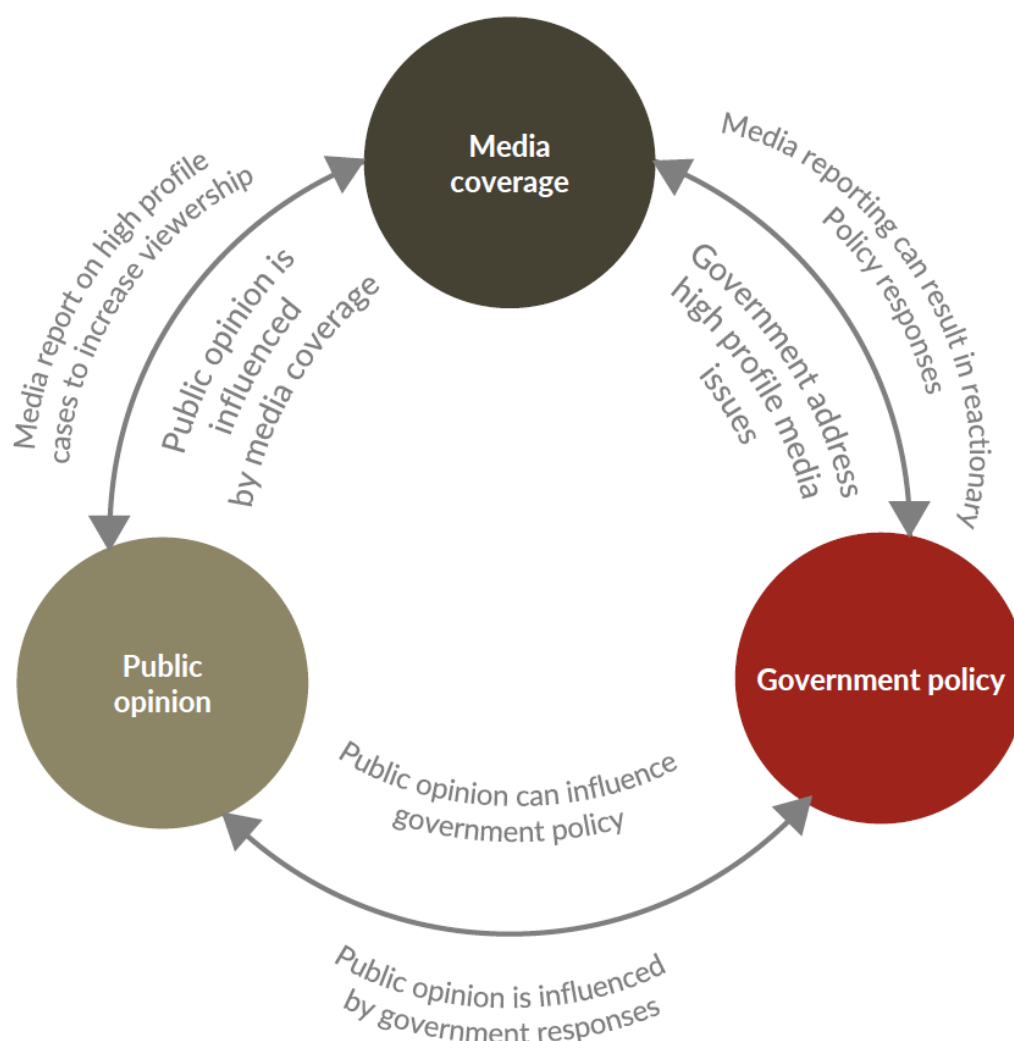
- 1.18 This inquiry was established in a context of media reporting warning of a growing youth crime problem in Australia.
- 1.19 Various media outlets have warned the community of a rise in youth crime leading to public fear. In this regard, Ms Anoushka Jeronimus, Co-convenor of Smart Justice for Young People informed the committee that media reporting that is 'incomplete and inaccurate and siloed' leads to what she described as 'non-evidence based reform and heightened community fear'.¹²
- 1.20 The committee heard through the course of the inquiry that media coverage plays a significant role in informing public opinion and thereby shaping government policy on youth justice. Evidence received by the committee explained that narratives created by media about young offenders risks dehumanising them and 'fails to recognise that, more often than not, they were victims of crime before they were perpetrators'.¹³ Save the Children stated that this can result in government action which is hasty and fails to take an evidence-based and long-term approach.¹⁴ The point was made that while governments have a duty to protect the public, the approach has tended to focus on 'tough on crime' measures rather than reform a system that is not reforming youth offenders or keeping the community safer. These measures have political appeal because they appear to be immediate and create an impression of progress.
- 1.21 Save the Children provided this visual demonstration of how media reporting, government policy, and public opinion interact:

¹² Ms Anoushka Jeronimus, Co-convenor, Smart Justice for Young People, *Committee Hansard*, 16 March 2026, p. 39.

¹³ Australian Children's Commissioners, Guardians, and Advocates, *Submission*, p. 3. See also, SNAICC – National Voice for Our Children, *Submission 31*, p. 9.

¹⁴ Save the Children and 54 Reasons, *Submission 63 Attachment 1*, p. 16.

Figure 1.1 Public sentiment around youth justice



Media coverage and public opinion has played a pivotal role in informing and shaping public policy in youth justice in Australia.

Source: Save the Children and 54 Reasons, Submission 63 Attachment 1, p. 28.

- 1.22 As noted, current media coverage suggests that crime by children and young people in Australia is on the rise. However, other statistics show a decrease in youth crime, suggesting there is no 'youth justice crisis' in Australia.¹⁵ In 2024–25, there was a decrease of 5 per cent in the number of offenders aged between 10–17 years proceeded against by police from 2023–24.¹⁶ This decline in the

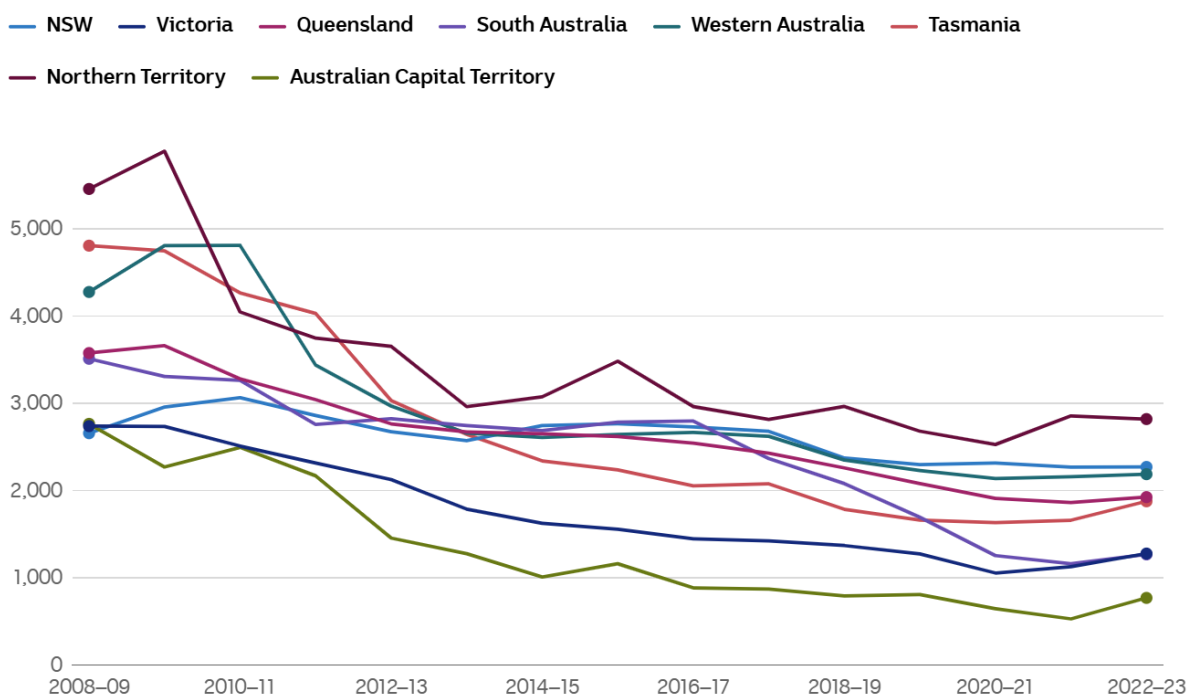
¹⁵ National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 10.

¹⁶ Australian Bureau of Statistics, *Recorded Crime – Offenders*, 18 March 2026, <https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-offenders/latest-release#youth-offenders> (accessed 12 August 2026).

number of offenders is occurring in all state and territory jurisdictions,¹⁷ as demonstrated in this graph based on Australian Bureau of Statistics data:

Figure 1.2 Youth crime rates in Australian states and territories

Youth crime is falling across the board



Youth offences per 100,000 population

Kenji Sato / Source: Australian Bureau of Statistics / [Get the data](#)

Youth offences per 100 000 population, from 2008-09 to 2022-23, in each Australian state and territory shows a decline over time.

Source: Kenji Sato, 'Criminologists debunk claims of 'youth crime crisis' as data shows dramatic declines', ABC News, 13 October 2024 https://www.abc.net.au/news/2024-10-13/criminologists-debunk-youth-crime-crisis-claims/104445432?utm_campaign=abc_news_web&utm_content=link&utm_medium=content_shared&utm_source=abc_news_web (accessed 18 August 2026).

- 1.23 Save the Children explained that media will often report on atypical or particular types of offending which creates a public perception of a greater volume or severity of offending by children and young people than the reality.¹⁸ The National Commission for Aboriginal and Torres Strait Islander Children and Young People pointed out a tendency for media to focus on reporting offending by children, driven by the availability of sources such as police press releases, crime statistics, CCTV footage and local social media groups and retold by victims, small business and local residents. It means that:

¹⁷ In addition to this, Victoria saw a decline in the number of young offenders aged 10–19 in Victoria from 2016 to 2025. SNAICC – National Voice for Our Children, *Submission 31*, p. 8; Queensland Family and Child Commission, *Submission 14*, p. 18.

¹⁸ Save the Children, *Submission 63 Attachment 1*, p. 16.

Many in the community can imagine having their car stolen much more readily and vividly than they can imagine how it feels to be a child in prison whose rights may be violated.¹⁹

- 1.24 The Australian and New Zealand Children's Commissioners, Guardians, and Advocates (ACCGA) provided a young person's perspective on how they see young offenders portrayed by the media:

I hear the term thugs used in media all the time. The way they are characterised in the media feeds into that fear in the community. The stereotypes are being put into the media and the notoriety. If that's what you're labelling me then I'll feed into that." – Victorian young person.²⁰

- 1.25 National Aboriginal and Torres Strait Islander Legal Services (NATSILS) took the stance that media reporting related to Aboriginal and Torres Strait Islander communities required further regulation to align with the Australian Human Rights Commission's National Anti-Racism Framework.²¹

Report structure

- 1.26 The report is divided into two parts. The first part, entailing chapters 1 to 3 considers the current realities for children in the youth justice system in light of the international standards governing criminal justice for children.
- 1.27 The second part of the report, covering chapters 4 and 5 considers diversion and other community-based initiatives whereby children are directed away from the youth justice system when in conflict with the law. It also reviews the evidence regarding preventive measures as well as national standards in relation to youth justice. The final chapter sets out the committee's views and recommendations.

Note on terminology

- 1.28 The committee recognises the UNCRC's definition of a child as 'every human being below the age of 18 years'²² and uses the terms 'children' and 'young people' throughout this report to refer to this cohort.
- 1.29 In this report, the terms 'Aboriginal and Torres Strait Islander people' and 'First Nations people' are used. The committee acknowledges that Australia's First Nations peoples comprise hundreds of groups that have their own distinct languages, histories and cultural traditions and does not intend any disrespect

¹⁹ National Commission for Aboriginal and Torres Strait Islander Children and Young People, *Submission 23*, p. 3.

²⁰ Australian and New Zealand Children's Commissioners, Guardians, and Advocates (ACCGA), *Submission 45*, p 4.

²¹ National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, pp. 12–13.

²² United Nations Convention on the Rights of the Child, article 1. The full text of the Convention can be accessed online at: www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child.

by this usage of the above terms, which reflects the terminology used in submissions and evidence.

Note on references to submissions

- 1.30 As this inquiry spanned both the 47th and 48th Parliaments, submissions from both Parliaments are referenced throughout. All references to submissions through the report are to the submissions of the 48th Parliament unless otherwise noted.²³

Acknowledgments

- 1.31 The committee acknowledges and thanks the many organisations and individuals who contributed to this important inquiry. They include national, state and territory commissioners, inspectors, health professionals, educators, advocates, lawyers, academics and researchers.
- 1.32 The committee is grateful to the individuals and organisations who invited the committee into their communities and facilitated valuable site visits. Not only did this instil a deeper understanding of the issues impacting children and young people in different communities, but it allowed the committee to witness many effective and positive programs in action.
- 1.33 The committee also thanks international experts that took time to give evidence to this inquiry, including Ms Karyn McCluskey, Dr David McGuire, Mr Vincent Schiraldi, and Ms Matelina Aulava.
- 1.34 The committee expresses its gratitude to children with lived experience who shared their insights and ideas with the committee.

²³ A list of the submissions received in the 47th Parliament can be found on the committee's website at:

www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Incarceration47/Submissions

A list of the submissions received in the 48th Parliament can be found on the committee's website at:

www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/YouthJustice2025/Submissions

Chapter 2

Australia's youth justice system

Introduction

- 2.1 During this inquiry, the committee heard evidence about the demographics of children and young people who interact with the youth justice system. The committee also received evidence for common risk factors which lead to children coming into conflict with the youth justice system. These common risk factors are discussed in this chapter.

Demographic overview of children in the youth justice system

- 2.2 Since the committee's interim report into Australia's youth justice and incarceration system in February 2025, the Australian Institute of Health and Welfare (AIHW) has released updated statistics relating to the youth justice system.¹ To provide greater context to the committee's inquiry, this section will set out these figures. The AIHW statistics are relied on as they collate the Youth Justice National Minimum Data Set from all states and territories to produce annual and biennial reports into trends in the youth justice system.² Many submitters also referred to statistics produced by the AIHW.³
- 2.3 The AIHW reported that on an average day in 2024–25, 4147 young people aged ten and over were under youth justice supervision in Australia.⁴ This includes children under supervision in the community (4 in 5 children) and in detention (1 in 5 children). The following table breaks this total down by state and territory:

¹ Australian Institute of Health and Welfare, *Youth justice in Australia 2024–25*, Web report, 12 May 2026, www.aihw.gov.au/getmedia/438af750-7d60-4343-9d50-cd26c19c7561/youth-justice-in-australia-2024-25.pdf?v=20260619111721&inline=true (accessed 29 July 2026).

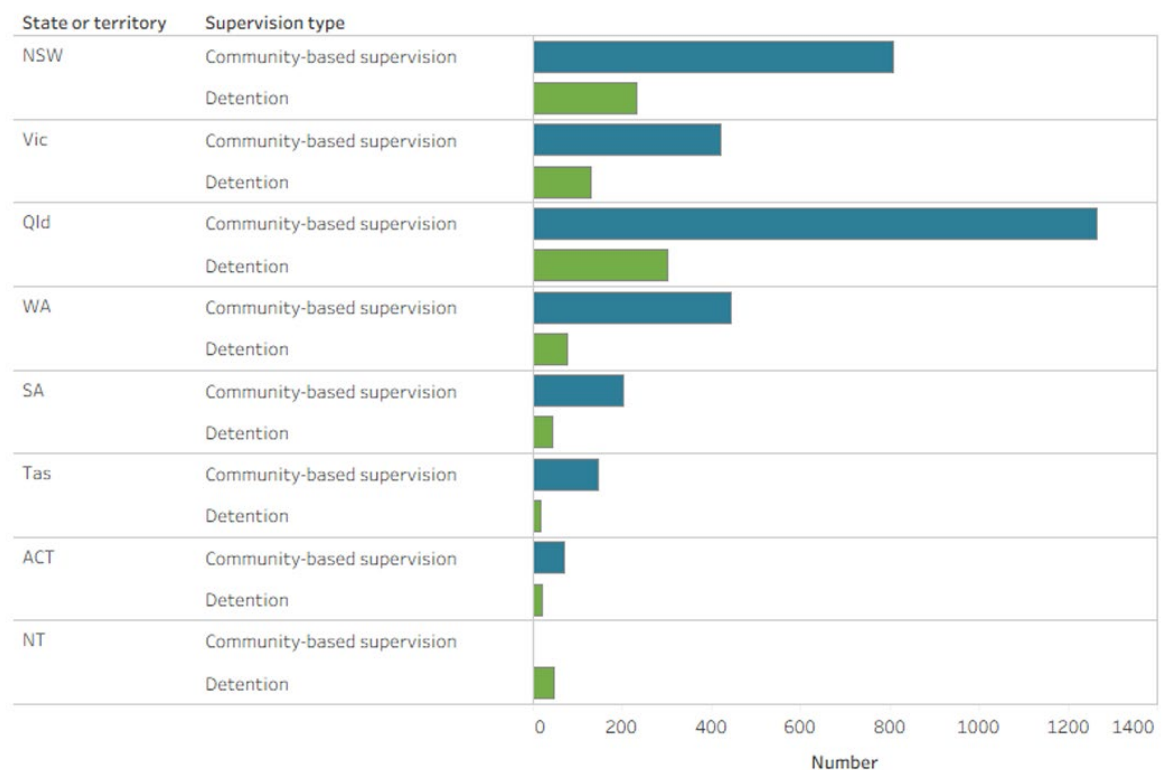
² Australian Institute of Health and Welfare, *Submission 11*, [p. 2].

³ See, for example, Social Reinvestment WA, *Submission 42 Attachment 1*, pp. 85–86; Alcohol and Drug Foundation, *Submission 4*, p. 4; Aboriginal Legal Service of Western Australia, *Submission 51*, p. 3; Australian Services Union, *Submission 53*, p. 2; First Nations Advocates Against Family Violence, *Submission 55*, pp. 7–9; Just Reinvest NSW, *Submission 30*, pp. 4, 10.

⁴ Australian Institute of Health and Welfare, *Youth justice in Australia 2024–25*, 12 May 2026, [p. 25], www.aihw.gov.au/getmedia/438af750-7d60-4343-9d50-cd26c19c7561/youth-justice-in-australia-2024-25.pdf?v=20260619111721&inline=true (accessed 29 July 2026).

Figure 2.1 Young people under supervision on an average day, by supervision type and state and territory, 2024–25

Figure 2.2: Young people under supervision on an average day, by supervision type and state and territory, 2024–25 (number)



<https://www.aihw.gov.au>

Source: *Youth justice in Australia 2024–25*, Australian Institute of Health and Welfare, [p. 25].

Notes: 1. The number of young people under community-based supervision on an average day not available for the Northern Territory in 2024–25. 2. Average day numbers for the Australian Capital Territory for young people aged 12–17 due to the increase to the minimum age of criminal responsibility.

2.4 Of the total numbers of children under youth justice supervision, the AIHW reported that, on an average day:

- 80 per cent of children were male;
- 56 per cent of children were First-Nations children; and
- 80 per cent of children were unsentenced – that is, awaiting trial.⁵

2.5 These figures were further broken down by age group. The AIHW reported that on an average day in 2024–25:

- 142 children aged 10–13 were under youth justice supervision;
- 3035 children aged 14–17 were under youth justice supervision; and

⁵ Australian Institute of Health and Welfare, *Youth justice in Australia 2024–25*, 12 May 2026, [p. 8], <https://www.aihw.gov.au/getmedia/438af750-7d60-4343-9d50-cd26c19c7561/youth-justice-in-australia-2024-25.pdf?v=20260619111721&inline=true> (accessed 29 July 2026).

- 970 young people aged 18 years and over were under youth justice supervision.⁶

Risk factors for children and young people

- 2.6 The committee received evidence about the risk factors which lead to children and young people becoming engaged with the youth justice system. Identifying these risk factors leading to incarceration is important to develop an understanding of appropriate mechanisms for rehabilitation and restoration, as well as ultimately reducing recidivism.⁷
- 2.7 The point was repeatedly made to the committee that many young people are likely to come from environments of disadvantage, marginalisation and poverty.⁸ It was also highlighted to the committee that typically these children and young people will often have more than one of these risk factors.⁹ These risk factors and their interaction with children and young people entering the youth justice system are examined in more detail in this section.
- 2.8 The Australian and New Zealand Children's Commissioners and Guardians and Advocates reported that:
- The root cause and risk factors associated with offending behaviours are well known and sufficiently evidenced. This evidence tells us that there are a range of complex factors that can influence a child's behaviour, whether that be disability or mental illness, experiences of poverty, family violence or homelessness, or systemic factors that have contributed to entrenched socio-economic disadvantage or fragmented educational experiences.¹⁰
- 2.9 The Queensland Youth Justice Census in 2022 identified the prevalence of various risk factors in the 1605 young offenders surveyed:

⁶ This can occur when the young person committed the offence when aged 17 and under, but was sentenced when 18 years and over, the supervision is continued once the person turns 18 years of age and the young person is particularly vulnerable or immature. Additionally, in Victoria, some people aged 18–20 may be sentenced to detention in a youth facility under the state's 'dual track' sentencing system. Australian Institute of Health and Welfare, *Youth justice in Australia 2024–25*, 12 May 2026, [pp. 8, 10], <https://www.aihw.gov.au/getmedia/438af750-7d60-4343-9d50-cd26c19c7561/youth-justice-in-australia-2024-25.pdf?v=20260619111721&inline=true> (accessed 29 July 2026).

⁷ Queensland Family and Child Commission, *Submission 14*, p. 15.

⁸ See, for example, Ms Kate Bundrock, Executive Director, Victoria Legal Aid, *Committee Hansard*, 16 March 2026, p. 1; Ms Bianka Johnson, Youth Support and Advocacy Service, *Committee Hansard*, 16 March 2026, p. 43; UN Youth Australia, *Submission 1*, p. 1.

⁹ See, for example, Ms Melissa Hardham, Chief Executive Officer, Westjustice, *Committee Hansard*, 16 March 2026, p. 4; Ms Naomi Bellingham, Senior Legal Policy Advisor at the Federation of Community Legal Centres, *Committee Hansard*, 16 March 2026, p. 5.

¹⁰ Australian and New Zealand Children's Commissioners and Guardians and Advocates, *Submission 45*, p. 6.

- 45 per cent were disengaged from education, training or employment
- 53 per cent had experienced or been impacted by domestic and family violence
- 33 per cent had a least one mental health or behavioural disorder (diagnosed or suspected)
- 30 per cent had been living in unstable and/or unsuitable accommodation
- 27 per cent had at least one parent who spent time in adult custody
- 27 per cent had a disability (assessed or suspected), including 17 per cent who had a cognitive or intellectual disability
- 19 per cent had an active Child Protection Order.¹¹

Health and disability

2.10 The committee heard considerable evidence from submitters that many children and young people engaged with the youth justice system have cognitive impairment or undiagnosed disabilities.¹² The National Organisation for Fetal Alcohol Spectrum Disorders (NOFASD) highlighted that cognitive disabilities contributed to engagement with the youth justice system for reasons that include being more susceptible to peer coercion and entrenchment in offending behaviour, increased risk of acquiescence during police interviews and court processes, and certain behaviours being misinterpreted as defiance.¹³

2.11 As a case in point, Dr Hayley Passmore, appearing in a private capacity, noted that in the Western Australian youth justice detention centre,

We found an unprecedented amount of neurodisability and neurodevelopmental disorders, including fetal alcohol spectrum disorder, and undiagnosed intellectual disability, which has implications for every single aspect of the justice process that these young people have been exposed to.¹⁴

2.12 The Royal Australian College of General Practitioners (RACGP) advised the committee that neurodevelopmental disorders, such as Fetal Alcohol Spectrum Disorder (FASD) and Attention Deficit Hyperactivity Disorder (ADHD) can lead to impulse control issues, contributing to young people's involvement in criminal behaviour and subsequent detention.¹⁵

¹¹ Queensland Family and Child Commission, *Submission 14*, pp. 14–15.

¹² See, for example, Dr Jacqueline McGowan-Jones, Commissioner for Children and Young People, Western Australia, *Committee Hansard*, 17 March 2026, p. 10; Secretariat of National Aboriginal and Islander Children Care – National Voice for our Children (SNAICC), *Submission 31*, p. 14; Peak Care, *Submission 3*, [p. 1].

¹³ National Organisation for Fetal Alcohol Spectrum Disorders (NOFASD) Australia, *Submission 56*, p. 6.

¹⁴ Dr Hayley Passmore, *Committee Hansard*, 17 March 2026, p. 19.

¹⁵ Royal Australian College of General Practitioners, *Submission 37*, p. 5.

- 2.13 A similar point was made by the Australian Research Alliance for Children and Young People (ARACY), who submitted that in addition to impulse control issues, children with FASD can have difficulties with ‘...decision-making, understanding cause and effect, memory, attention, and comprehension. They may also struggle with emotional regulation, following instructions, and tend not to learn from past mistakes’.¹⁶
- 2.14 Relatedly, UN Youth Australia identified that often ‘behaviours linked to autism, ADHD, fetal alcohol spectrum disorder, anxiety or hearing impairments are misinterpreted as wilful misconduct’ which results in punishment that further worsens the young person’s condition.¹⁷
- 2.15 National Aboriginal and Torres Strait Islander Legal Services (NATSILS) pointed the committee to a South Australian report which identified that mental health is a ‘foundational component of a child’s overall well-being and development, influencing how children think, feel, respond to others and behave, shaping their ability to cope with stress, relate to others, and make healthy choices’.¹⁸

Prevalence of disability

- 2.16 In the Northern Territory, a 2024 study by the Office of the Children’s Commissioner Northern Territory found that 77 per cent of children in detention under 14 years old had ‘unmet mental health, cognitive disability and poor health needs’.¹⁹
- 2.17 In a study in Western Australia, the Kids Institute found nine out of ten incarcerated young people have a form of neurodiversity.²⁰
- 2.18 In Queensland in 2022, it was estimated that 37 per cent of children in detention had a cognitive, intellectual or physical disability, including 12 per cent of children with FASD.²¹

¹⁶ Australian Research Alliance for Children and Young People, *Submission 27*, p. 3.

¹⁷ UN Youth Australia, *Submission 1*, p. 10.

¹⁸ This was the Joint Inspection of the Mental Health and Wellbeing of children and young people detained at the Adelaide Youth Training Centre Report. National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 20.

¹⁹ SNAICC, *Submission 173 (47)*, p. 15.

²⁰ Ms Sophie Stewart, Chief Executive Officer, Social Reinvestment WA, *Committee Hansard*, 17 March 2026, p. 30; Social Reinvestment WA, *Submission 42 Attachment 1*, p. 6.

²¹ Peak Care, *Submission 3*, [p. 1].

- 2.19 Further, the committee was informed that young people with FASD are 19 times more likely to be incarcerated than their peers.²²
- 2.20 In New South Wales, a study in 2023 found that 17.4 per cent of young people with a disability had spent time in youth detention.²³
- 2.21 NATSILS gave evidence to the committee that certain forms of disability are more likely to be prevalent in Aboriginal and Torres Strait Islander children. For example, they are 12 times more likely to have a hearing impairment than non-Indigenous children and also more likely to have FASD.²⁴
- 2.22 In addition, the RACGP advised that disabilities such as FASD may be underdiagnosed in Aboriginal and Torres Strait Islander communities due to cultural and systemic barriers in accessing appropriate healthcare services.²⁵ They argued this may be another factor contributing to the overincarceration of Aboriginal and Torres Strait Islander children ‘who may be struggling with unmanaged symptoms’ of these conditions.²⁶
- 2.23 NATSILS agreed with a conclusion of the Disability Royal Commission that the ‘proportion of Aboriginal and Torres Strait Islander people with cognitive disability in custody, particularly in youth detention, is a “hidden national crisis”’.²⁷

Alcohol and other drug (AOD) use

- 2.24 Many submitters pointed to alcohol and other drug (AOD) use as being a risk factors for children and young people to become engaged in the youth justice system.²⁸ Social Reinvestment WA specifically noted that young people engaging in AOD use can be at increased risk of exposure to unsafe situations and police interactions.²⁹

²² Ms Louise Gray, Specialist Adviser, National Organisation for Fetal Alcohol Spectrum Disorder Australia, *Committee Hansard*, 17 March 2026, p. 11.

²³ Australian Services Union, *Submission*, p. 3.

²⁴ National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 22.

²⁵ Royal Australian College of General Practitioners (RACGP), *Submission 12 (47)*, p. 5.

²⁶ RACGP, *Submission 12 (47)*, p. 5.

²⁷ National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 23.

²⁸ See, for example, Social Reinvestment WA, *Submission 42*, p. 5; Jesuit Social Services, *Submission 107*, p. 7; Ms Amy Herbert, Manager, Policy and Engagement, Alcohol and Drug Foundation, *Committee Hansard*, 16 March 2026, pp. 44, 46–47.

²⁹ Social Reinvestment WA, *Submission 42 Attachment 1*, p. 69.

- 2.25 Young people engaging in AOD use or accessing AOD support organisations commonly face intersecting needs including family violence, disengagement from education, mental health diagnosis, and unstable housing.³⁰
- 2.26 Young people aged 10–17 engaged with the youth justice system at any point between June 2012 and July 2016 were 30 times more likely than the general population to have also received AOD treatment services.³¹ A 2021 study in Queensland and Western Australia found most youth justice system participants had used alcohol (89 per cent), tobacco (86 per cent) or other drugs (81 per cent).³²
- 2.27 Mission Australia highlighted that young people engaged with the youth justice system who have substance use problems are ‘less likely to be granted diversion and more likely to be incarcerated within 18 months’.³³
- 2.28 Submitters to the committee highlighted that children and young people may not have access to rehabilitation services for AOD use, including if they are located in regional or remote areas or very young.³⁴ While AOD use is a well-recognised risk factor in offending, the Alcohol and Drug Foundation pointed to the need for AOD-informed prevention to be part of youth justice strategy.³⁵

Engagement with education

- 2.29 When children have struggled to engage with the education system and are subject to exclusion, suspension or informal removals from school, this increases their vulnerability to police intervention. Multiple submitters referred to this as the ‘school-to-prison pipeline’.³⁶
- 2.30 In particular, this affects children and young people who experience other risk factors such as having a disability, being Aboriginal or Torres Strait Islander, or from low-socioeconomic backgrounds.³⁷ This may be because ‘behaviours

³⁰ YSAS Youth Support and Advocacy Service, *Submission 86*, [pp. 9–10]; Mrs Stephanie Holmes, Executive, Association of Alcohol and Other Drug Agencies NT, *Committee Hansard*, 28 April 2026, p. 26.

³¹ Australian Institution of Health and Welfare, *Youth Justice web article*, 12 May 2026, www.aihw.gov.au/reports/australias-welfare/youth-justice (accessed 5 August 2026).

³² Alcohol and Drug Foundation, *Submission 4*, p. 1.

³³ Mission Australia, *Submission 64*, p. 9.

³⁴ See, for example, Social Reinvestment WA, *Submission 42 Attachment 1*, p. 3; Each, *Submission 48*, [pp. 4–5]; Office of the Guardian for Children and Young People South Australia, *Submission 88*, p. 14.

³⁵ Alcohol and Drug Foundation, *Submission 4*, p. 3.

³⁶ See, for example, National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 28; UN Youth Australia, *Submission 1*, p. 12.

³⁷ UN Youth Australia, *Submission 1*, p. 12.

linked to disability, trauma, or cultural misunderstanding are frequently reframed as defiance'.³⁸ Anglicare Southern Queensland pointed out that school suspension and exclusion generally relies on a 'zero-tolerance approach' which 'rarely accounts for other significant precipitating factors such as trauma' leading to children's challenging behaviours.³⁹

- 2.31 In 2025, First Nations students and students with a disability were twice as likely to be suspended or excluded, rising to three times more likely for students in out-of-home care.⁴⁰
- 2.32 Disengagement from schools not only results in children not receiving an education, but also disconnects them from their peers, essential support services, routine, and pathways to future employment.⁴¹ UN Youth Australia submitted that remaining in school is crucial, as once children are outside the education system there are fewer alternative education pathways and support services available.⁴²
- 2.33 The Queensland Family and Child Commission identified that in 2022, when reviewing 100 children at risk of detention pre-sentencing, 94 per cent had been disengaged from school. They describe school exclusion as 'not an isolated event, it is a gate way to long term disengagement'.⁴³
- 2.34 The committee heard that there are some circumstances where children or young people disengaged from education for reasons outside their control. For example, in a regional town where there was no public transport, Elders reported that they were having trouble getting kids to attend school despite making every effort.⁴⁴

First Nations children and young people

- 2.35 Focusing in particular on Aboriginal children in detention, Ms Amanda Collins-Clinch from the Aboriginal Health Council of Western Australia, remarked that:

Aboriginal children in detention are children first. Many have experienced trauma, racism, poverty, family disruption, child protection involvement, educational disengagement, developmental vulnerability and unmet health needs long before they entered the justice system. Too often, the current

³⁸ UN Youth Australia, *Submission 1*, p. 12.

³⁹ Anglicare Southern Queensland, *Submission 57*, p. 7.

⁴⁰ Queensland Family and Child Commission, *Submission 14*, p. 17; National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 28.

⁴¹ Queensland Family and Child Commission, *Submission 14*, p. 17.

⁴² UN Youth Australia, *Submission 1*, p. 12.

⁴³ Queensland Family and Child Commission, *Submission 14*, p. 16.

⁴⁴ Ms Anne Hollonds AO, *Committee Hansard*, 10 April 2026, p. 3.

system responds to these children through punishment, containment and disconnection rather than healing, support and culturally safe care.⁴⁵

- 2.36 The higher rates of engagement with the child protection system for First Nations children is discussed further below.
- 2.37 This was confirmed by updated AIHW figures which showed that on an average night in the June quarter 2025, 60 per cent of young people aged 10–17 in detention were First Nations children, despite being 6.6 per cent of the general population.⁴⁶ First Nations young people were 24 times more likely to be in detention and 17 times more likely to be under community-based supervision than non-Indigenous young people.⁴⁷
- 2.38 Of the First Nations young people in detention on an average night in the June quarter 2025, 78 per cent (or nearly 4 in 5 children) were unsentenced.⁴⁸ This prevalence of remand in Australia is further examined in the next chapter.
- 2.39 Across the country in the decade from 2012–13 to 2021–22, the rate of First Nations young people in detention on an average day declined in New South Wales, Western Australia and South Australia, but increased in Queensland.⁴⁹
- 2.40 The following graph shows the number of young people in detention on an average night over time from June 2021 to 2025, separated by First Nations and non-Indigenous young people:

⁴⁵ Committee Hansard, 17 March 2026, p. 12.

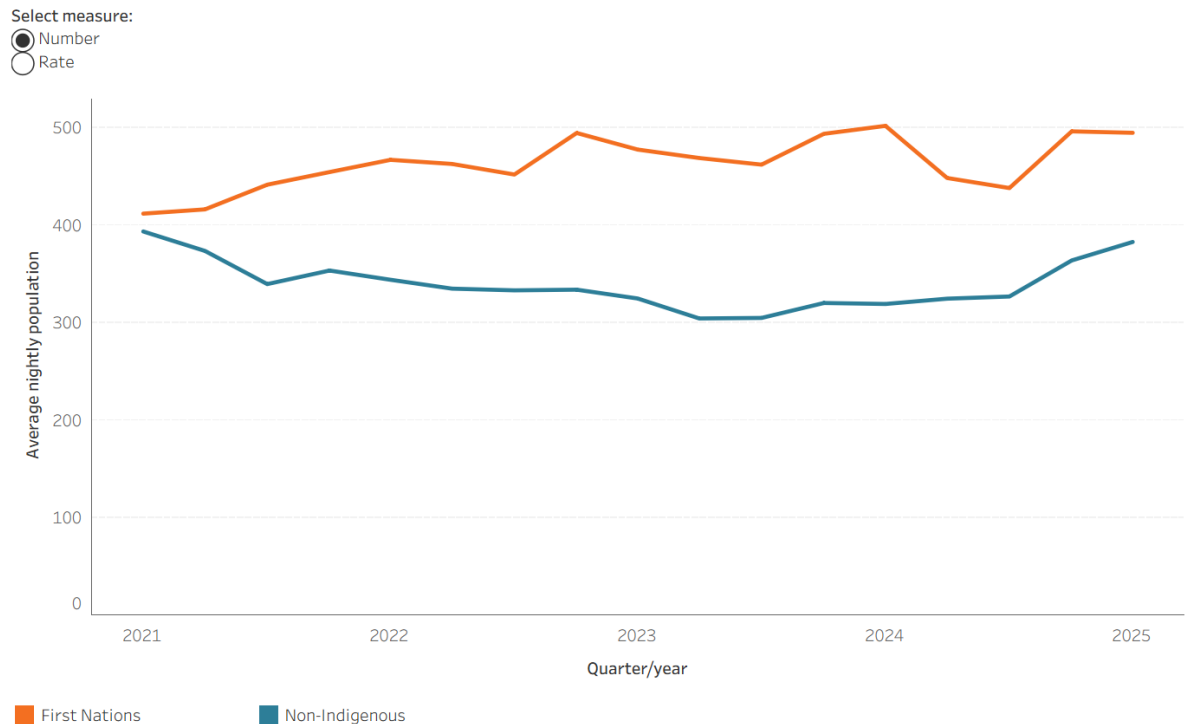
⁴⁶ Australian Institute of Health and Welfare, *Youth detention population in Australia 2025*, 10 December 2025, [p. 4], www.aihw.gov.au/getmedia/7b49c5c0-d93d-4b4a-ba18-b8339ad78cb7/youth-detention-population-in-australia-2025.pdf?v=20251210102459&inline=true (accessed 29 July 2026).

⁴⁷ Australian Institute of Health and Welfare & National Indigenous Australians Agency, *Measure 2.11 Contact with the criminal justice system, Aboriginal and Torres Strait Islander Health Performance Framework website*, 21 March 2024, <https://www.indigenoushpf.gov.au/measures/2-11-contact-with-the-criminal-justice-system> (accessed 5 August 2026).

⁴⁸ Australian Institute of Health and Welfare, *Youth detention population in Australia 2025*, 10 December 2025, [p. 14], www.aihw.gov.au/getmedia/7b49c5c0-d93d-4b4a-ba18-b8339ad78cb7/youth-detention-population-in-australia-2025.pdf?v=20251210102459&inline=true (accessed 29 July 2026).

⁴⁹ Australian Institute of Health and Welfare & National Indigenous Australians Agency, *Measure 2.11 Contact with the criminal justice system, Aboriginal and Torres Strait Islander Health Performance Framework website*, 21 March 2024, <https://www.indigenoushpf.gov.au/measures/2-11-contact-with-the-criminal-justice-system> (accessed 5 August 2026).

Figure 2.2 Young people in detention on an average night, by Indigenous status, June quarter 2021 to June quarter 2025



Source: Australian Institute of Health and Welfare, *Youth detention population in Australia 2025*, 10 December 2025, [p. 11],

Notes: 1. Includes young people with unknown sex. 2. Trend data may differ from those previously published due to data revisions. 3. Rates are the number of young people per 10,000 relevant population. 4. Data for the figure presenting numbers includes young people aged 10 and over; data for the rate figure includes young people aged 10–17. 5. Rates for the 10–17 age group in 2023–24 are calculated using the sum of the 12–17 population (Northern Territory and Australian Capital Territory) and the 10–17 population (all remaining jurisdictions) due to these jurisdictions increasing the minimum age of criminal responsibility to 12 in 2023. 6. Rates for the 10–17 age group in 2024–25 are calculated using the sum of the 12–17 population (Australian Capital Territory) and 10–17 population (all remaining jurisdictions).

- 2.41 NATSILS identified that Aboriginal and Torres Strait Islander children have a unique experience of the youth justice system, which can have a significant and harmful effect on ‘their connection to their family and kin, community, culture and country’.⁵⁰ This is particularly the case because First Nations children and young people’s experiences of detention are likely to exacerbate existing distress and vulnerabilities.⁵¹
- 2.42 The Secretariat of National Aboriginal and Islander Children Care – National Voice for our Children (SNAICC) suggested that the statistics showing that Aboriginal and Torres Strait Islander children were overrepresented in the

⁵⁰ National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 18.

⁵¹ National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 18.

youth justice system were a ‘direct result of systemic inequality, poverty, intergenerational trauma and the enduring impacts of colonisation... compounded by punitive measures often being preferred to diversion at every point of the child justice system’.⁵² This is a lifelong experience for children:

This discrimination [against Aboriginal and Torres Strait Islander people] begins before birth, intensifies with child protection surveillance (Wright et al 2024) over-policing and sets up vulnerable Aboriginal and Torres Strait Islander children for a life-long churn through the criminal justice system (Productivity Commission 2024 Wright et al 2024).⁵³

- 2.43 The National Agreement on Closing the Gap, entered into in July 2020, was discussed in Chapter 3 of the interim report.⁵⁴ Target 11 of the National Agreement is to reduce the rate of Aboriginal and Torres Strait Islander young people aged 10–17 in detention by at least 30 per cent by 2031.⁵⁵
- 2.44 This committee received evidence that the government is unlikely to meet this target.⁵⁶

Engagement with the child protection system

- 2.45 The committee heard evidence about the connection between children whose families are engaged in the child protection system or are in out-of-home care, and who are also engaged with the youth justice system. They were referred to by some submitters as ‘cross over children’.⁵⁷
- 2.46 In 2022–23, 65 per cent of the young people under youth justice supervision had engaged with the child protection system in the decade prior.⁵⁸ In the Northern Territory, in 2024, every child in detention under 14 years old had contact with the child protection system.⁵⁹

⁵² SNAICC, *Submission 31*, p. 15.

⁵³ SNAICC, *Submission 31*, p. 13.

⁵⁴ Senate Legal and Constitutional Affairs Committee, *Australia’s youth justice and incarceration system*, February 2025, pp. 47–51.

⁵⁵ National Agreement on Closing the Gap, July 2020, pp. 33–34, https://www.closingthegap.gov.au/sites/default/files/2022-09/ctg-national-agreement_apr-21-comm-infra-targets-updated-24-august-2022_0.pdf (accessed 18 August 2026).

⁵⁶ NOFASD Australia, *Submission 56*, p. 9; SNAICC, *Submission 31*, pp. 6, 12; National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 19

⁵⁷ See, for example, SNAICC, *Submission 31*, p. 14.

⁵⁸ Australian Institution of Health and Welfare, *Youth Justice web article*, 12 May 2026, <https://www.aihw.gov.au/reports/australias-welfare/youth-justice> (accessed 5 August 2026).

⁵⁹ This was a finding of a study by the Office of the Children’s Commissioner Northern Territory. SNAICC, *Submission 173 (47)*, [p. 16].

- 2.47 Conversely, children in the child protection system are 12 times more likely to be engaged with the youth justice system.⁶⁰
- 2.48 The committee was told that families become engaged with the child protection system as a result of allegations or experiences of abuse, including emotional, physical or sexual abuse, or the neglect of children. This often means that children have experienced trauma, including exposure to abuse or domestic and family violence.⁶¹
- 2.49 As the Queensland Family and Child Commission identified, exposure to child abuse and neglect has ‘particularly pervasive and long-lasting effects on children and their futures’ including ‘poor emotional and mental health, social difficulties, cognitive dysfunction, and behavioural problems including aggression’.⁶²
- 2.50 First Nations Advocates Against Family Violence described this trajectory from exposure to family violence, entering the child protection system, and to the youth justice system as the ‘Family Violence, Child Protection to Youth Justice Pipeline’.⁶³
- 2.51 The Victorian Aboriginal Child and Community Agency also pointed the committee to several studies which identified specific features of the out-of-home care system which contribute to risk of offending, including:
- Many children and young people are exposed to further trauma in care, including adverse exposure during reunification attempts, abuse and neglect by caregivers, or abuse by other young people in care.
 - The co-location of “high risk” young people in congregate accommodation increases their exposure to problematic behaviour and attitudes which increase the likelihood of offending behaviour.
 - Often police are called to manage a child or young person’s behaviour in out of home care when that child would usually be disciplined by their parent if they were at home. This pattern repeats itself, which quickly leads to the child or young person accumulating a criminal history. This also increases the likelihood of the child being re-arrested and establishes a precedent of interaction with the criminal justice system.⁶⁴

⁶⁰ SNAICC, *Submission 31*, p. 14.

⁶¹ First Nations Advocates Against Family Violence, *Submission 55*, p. 7; Queensland Network of Alcohol and Other Drug Agencies, *Submission 90*, p. 3.

⁶² Queensland Family and Child Commission, *Submission 14*, p. 13.

⁶³ First Nations Advocates Against Family Violence, *Submission 55*, p. 9.

⁶⁴ Victorian Aboriginal Child and Community Agency, *Submission 70*, pp. 11–12.

First Nations children in out-of-home care

- 2.52 The committee heard evidence that Aboriginal and Torres Strait Islander young people aged 10–17 were 19 times more likely than their non-Indigenous peers to have had contact with both the child protection and youth justice systems.⁶⁵ In 2020–21, 64 per cent of First Nations young people in the youth justice system had an interaction with the child protection system in the prior 5 years.⁶⁶
- 2.53 Under the National Agreement on Closing the Gap Target 12, the government is working towards reducing the number of Aboriginal and Torres Strait Islander children in out-of-home care by 45 per cent by 2031.⁶⁷ However, the committee heard that it is also unlikely that this target will be met.⁶⁸
- 2.54 In 2023–25, 39 of every 1000 Aboriginal and Torres Strait Islander children had a substantiated finding of maltreatment as a result of a child protection investigation.⁶⁹ The AIHW noted that this higher rate, compared to 5.8 per 1000 non-Indigenous children, may be attributed to: intergenerational separation from family and culture, greater likelihood of living in lower socioeconomic areas, and cultural differences in child-rearing.⁷⁰
- 2.55 UN Youth Australia noted that First Nations children are disproportionately placed in out-of-home care as a result of poverty or cultural practices being perceived as ‘neglect’, and are then placed in homes which provide limited therapeutic support. As a result, they described the child protection system as ‘less a haven and more an on-ramp to youth detention’.⁷¹

⁶⁵ At a rate of 163.9 per 100 000 children compared to 8.6 per 100 000 children. SNAICC, *Submission 173* (47), pp. 15–16.

⁶⁶ Australian Institute of Health and Welfare & National Indigenous Australians Agency, *Measure 2.11 Contact with the criminal justice system, Aboriginal and Torres Strait Islander Health Performance Framework website*, 21 March 2024, <https://www.indigenoushpf.gov.au/measures/2-11-contact-with-the-criminal-justice-system> (accessed 5 August 2026).

⁶⁷ National Agreement on Closing the Gap, July 2020, pp. 35–36, https://www.closingthegap.gov.au/sites/default/files/2022-09/ctg-national-agreement_apr-21-comm-infra-targets-updated-24-august-2022_0.pdf (accessed 18 August 2026).

⁶⁸ Macarthur Legal Centre, *Submission 22*, p. 4.

⁶⁹ The statistics for 2024–25 do not include Queensland due to a changeover in the case management system used. Australian Institute of Health and Welfare, *Child protection Australia 2024–25*, 21 July 2026, [p. 6], <https://www.aihw.gov.au/getmedia/fd2cc9c6-3227-4fdd-a31e-12c9926e4d4f/child-protection-australia-2024-25.pdf?v=20260721073605&inline=true> (accessed 5 August 2026).

⁷⁰ Australian Institute of Health and Welfare, *Child protection Australia 2024–25*, 21 July 2026, [p. 6], <https://www.aihw.gov.au/getmedia/fd2cc9c6-3227-4fdd-a31e-12c9926e4d4f/child-protection-australia-2024-25.pdf?v=20260721073605&inline=true> (accessed 5 August 2026).

⁷¹ UN Youth Australia, *Submission 1*, p. 12.

- 2.56 In 2022–23, Aboriginal and Torres Strait Islander children were 10.8 times more likely than non-Indigenous children to be in out-of-home care or subject to a third-party parental responsibility order.⁷²
- 2.57 SNAICC told the committee that Aboriginal and Torres Strait Islander young people needed kinship and family-based foster carers to be prioritised to provide culturally safe environments and protect against being sent to residential care, which is discussed further below.⁷³
- 2.58 Macarthur Legal Centre gave the committee an example of a 17 year old Aboriginal young person living in residential out-of-home care who they had to provide support to in the following ways because her placement provider had not done so:
- Sponsor a Work and Development Order to address transport fines which resulted from her placement provider not ensuring access to a valid transport card, to avoid further enforcement fees;
 - Assist the placement provider with applying for an exemption from ambulance fees due to the young person calling 000 in acute mental health crises; and
 - Ensure she had a leaving care plan in place.⁷⁴
- 2.59 Macarthur Legal Centre identified that gaps in the child protection system, including in monitoring or oversight of state and territory bodies, was resulting in children entering youth detention.⁷⁵

Residential care homes

- 2.60 The committee heard there has been an increase in the prevalence of residential care for children in out-of-home care across Australia, from 6.3 per cent in 2019, to 9 per cent in 2023, to 10.5 per cent in 2024.⁷⁶
- 2.61 In Queensland in 2023, of the 528 children in residential care under 12 years old, 48 per cent were Aboriginal and Torres Strait Islander. Of those under 4 years old, this rose to 68 per cent.⁷⁷

⁷² SNAICC, *Submission 173* (47), [p. 16].

⁷³ SNAICC, *Submission 31*, p. 15.

⁷⁴ Macarthur Legal Centre, *Submission 22*, pp. 2–3.

⁷⁵ Macarthur Legal Centre, *Submission 22*, pp. 4–5.

⁷⁶ SNAICC, *Submission 31*, p. 15.

⁷⁷ SNAICC, *Submission 31*, p. 16.

- 2.62 SNAICC raised concerns that ‘residential care continues to be an unsafe and criminogenic environment for children’.⁷⁸ They explained that residential care settings are particularly linked to the youth justice system as:

In residential care settings, it is common for police to be involved in disciplinary responses that otherwise would have been handled in the family. This pattern has become so recognisable and consistent that it has its own term: ‘care criminalisation.’ ... Through the process of ‘care criminalisation,’ children who are particularly disadvantaged or ‘at risk’ are understood and policed as if they are ‘a risk.’⁷⁹

- 2.63 Other examples of ‘care criminalisation’ of behaviours in out-of-home care were provided to the committee, such as children being charged for property damage which would not be reported to police from a family home.⁸⁰
- 2.64 The AIHW reported that 75 per cent of those under community-based supervision who had been in out-of-home care in the prior 5 years had at least one placement in residential care.⁸¹

Other socioeconomic risk factors

- 2.65 The committee also heard evidence about other socioeconomic risk factors for youth incarceration, including being from low socioeconomic areas, living in regional and remote areas and parental incarceration.
- 2.66 Children and young people from the lowest socioeconomic areas were about six times more likely to be under youth justice supervision (whether detention or community-based) than those from the highest socioeconomic areas.⁸²

Living in regional and remote areas

- 2.67 On an average day in 2024–25, young people from ‘very remote areas’ were about 10 times as likely as those from major cities to be under supervision (whether detention or community based).⁸³

⁷⁸ SNAICC, *Submission 31*, p. 14.

⁷⁹ SNAICC, *Submission 173 (47)*, [p. 16].

⁸⁰ SNAICC, *Submission 31*, p. 14; National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 25.

⁸¹ Australian Institute of Health and Welfare & National Indigenous Australians Agency, *Measure 2.11 Contact with the criminal justice system, Aboriginal and Torres Strait Islander Health Performance Framework website*, 21 March 2024, <https://www.indigenoushpf.gov.au/measures/2-11-contact-with-the-criminal-justice-system> (accessed 5 August 2026).

⁸² Australian Institute of Health and Welfare, *Youth justice in Australia 2024–25*, 12 May 2026, [p. 36], www.aihw.gov.au/getmedia/438af750-7d60-4343-9d50-cd26c19c7561/youth-justice-in-australia-2024-25.pdf?v=20260619111721&inline=true (accessed 5 August 2026).

⁸³ Australian Institute of Health and Welfare, *Youth justice in Australia 2024–25*, 12 May 2026, [p. 4], www.aihw.gov.au/getmedia/438af750-7d60-4343-9d50-cd26c19c7561/youth-justice-in-australia-2024-25.pdf?v=20260619111721&inline=true (accessed 29 July 2026).

- 2.68 For those in regional and remote communities, primarily First Nations children, UN Youth Australia described the youth justice system as operating ‘at a vast physical and cultural distance’ resulting in disconnection from family, Elders and Country in a way that fractures children’s identity and wellbeing.⁸⁴
- 2.69 The transport of children in detention and separation from families as a result of being detained away from their usual place of residence was raised by multiple submitters.⁸⁵ This is discussed further in the next chapter.

Parental incarceration

- 2.70 The committee heard that children who have experienced parental incarceration are more likely to also be engaged with the youth justice system.⁸⁶ In 2022, a survey of detained young people in Queensland found 27 per cent had at least one parent who had spent time in custody.⁸⁷ In 2015, 53.6 per cent of young people in custody in NSW had a parent in prison at some stage.⁸⁸
- 2.71 Shine for Kids explained that the arrest and incarceration of parents negatively impacts their children, as it can result in compounding downstream effects including ‘living disruptions and instability, family breakdown, child protection interventions, poverty, poor communication or information about what is happening and inadequate linkages to trusted nongovernment support agencies’.⁸⁹ Despite these known effects, Shine for Kids identified that there are inconsistent guidelines for police when arresting adults with dependent children and no formal system to link affected children with critical support services.⁹⁰
- 2.72 The impact of parental incarceration is particularly the case for First Nations children, where 66.5 per cent of young people in detention had a parent who was incarcerated, compared to 52.6 per cent of all young people surveyed.⁹¹

⁸⁴ UN Youth Australia, *Submission 1*, p. 12.

⁸⁵ See, for example, National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 21; Save the Children, *Submission 63 Attachment 2*, p. 6.

⁸⁶ See, for example, Australia’s National Research Organisation for Women’s Safety, *Submission 8*, p. 4; Queensland Council of Social Service, *Submission 87*, p. 5; Shine for Kids, *Submission 21*, pp. 1–2; Ubuntu Impact Consulting, *Submission 52*, p. 4; Just Reinvest NSW, *Submission 30*, p. 4.

⁸⁷ Queensland Family and Child Commission, *Submission 14*, p. 14.

⁸⁸ Shine for Kids, *Submission 21*, p. 1.

⁸⁹ Shine for Kids, *Submission 21*, p. 2.

⁹⁰ Shine for Kids, *Submission 21*, pp. 3–4.

⁹¹ Australian Institute of Health and Welfare & National Indigenous Australians Agency, *Measure 2.11 Contact with the criminal justice system, Aboriginal and Torres Strait Islander Health Performance Framework website*, 21 March 2024, <https://www.indigenoushpf.gov.au/measures/2-11-contact-with-the-criminal-justice-system> (accessed 5 August 2026).

2.73 SNAICC observed to the committee that for some Aboriginal and Torres Strait Islander children, offending and detention has been normalised such that it is seen as ‘a rite of passage to adulthood where prison is a place to be with siblings’.⁹² Incarceration of adults and other members of the community risks ‘disrupting social structures that deter crime and normalising intergenerational offending and incarceration’.⁹³

⁹² SNAICC, *Submission 31*, p. 6.

⁹³ SNAICC, *Submission 31*, p. 6.

Chapter 3

Experiences of children and young people in Australia's youth justice system

Introduction

- 3.1 The committee heard numerous accounts from children about their experiences with the youth justice system in Australia.
- 3.2 This chapter considers experiences with the youth justice system from the perspective of children in conflict with the law. It first considers the findings in relation to the death of Cleveland Dodd in youth detention in Western Australia which bring to light some of the key challenges in the youth justice system.
- 3.3 It then considers the evidence received by the committee about various stages of youth justice system, including current practices and their impact on children, their families and community safety. At each stage of the youth justice system, the chapter also discusses the lived experience of young people, from initial contact with the police to release from detention.
- 3.4 This chapter is meant to be read alongside Appendix 5 of this report, which sets out the relevant international conventions and agreements Australia is a party to. These conventions and agreement impose obligations or provide guidance relevant to children in incarceration.
- 3.5 This chapter also considers matters relating to youth incarceration, such as a cost of detention, and the impacts of detention after the completion of a custodial sentence.

Death of Cleveland Dodd

- 3.6 In discussing how Australia's justice system is impacting its children, several submitters raised the death of Cleveland Keith Dodd. Cleveland was a 16-year-old Aboriginal boy who died by suicide while detained at the Unit 18 of Casuarina Prison in Western Australia (WA) in October 2023.¹
- 3.7 The WA Coroner, Mr Philip Urquhart, made 15 adverse findings against the WA Department of Justice and 19 recommendations including the closure of Unit 18 as a matter of urgency.²

¹ Ms Sophie Stewart, Chief Executive Officer, Social Reinvestment WA, *Committee Hansard*, 7 March 2026, p. 28.

² Coroner's Court of Western Australia, Inquest into the Death of Cleveland Keith DODD, 28 November 2025, www.coronerscourt.wa.gov.au/1/inquest-into-the-death-of-cleveland-keith-dodd.aspx?uid=8279-796-6947-8774 (accessed 18 August 2026).

- 3.8 At the time of his death, Cleveland had been held in an adult facility on remand located 1000 kilometres from his mother's home and 800 kilometres from his father's family with no prospect of family visits.³ Of the 86 days that he was held in the adult facility, he was held in solitary confinement for 74 of them.⁴ Coroner Urquhart listed multiple failures which he recognised as contributing factors to Cleveland's death including significant custodial management failures and concluded that:

No child in detention deserves to be treated in the way Cleveland and the other young persons in Unit 18 were treated at the time he decided to end his life. Prolonged periods in solitary confinement, isolation, intense boredom, eating all their meals by themselves, and lack of access to mental health services, education and even running water had sadly become the norm for Cleveland and his fellow detainees.⁵

- 3.9 At its public hearing in Perth, the committee heard about the circumstances leading to Cleveland's death from the Ms Sophie Stewart, CEO of Social Reinvestment WA:

We were hearing significant reports of children being allowed out of their cells for just maybe one hour a day and, in that one hour, having to choose between seeing their lawyer, a social worker or their family because that was the only place and time that they could see people outside of the cell environment.⁶

- 3.10 The inquest revealed the following about the conditions at the Unit 18 facility when Cleveland was there, including:

- Unit 18 did not have enough staff to provide the minimum entitlements to young people held there, including access to education and socialisation;
- the Department of Justice WA failed to provide appropriate resources to enable detainees to have access to adequate mental health services (noting that, despite requests, Cleveland was only seen by mental health services on three occasions during 87 days of detention);
- some cells, including Cleveland's, did not have running water and were in a 'disgusting' state;

³ Inquest into the Death of Cleveland Keith Dodd (CORC 3139 of 2023) [2025] WACOR 49 Coroner Urquhart, 28 November 2025, p.63, www.coronerscourt.wa.gov.au/files/inquest_2025/DODD_Cleveland_Keith.pdf (accessed 18 August 2026).

⁴ Inquest into the Death of Cleveland Keith Dodd (CORC 3139 of 2023) [2025] WACOR 49 Coroner Urquhart, 28 November 2025, p.83.

⁵ Inquest into the Death of Cleveland Keith Dodd (CORC 3139 of 2023) [2025] WACOR 49 Coroner Urquhart, 28 November 2025, p. 376.

⁶ Ms Sophie Stewart, Chief Executive Officer, Social Reinvestment WA, *Committee Hansard*, 7 March 2026, p. 29.

- the Department fell substantially short of providing Cleveland with the opportunity to access an adequate level of education (noting that, over the 66 available school days during his last period of detention, Cleveland had attended education for a total of just 7 hours 40 minutes, and that 1 hour and 25 minutes of this time was a teacher communicating with Cleveland through his cell door); and
- Unit 18 was unfit to adequately care, treat, and supervise detainees at high risk of self harm and suicide.⁷

3.11 Cleveland's death has been described as 'predictable and preventable,' and a direct result of the system he was placed in.⁸

3.12 Since Cleveland's death, the committee was told that there have been some improvements to the conditions at Unit 18 and Banksia Hill.⁹ These reforms include the introduction of a trauma informed model of care and a new crisis care centre at Banksia Hill, amongst others.¹⁰ However, witnesses made clear that there is still 'a long way to go'.¹¹

Experiences of young people in the youth justice system

3.13 Australia is a signatory to several international conventions and agreements which provide both guidelines and obligations as to how children and young people are treated at various stages of detention and incarceration.

3.14 The details of these conventions and obligations are contained within Appendix 3 of this report. What follows below is the experience of children and young people in relation to detention and incarceration.

Initial contact with law enforcement

3.15 The committee heard evidence that children report, from the very first point of engagement with the justice system, having a poor experience with law enforcement:

For many children in Australia, first contact with the justice system does not come through protection or care - it comes through arrest. Before they receive therapy, they receive a charge. Before they are offered help, they are

⁷ Aboriginal Legal Service of Western Australia, *Submission 51*, p. 7.

⁸ Ms Sophie Stewart, Chief Executive Officer, Social Reinvestment WA, *Committee Hansard*, 17 March 2026, p 29.

⁹ See, for example, Mr Eamon Ryan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, Western Australia and Dr Jacqueline McGowan-Jones, Commissioner for Children and Young People, Western Australia, *Committee Hansard*, 17 March 2026, pp. 1–2.

¹⁰ See, for example, Mr Eamon Ryan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, Western Australia and Dr Jacqueline McGowan-Jones, Commissioner for Children and Young People, Western Australia, *Committee Hansard*, 17 March 2026, pp. 1–2.

¹¹ Mr Eamon Ryan, Inspector of Custodial Services, Office of the Inspector of Custodial Services, Western Australia, *Committee Hansard*, 17 March 2026.

handcuffed. Children who should be in classrooms or playgrounds are instead surrounded by flashing lights, locked doors, and voices that call them criminals before asking them why they are hurting.¹²

- 3.16 Several young people shared their experiences with law enforcement at the time of arrest. A contributor to the submission from Life Without Barriers, Max, described the treatment they received at the time of arrest following an incident at their out-of-home care facility and how alone they felt:

As soon as they arrested me, I was immediately crying because the police weren't very nice about it. They held onto me too tightly, like I was going to run away, because that's chargeable. Then they put me in the back of the cop car once they handcuffed me super tight. The carer asked to talk to me, but the police said no, at this point, he's going down to the station and probably going to gaol.

...

I understood what was happening, they read me my rights, but they never let me make that phone call that they said I could have. I didn't have anyone supporting me because it was like 12:00am in the morning.

At the time, I felt upset and angry.¹³

- 3.17 Reflecting on this experience, Max, who is now a Youth Participation Advocate with Life Without Barriers wished the attending police officers gave him more warnings and had tried to deescalate the situation at the out-of-home care facility before taking him into custody.¹⁴
- 3.18 A similar situation was shared by Sam, another Youth Participation Advocate with Life Without Barriers. Like Max, Sam's initial arrest also took place at the out-of-home care facility where he lived. However, Sam was experiencing a mental health episode at the time of his arrest:

One time when I was about 16 or 17, I was just trying to do something at my house in my room. The other kids came in. They were saying stuff towards me. My mental health kicked off. Then the Department of Child Protection staff came in and made it worse by trying to restrain me.

I only remember what I was told about what happened when the police came, as well as what I saw on the camera footage they played me. The police were not helpful at all. They didn't try to calm me down. It didn't seem like they had proper mental health training, so they didn't know what to do. I was just trying to run away from them, and there was no attempt at de-escalating.¹⁵

¹² UN Youth Australia, *Submission 1*, p. 1.

¹³ Life without Barriers, *Submission 95*, p.11.

¹⁴ Life without Barriers, *Submission 95*, p. 11.

¹⁵ Life without Barriers, *Submission 95*, p. 7–8.

- 3.19 Regarding his situation, Sam said that his experience and its outcome would have been far better with appropriate mental health support:

This includes better mental health training for the police, so they know what to do, what not to do, and how to help de-escalate. Even before the police get involved, it would help to have more people checking-in and talking to a person to support their mental health, particularly from the Department of Child Protection.¹⁶

- 3.20 A contributor to the submission received from Youth off the Streets, Yousef was 14 years old when he was arrested at home during a family violence incident instigated by his father. Unable to explain the situation to the police officers at the time because of his limited English, Yousef found himself arrested when he was trying to protect his sister from the abuse:

During the struggle, his father's car was damaged and the police were called again.

"They arrested me and took me to juvie [juvenile detention]," says Yousef. "I didn't speak English so I couldn't explain what had been going on at home. It wasn't easy."¹⁷

- 3.21 Following this experience, Yousef said there is need for more culturally sensitive and trauma-informed practices in the youth justice system to ensure that other children don't experience what he had to.¹⁸
- 3.22 Disability can also play a role in youth interactions with police. UN Youth Australia shared a young person's experience of their sibling being arrested by police for "'not following commands" he simply could not hear [because] he is deaf'.¹⁹

Police watchhouses

- 3.23 Following arrest, children are either granted bail or held in remand custody within the youth justice system until their case is heard by a magistrate. However, the committee was told of incidents whereby children are held in an adult police watchhouse in the first instance. These are short-term holding facilities, usually attached to a police station.²⁰
- 3.24 In 2021–22, around 470 children in Queensland were held in adult watchhouses for up to 14 days.²¹ Since then, the number of children under 14 who have been

¹⁶ Life without Barriers, *Submission 95*, p. 1.

¹⁷ Youth off the Streets, *Submission 31 (47)*, p. 5.

¹⁸ Youth off the Streets, *Submission 31 (47)*, p. 6.

¹⁹ UN Youth Australia, *Submission 1*, p. 10.

²⁰ Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing*, August 2024, p. 89.

²¹ PeakCare, *Submission 3*, p. 1.

imprisoned overnight in adult watchhouses in Queensland has increased by 50 per cent in 2023–24. This is despite a Supreme Court judgment finding the practice unlawful, and intense criticism from oversight bodies.²²

3.25 In *Help Way Earlier*, former National Children’s Commissioner, Anne Hollonds AO, made clear that watchhouses are not designed to hold children. She explained that ‘while children may be held in a separate cell, the facilities can include adult detainees who can be seen and heard by the children’.²³

3.26 National Legal Aid contended that ‘serious breaches of children’s human rights are taking place’. It shared the following examples of treatment towards children, observed by its lawyers, that amount to breaches of various international requirements:

- Children being detained in adult watch houses for prolonged periods in circumstances where there is significant overcrowding, understaffing and unsafe conditions;
- Children being detained in police cells for extended periods, including after being granted bail, and alongside adult defendants also in police custody.²⁴

3.27 Sisters Inside Inc asserted that ‘children routinely spend days or weeks in watchhouses, often with minimal access to education, family contact, or proper health care’.²⁵

3.28 Being detained in a police watchhouse can be a terrifying experience for children, as one young person described:

The police took me straight to a watch house where there were other adults being processed. Having a young person mixed in with adults probably wasn’t a helpful thing. When I came to, it was quite scary because there were other people yelling and banging. I didn’t know what was going on. There was no way to call for an officer to explain stuff, which then set me off again into another anxiety blackout.²⁶

3.29 PeakCare stated that the conditions at these police watchhouses are ‘unsuitable for children’.²⁷ Youth Empowered Towards Independence (YETI), a Far North Queensland support organisation for young people, informed the committee

²² Sisters Inside and the National Network of Incarcerated and Formerly Incarcerated Women and Girls, *Submission 61*, [p. 3].

²³ Australian Human Rights Commission, *‘Help way earlier!’: How Australia can transform child justice to improve safety and wellbeing*, August 2024, p. 89.

²⁴ National Legal Aid, *Submission 46*, p. 6.

²⁵ Sisters Inside and the National Network of Incarcerated and Formerly Incarcerated Women and Girls, *Submission 61*, [p. 3].

²⁶ Life without Barriers, *Submission 95*, p. 8.

²⁷ PeakCare, *Submission 3*, [p. 1].

that it visits the Cairns adult watchhouse daily and over the past three years has supported children subject to a range of appalling conditions. YETI continued:

These include children who have been victims of sexual violence by other children, children assaulted by other children, children without access to clothing and medication, children with disabilities and children who become so distressed by their detention that they urinate, take off their clothes or light fires.²⁸

Recent reviews of police watchhouses

3.30 The committee was told that police watchhouses don't have the capacity or facilities to adequately care for children and should never be used as an alternative to youth detention centres. Recent reviews of watchhouses in Queensland and the Northern Territory have reiterated this concern. In 2025, the Queensland Police Service found that infrastructure at the state watchhouses was 'unsuitable and unsafe' for children.²⁹

3.31 Similarly, following a 2025 own motion investigation by the Northern Territory Ombudsman, the Ombudsman reported that the conditions in NT police watchhouses were 'unreasonable and oppressive' within the meaning of the *Ombudsman Act 2009* (NT). Some of the conditions they observed were:

- severe crowding;
- the requirement to use exposed, in-cell toilets in front of many other cell occupants;
- the requirement to access drinking water atop frequently used toilets;
- no time outside or access to fresh air and practically no time outside cell;
- limited access to showers and teeth brushing;
- poor sleeping conditions, including sleeping on mattresses on the floor and in constant lighting;
- very limited access to family and loved ones; and
- stays of weeks at a time, if not a month or more.³⁰

3.32 Following this investigation, the NT Ombudsman concluded that detainees (including children) were being held 'in extremely poor conditions that fell significantly below those set out in the Guiding Principles for Corrections in Australia'.³¹

Children held on remand

3.33 Recent reporting by the Australian Institute of Health and Welfare (AIHW) found that unsentenced detention has become the dominant form of youth

²⁸ Youth Empowered Towards Independence (YETI), *Submission 93*, p. 9.

²⁹ Law Council of Australia, *Submission 112*, p. 14.

³⁰ Change the Record, *Submission 67*, p. 8.

³¹ Change the Record, *Submission 67*, p. 8.

detention in Australia.³² On an average day in 2024–25, 80 per cent of children in detention were unsentenced.³³ This figure includes children held on remand – which occurs when a young person is denied bail and are detained pending trial or sentencing.³⁴

- 3.34 The ‘drastically rising’ number of people held on remand in Australia was identified by the United Nations Working Group on Arbitrary Detention as ‘the most pressing concern within Australia’s criminal legal system’.³⁵
- 3.35 The North Australian Aboriginal Justice Agency (NAAJA) advised that in the Northern Territory, approximately 75 per cent of children in detention were being held on remand, with the average remand time of 56 days.³⁶ NAAJA explained that many of these children, particularly those between the ages of 10 to 14 years, will eventually have their charges dismissed or withdrawn following their time on remand.³⁷
- 3.36 JustReinvest NSW made the point that despite being on remand, ‘these children are still being exposed to the harms of sentenced custody and will have the same exposure to trauma and other negative impacts as those formally sentenced’.³⁸
- 3.37 This view was shared by Praxis Youth, who advised that remand frequently operates as ‘a de facto punishment’ as it involves:
- ...prolonged uncertainty, limited access to education and rehabilitative programs, and heightened behavioural controls driven by classification and risk management frameworks.³⁹
- 3.38 Praxis Youth further argued that conditions in remand, particularly the absence of supports that a child might receive after being sentenced, ‘materially weaken the rehabilitative purpose of youth detention’ and can ‘entrench further system contact’.⁴⁰
- 3.39 Children and young people are often remanded into custody when the court is unable to identify an appropriate alternative accommodation, particularly

³² Australian Institute of Health and Welfare (AIHW), [Youth justice in Australia 2024–25](#), p. 10.

³³ Australian Institute of Health and Welfare (AIHW), [Youth justice in Australia 2024–25](#), p. 10.

³⁴ Praxis Youth, *Submission 109*, p. 3.

³⁵ Human Rights Law Centre, *Submission 75*, p. 3.

³⁶ North Australian Aboriginal Justice Agency (NAAJA), *Submission 108*, p. 3.

³⁷ NAAJA, *Submission 108*, p. 3.

³⁸ Just Reinvest NSW, *Submission 30*, p. 5.

³⁹ Praxis Youth, *Submission 109*, p. 3.

⁴⁰ Praxis Youth, *Submission 109*, p. 3.

affecting Aboriginal and Torres Strait Islander children, children in out-of-home care or living in rural and remote areas.⁴¹

Changes to bail laws

3.40 The committee heard that since the 47th Parliament's report on youth justice a number of state and territory jurisdictions have introduced amendments to bail laws for children and young people which have made it more difficult to be granted bail.⁴² Save Our Children identified that these changes mean Australia 'is falling short of its obligations to uphold the right to liberty and detention as a measure of last resort'.⁴³

3.41 Collectively, this increases 'the likelihood that children, particularly First Nations children and children with disability and complex trauma, will be refused bail, returned to custody for technical breaches, and held in detention for longer periods'.⁴⁴ The Human Rights Law Centre put to the committee that:

All of the evidence shows us that stricter bail laws, which pipeline more children into prison, fail to address community safety and only serves to needlessly expose them to the harms of prison prior to trial or sentencing.⁴⁵

3.42 For example, the Northern Territory currently reverses the traditional onus and requires judges to be satisfied an alleged offender will *not* pose a risk to the community if granted bail.⁴⁶ Previous changes in the Northern Territory in 2021 also 'removed the presumption of bail for first time offenders, automatically revoke[d] bail if conditions are breached, and [made] it more difficult for courts to divert children and young people from the criminal justice system if they have previously failed a diversionary program'.⁴⁷

3.43 In Victoria, the principle of detention as a last resort for children was removed from the *Bail Act 1977* (Vic) in March 2025 and a new bail test introduced in September 2025 which 'increase[d] the likelihood that bail for children would be refused'.⁴⁸ Victoria Legal Aid reported seeing a 'concerning growth' in the

⁴¹ Save Our Children, *Submission 63 Attachment 1*, p. 33.

⁴² See, for example, Federation of Community Legal Centres, *Submission 24*, p. 1; Ms Anne Hollonds, *Submission 35*, p. 2; Just Reinvest NSW, *Submission 30*, p. 5; Knowmore, *Submission 28*, p. 8; Northern Territory Council of Social Service, *Submission 16*, p. 1; SNAICC, *Submission 31*, pp. 9–10.

⁴³ Save Our Children, *Submission 63 Attachment 1*, p. 33.

⁴⁴ National Legal Aid, *Submission 46*, p. 5.

⁴⁵ Human Rights Law Centre, *Submission 75*, p. 3.

⁴⁶ SNAICC – National Voice for Our Children, *Submission 31*, p. 13.

⁴⁷ Save Our Children, *Submission 63 Attachment 1*, p. 34.

⁴⁸ Victoria Legal Aid, *Submission 47*, p. 2.

number of children dealt with by the Weekend Online Remand Court, nearly doubling between November 2024 and May 2025.⁴⁹

- 3.44 In Queensland, changes to bail in February 2023 including making breach of bail an offence for children and young people. These changes resulted in the Queensland Government issuing its first override of the *Human Rights Act 2019* (QLD) which acknowledged that the laws were incompatible with international child rights standards.⁵⁰
- 3.45 The committee also heard evidence from submitters that when bail is granted, bail conditions for children or young people were often unreasonable and set them up to fail, resulting in children then being charged with breaching bail.⁵¹

First Nations children and young people on remand

- 3.46 In 2022–23, of the children held on remand, 60 per cent were Aboriginal or Torres Strait Islander.⁵²
- 3.47 Over the longer term, between June 2017 and June 2021, First Nations young people made up an average of 66 per cent of young people on remand, compared to making up 34 per cent of young people in sentenced detention.⁵³
- 3.48 SNAICC put to the committee that current bail laws in Australia disproportionately affect Aboriginal and Torres Strait Islander young people, as they compound an experience of systemic discrimination.⁵⁴
- 3.49 This was supported by NATSILS's evidence that bail laws were resulting in Aboriginal and Torres Strait Islander young people being held on remand, and were a 'key driver' of the government failing to meet Closing the Gap targets 10 and 11 relating to lowering the over-representation of First Nations people in prison.⁵⁵
- 3.50 This is demonstrated in trends in unsentenced detention in different states. In New South Wales, the rate of First Nations young people in unsentenced

⁴⁹ Victoria Legal Aid, *Submission 47*, p. 3.

⁵⁰ Save Our Children, *Submission 63 Attachment 1*, p. 34.

⁵¹ See, for example, Save Our Children, *Submission 63 Attachment 1*, p. 33.

⁵² SNAICC – National Voice for Our Children, *Submission 173 (47)*, [p. 21].

⁵³ Australian Institute of Health and Welfare, National Indigenous Australians Agency, 2.11 Contact with the criminal justice system, www.indigenoushpf.gov.au/measures/2-11-contact-with-the-criminal-justice-system (accessed 5 August 2026).

⁵⁴ SNAICC – National Voice for Our Children, *Submission 31*, p. 13.

⁵⁵ National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 29.

detention declined by 40 per cent, while in Queensland it increased by 50 per cent over the decade to 2021–22.⁵⁶

Lived experience of remand

- 3.51 One young person described the impact of the uncertainty associated with being held on remand as follows:

The mental health impact of being on remand is also huge. There's so much uncertainty. As a young person, you don't understand the processes. I was often told with less than 24 hours' notice that I had court the next day. Then, all you can do is sit in your cell for the next 12 hours, anxious and stressing about what's going to happen. You're lucky to get a five-minute phone call with your lawyer beforehand. You're alone, with nothing to distract you, no one to talk to. Judges, lawyers, prosecutors are making decisions that affect your life, and you don't know what's happening. That uncertainty, powerlessness and lack of understanding have serious mental health effects.⁵⁷

- 3.52 While it was acknowledged that some children are held on remand due to the severity of their alleged offence, or the danger they pose to others, some submitters pointed out that children are sometimes unnecessarily detained as they have no safe bail accommodation.⁵⁸ As the Law Council of Australia explained, 'a fundamental reason why many children are remanded in detention rather than in the community is because they have no safe place to live while on bail and there is no appropriate alternative bail accommodation at which to stay.'⁵⁹

- 3.53 NAAJA provided an example of this, involving a young person from a remote community in the Northern Territory. NAAJA advised that the young person was remanded in custody for 10 days following alleged low-level offending as there were no safe bail accommodation options available:

The young person had no available or suitable responsible adult that they could be released to. One parent was in custody, the other was residing interstate and could not be contacted, and the previously identified kinship carer was experiencing serious health issues that impacted their capacity to provide care. Across three consecutive court mentions, no responsible adult was identified, and no care plan was progressed by the statutory systems and departments involved to ensure safe accommodation and supervision if the young person was released from custody. Bail accommodation options

⁵⁶ Australian Institute of Health and Welfare, National Indigenous Australians Agency, 2.11 Contact with the criminal justice system, www.indigenoushpf.gov.au/measures/2-11-contact-with-the-criminal-justice-system (accessed 5 August 2026).

⁵⁷ Praxis Youth, *Submission 109*, p. 27.

⁵⁸ See, for example, Law Council of Australia, *Submission 195 (47)*, p. 11; Praxis Youth, *Submission 109*, p. 15.

⁵⁹ Law Council of Australia, *Submission 195 (47)*, p. 11.

were explored but they could not accept the young person due to capacity and placement constraints.⁶⁰

3.54 In relation to that young person, NAAJA advised that the court expressed serious concern about the child being held in custody, not because the offending warranted it, but because the system could not organise accommodation, supervision and transport in a timely manner.⁶¹

3.55 Many submitters and witnesses have called for more bail accommodation options to be provided for young people throughout the country to avoid this unfair situation, including a 14-year-old child currently detained the Ashley Youth Detention Centre in Tasmania:

I would like bail accommodation for the kids who don't have a safe home or a home to go to. Because the reason I'm down here is because I didn't have a bail address.⁶²

Sentencing

3.56 The committee received evidence about the approach currently taken in Australia towards youth incarceration in some jurisdictions. Victoria, Queensland and the Northern Territory have removed the principle of detention as a last resort when sentencing children and young people. Many submitters expressed concern that this also breached Australia's international human rights obligations.⁶³

3.57 The overwhelming view of submitters to the inquiry was opposed to increasingly punitive measures being taken against young people and children in the Australian justice system.⁶⁴

3.58 The Law Council of Australia made the point that punitive measures are inconsistent with the evidence about approaches that really work to reduce offending, and incur unacceptable costs both in terms of funding and impact on vulnerable children's lives.⁶⁵

⁶⁰ North Australian Aboriginal Justice Agency (NAAJA), *Submission 108*, p. 5.

⁶¹ NAAJA, *Submission 108*, p. 5.

⁶² United Nations Youth Australia, *Submission 1*, p. 30.

⁶³ See, for example, Knowmore Legal Service *Submission 28* p. 9; National Legal Aid, *Submission 46*, pp. 4–5.

⁶⁴ See, for example, SNAICC – National Voice for Our Children, *Submission 31*, p. 6; RACGP *Submission* p. 4; National Legal Aid *Submission 46*, p. 5; Justice Reform Initiative, *Submission 59*, pp. 32–33; Queensland Family and Child Commission, *Submission 14*, p. 2; Law Council of Australia, *Submission 112*, p. 2; Anne Hollonds AO, *Committee Hansard*, 10 April 2026, p. 2.

⁶⁵ Law Council of Australia, *Submission 112*, p. 2.

3.59 Victorian and Queensland courts are permitted to sentence children as adults for certain offences.⁶⁶ Knowmore Legal Service highlighted that both the Victorian Attorney-General and Queensland Attorney-General acknowledged this legislative change as being incompatible with human rights.⁶⁷ UN Youth Australia also submitted that permitting children to be sentenced like adults was in breach of the UNCRC and the International Covenant on Civil and Political Rights.⁶⁸ The Federation of Community Legal Centres, Victoria's peak body for community legal centres, was further of the opinion that:

The rationale for these reforms undermines well-established evidence-based principles of youth justice, perpetuates harm to child victim-survivors, and ultimately makes communities less safe.⁶⁹

3.60 Another example provided to the committee was Western Australia's mandatory sentencing practice which undermines the human rights principle of detention as a last resort.⁷⁰

3.61 The result for young people of spending even a short time in detention is serious, and discussed further below. Just Reinvest NSW shared statistics from the NSW Bureau of Crime Statistics and Research that 64.4 per cent of young people released from detention in 2017 reoffended within 12 months, compared to 44.3 per cent of those released from a non-custodial sentence.⁷¹

3.62 Griffith University highlighted that incarceration is not an adequate deterrent for children and young people due to their developmental psychology and neuroscience, and evidence shows that 'incarceration does not prevent offending'.⁷²

3.63 However, as Social Reinvestment WA acknowledged, a lack of community-based sentencing alternatives may contribute to 'sentence creep' and longer periods of detention being ordered.⁷³

⁶⁶ These laws were introduced through the *Making Queensland Safer (Adult Crime, Adult Time) Amendment Act 2025* (Qld) and *Justice Legislation Amendment (Community Safety) Act 2025* (Vic); Knowmore Legal Service, *Submission 28*, p. 7; UN Youth Australia, *Submission 1*, p. 4; SNAICC – National Voice for Our Children, *Submission 31*, pp. 9–10.

⁶⁷ Knowmore Legal Service, *Submission 28*, p. 11.

⁶⁸ United Nations Youth Australia, *Submission 1*, pp. 4, 9.

⁶⁹ Federation of Community Legal Centres, *Submission 24*, p. 1.

⁷⁰ Save the Children, *Submission 63, Attachment 1*, p. 39.

⁷¹ Just Reinvest NSW, *Submission 30*, p. 5.

⁷² Griffith Criminology Institute, Griffith University, *Submission 60*, [pp. 2–3].

⁷³ Social Reinvestment Western Australia, *Submission 42 Attachment 1*, p. 65; Ms Sophie Stewart, Chief Executive Officer, Social Reinvestment WA, *Committee Hansard*, 17 March 2026, p. 30.

Transporting children to youth detention facilities

- 3.64 The practice of transporting children over vast distances to youth detention facilities was raised as a significant issue by numerous submitters and witnesses to the inquiry.
- 3.65 Legal Aid NT informed the committee that in the Northern Territory (NT), children from all over the territory are transported to the Holtz Youth Detention Centre (HYDC) in Darwin.⁷⁴ This follows the 2024 decision by the NT Government to re-purpose the youth detention centre in Alice Springs as a women's prison.⁷⁵
- 3.66 The North Australian Aboriginal Justice Agency (NAAJA) explained that this issue impacts children all over the NT, including in Central Australia, where many Aboriginal children are arrested and transported to Darwin, far from their families and communities. NAAJA advised that these children are initially held at the Alice Springs Intake and Transfer Facility, located within the Alice Springs Correctional Precinct (an adult facility), while they await transfer to HYDC. The young people are then flown approximately 1,500kms on commercial flights, while handcuffed and accompanied by youth justice officer.⁷⁶
- 3.67 The committee heard that being transported so far from home, and in these conditions, can be a terrifying and traumatic experience. This was conveyed in a letter addressed to the Prime Minister, from two young leaders from Alice Springs who wrote about the children they witnessed being taken to Darwin for the purpose of being detained:
- We often fly up to Darwin for leadership opportunities... We've seen young people being escorted onto planes, in shackles and handcuffs.
-
- Seeing these kids being boarded on to the plane the first time was shocking. We remember the leather belt around a particular young person's waist - a restraint designed to keep them shackled to their security guards. Standing between the grown men, the 14 year old looked so small and vulnerable. It was clear that he was terrified.⁷⁷
- 3.68 Mr Espie, from NATSILS, also gave evidence of seeing children being transported on commercial flights in the Northern Territory while handcuffed.⁷⁸

⁷⁴ It is noted that during the committee's travel to the Northern Territory to conduct public hearings and site visits for this inquiry, the committee sought permission to visit the Holtz Youth Detention Centre. Unfortunately, permission was not granted and so this visit could not go ahead.

⁷⁵ Legal Aid NT, *Submission 104*, pp. 1-2.

⁷⁶ NAAJA, *Submission 108*, p. 4.

⁷⁷ United Nations Youth Australia, *Submission 1*, p. 40.

⁷⁸ Mr Nick Espie, General Manager, National Aboriginal and Torres Strait Islander Legal Services, *Committee Hansard*, 11 August 2026, p. 1.

- 3.69 NAAJA explained how this practice undermines practical access to important legal and therapeutic supports for the children involved:

Contact with lawyers and existing NDIS service providers outside of Darwin is often limited to video link and phone calls, which can be difficult for young people to genuinely engage with, particularly those with hearing and speech difficulties, intellectual or developmental disabilities, or neurodiversity. It has also meant that young people who would usually access the Alice Springs Congress' CYATS [Child & Youth Assessment & Therapeutic Service] team are no longer able to fully utilise this crucial service.⁷⁹

- 3.70 In relation to young Aboriginal children, who are the majority of children affected by this practice in the Northern Territory, NAAJA further explained that this 'forced relocation' to Darwin has the impact of disconnecting them from their family, community, culture, language and Country, which are crucial to the rehabilitation of Aboriginal young people.⁸⁰

- 3.71 This situation is not unique to the Northern Territory. In Western Australia, the only youth detention facilities in the state are Banksia Hill Juvenile Detention Centre and Unit 18 at Casuarina Prison, which are both located in Perth.⁸¹

- 3.72 Legal Aid WA detailed the concerning impact of such a significant relocation on a child's wellbeing:

... any young person under the age of 18 who is remanded in custody must be transported to Perth, even if only for a short period until a responsible person or accommodation can be found to support bail.

Many of these young people reside in regional and remote WA, have never been to Perth before and do not have any family or other connections there. Many are First Nations, and some speak English as a second language. Removing them from country and family, and transporting them long distances in custody either via air or road travel often has a negative impact on their wellbeing.⁸²

- 3.73 The Aboriginal Legal Rights Movement described a similar practice in South Australia, noting there is only one youth detention facility in the state, which is in Adelaide:⁸³

Children and young people arrested in remote or regional parts of South Australia who are refused bail are often transported to Adelaide. This entails long journeys and stops at different police stations where they are held in

⁷⁹ NAAJA, *Submission 108*, p. 4.

⁸⁰ NAAJA, *Submission 108*, p. 4.

⁸¹ Legal Aid WA, *Submission 68*, p. 5.

⁸² Legal Aid WA, *Submission 68*, pp. 5-6.

⁸³ Aboriginal Legal Rights Movement, *Submission 103*, p. 2.

cells for different periods along the way. Investigation and consideration of how they are transported is needed.⁸⁴

- 3.74 In New South Wales, while there are some youth detention facilities in the regions, many children are still transported large distances to be detained due to the distances between communities. Mission Australia gave the following example to illustrate this point:

...young people from the Far West of NSW (including Broken Hill, Wilcannia, Dareton, Bourke, Walgett, and Lightning Ridge) typically serve sentences at the Youth Justice Custodial Centre in Dubbo, a facility several hours away. Distance and financial hardship make it difficult for family and friends to travel to Dubbo, and this is exacerbated if young people are transferred to centres in metro areas.⁸⁵

- 3.75 Although Youth Justice NSW encourages family members to visit young people in custody,⁸⁶ this is simply not possible for many families in this situation.⁸⁷ According to Mission Australia, this additional level of separation from family can have ongoing impacts on children, explaining:

...young people can miss important events, miss out on regular social contact and connection, lose important relationships and experience difficulties reconnecting with and reintegrating into their social circles once they have left custody.⁸⁸

Conditions in detention

Extended isolation and lockdowns

- 3.76 Many stakeholders commented on the increasing use of isolation, separation and lockdowns in youth detention facilities, despite the UN Committee on the Rights of the Child's recommendation that isolation and solitary confinement should not be used for young people.⁸⁹ Several submitters warned that this practice is inconsistent with the requirements under the UNCRC and Mandela Rules.⁹⁰
- 3.77 The committee heard that isolation practices and lockdowns may be authorised in limited circumstances, for example, if there is an imminent threat of danger

⁸⁴ Aboriginal Legal Rights Movement, *Submission 103*, p. 3.

⁸⁵ Mission Australia, *Submission 64*, p.11.

⁸⁶ NSW Government, *Youth Justice NSW Centres*, 2026, <https://www.nsw.gov.au/legal-and-justice/youth-justice/centres> (accessed 19 August 2026).

⁸⁷ Mission Australia, *Submission 64*, p. 11.

⁸⁸ Mission Australia, *Submission 64*, p.11.

⁸⁹ Mission Australia, *Submission 64*, p. 17; National Legal Aid, *Submission 46*, p. 6, Justice Reform Initiative, *Submission 59*, [p. 34]; Anglicare Southern Queensland, *Submission 57*, pp. 10–11.

⁹⁰ Praxis Youth, *Submission 109*, p 12.

to the young person or others.⁹¹ However, many witnesses advised that these practices are being deployed for other reasons, including staff shortages at detention facilities.

- 3.78 Youth Empowered Towards Independence (YETI) gave the example of Cleveland Youth Detention Centre in Queensland, where staff shortages have led to regular and lengthy isolation periods for children:

The Centre is often understaffed, and children have irregular access to programs, schooling, and time out of their units. At various points across the past three years the Centre has experienced significant staff shortages that have led to children confined in 'night mode' and 'continual cell occupancy', which means they are locked in their cells in the dark for up to 23 hours a day. This is solitary confinement by another name.

The children we support who have spent time at Cleveland are all familiar with the term 'night mode'. Almost all of them have been subjected to it, with children as young as 13 reporting being in 'night mode' for 7-8 days in a row. The children we support have described that during 'night mode' they are scared, frightened by the screaming of other young children, distressed, anxious and bored.⁹²

- 3.79 The committee heard that prolonged isolation in a custodial setting can have extremely harmful effects on Aboriginal children.⁹³ As explained by the Victorian Aboriginal Child and Community Agency (VACCA):

The practice of isolation and lockdowns in custodial settings is known to pose significant risks to a person's psychological and physical health, and these risks are greater for Aboriginal people due to their cultural needs.⁹⁴

- 3.80 VACCA warned that these impacts are compounded as young people held in isolation or lockdown for extended periods are unable to access educational and other specialist programs and activities.⁹⁵
- 3.81 Regarding solitary confinement, which many isolation practices amount to, the Australian Association of Social Workers described the documented impacts of on children:

Solitary, in particular, has severe and well-documented impacts, including: psychological harm (anxiety, depression, hallucinations, suicidal ideation), cognitive impairment, sleep disruption, physical deterioration, and long-term developmental harm. For children—whose brains, identities, and emotional regulation are still forming, the impacts are magnified, placing

⁹¹ See for example: Mission Australia, *Submission 64*, p. 17; Victorian Aboriginal Child and Community Agency, *Submission 70*, p. 20.

⁹² Youth Empowered Towards Independence, *Submission 93*, p. 9.

⁹³ Anglicare Southern Queensland, *Submission 57*, p. 10.

⁹⁴ Victorian Aboriginal Child and Community Agency, *Submission 70*, p. 21.

⁹⁵ Victorian Aboriginal Child and Community Agency, *Submission 70*, p. 21.

them on a trajectory of compounded trauma rather than recovery or rehabilitation. Members have stated that they have witnessed highly vulnerable children being placed in solitary confinement for extended periods of time, and this has had considerable impact on children's health, wellbeing, development, and cognitive ability.⁹⁶

3.82 In 2025, the South Australian Guardian for Children and Young People (the South Australian Guardian) published a report on the use of isolation on young people in detention. This report found that in South Australia, 'isolation is being applied inconsistently with South Australian law and international human rights standards, often in ways perceived by children as punitive, humiliating, and harmful.'⁹⁷ Furthermore, the Guardian made clear that these practices risk 'retraumatising children who have already experienced family and domestic violence, exclusion, and disconnection'.⁹⁸

3.83 To convey the traumatic effect of these practices, the South Australian Guardian provided the following messages from children in her jurisdiction:

"I'd rather go [to the adult system] and get out of my room then sit here in one room and go mental."

"[Isolation] fucks with your mental health"

"[Time in rooms] builds up anger"

"[Time in rooms] makes you want to riot"

"We are left in our rooms with our emotions and thoughts and when we come out we just explode."⁹⁹

3.84 Change the Record drew the committee's attention to a 2024 inspection of Townsville's Cleveland Youth Detention Centre by the Queensland Inspector of Detention Services. The Inspector reported major human rights issues at the centre, including the practice of locking children in separation rooms with no toilets or running water.¹⁰⁰

3.85 Former National Children's Commissioner, Anne Hollonds AO, visited children in detention centres around the country and observed:

I witnessed things that I can't unsee, such as children held in solitary confinement and in concrete police watch house cells with no windows, no natural light or fresh air, no outdoor area, no recreation, rehabilitation or education, and no visits from family allowed. Not just overnight but for

⁹⁶ Australian Association of Social Workers, *Submission 84*, p. 8.

⁹⁷ Office of the Guardian for Children and Young People (SA), *Submission 88*, p 8.

⁹⁸ Office of the Guardian for Children and Young People (SA), *Submission 88*, p 8.

⁹⁹ Office of the Guardian for Children and Young People (SA), *Submission 88*, p 10.

¹⁰⁰ Change the Record, *Submission 67*, p. 7.

weeks and sometimes months on end because of overcrowded youth detention centres.¹⁰¹

Use of restraints

3.86 Change the Record raised serious concerns about human rights violations taking place against children in detention all over the country, and disproportionately affecting First Nations children and those living with a disability.¹⁰² These violations included:

- the use of spit hoods, handcuffs, belt tethers, shackles and other restraint devices (which the UN have confirmed constitutes ‘inhuman and degrading treatment’ and in some cases torture);
- solitary confinement (a clear violation of the United Nations Convention against Torture);
- use of tear gas and chemical agents;
- excessive use of force, and
- strip searching, lack of privacy and other degrading treatment.¹⁰³

3.87 Several submitters raised the Northern Territory’s reintroduction of previously banned restraints, specifically spit hoods, on children as a serious breach of international law.¹⁰⁴

3.88 The Australia Section of the International Commission of Jurists (the International Commission of Jurists) advised:

The *Youth Justice Legislation Amendment Act 2025* (NT) reintroducing banned restraints in youth detention, including ankle cuffs, waist belts and spit guards and youth detention policies of isolation for up to 72 hours and use of correctional services dogs fails to comply with the International Covenant on Civil and Political Rights and CRC obligations that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person.¹⁰⁵

3.89 Change the Record further specified that the reintroduced restraints have been known to contribute to asphyxiation and serious trauma, which violates the UNCAT, Article 37 of the UNCRC, and Article 15 of the Convention on the Rights of Persons with Disabilities.¹⁰⁶

3.90 The committee heard that these practices are not isolated to the Northern Territory. Change the Record advised of recent reports by the South Australian

¹⁰¹ Ms Anne Hollonds AO, Private capacity, *Committee Hansard*, 10 April 2026, p. 1.

¹⁰² Change the Record, *Submission 67*, p. 6.

¹⁰³ Change the Record, *Submission 67*, p. 7.

¹⁰⁴ See, for example, National Legal Aid, *Submission 46*, p. 6; Australian Association of Social Workers, *Submission 84*, p. 9; SNAICC – National Voice for Our Children, *Submission 31*, pp. 10–11.

¹⁰⁵ International Commission of Jurists – Australian Section, *Submission 19*, p. 5.

¹⁰⁶ Change the Record, *Submission 67*, p. 5.

Guardian which found that physical force and restraints are ‘routinely’ used on children in South Australia’s Kurlana Tapa Adelaide Youth Training Centre (AYTC):

This includes ‘prone restraint’, where children are held on the floor in a face-down position, which can lead to restraint asphyxia and has been linked to deaths in custody. It also includes the use of mechanical restraints – such as handcuffs, leg cuffs, closeting chains, leg wraps and padded helmets – irrespective of the child’s behaviour.¹⁰⁷

- 3.91 In particular, reports of the use of force and prone restraint was high for young people with a disability. Change the Record submitted that 91.5 per cent of children with a disability had force used against them in an incident, with 71.2 per cent experiencing prone restraint.¹⁰⁸
- 3.92 The South Australian Guardian provided insight from children and young people about their experience of the use of physical restraints including:
- “[Staff] just kept on going, they kept on pushing my head into the ground.”
 - “They put that leg wrap on, to stop you leaving, you lie on the ground and by the time you take it off they’ve slammed the door. I’m just in there screaming.”¹⁰⁹
- 3.93 The committee also heard multiple reports that restraint chairs were still used for children and young people, including in the Northern Territory.¹¹⁰ As Anne Hollonds AO stated, ‘we are literally back to where we were prior to the Northern Territory royal commission, which began in 2016, 10 years ago’.¹¹¹

Access to healthcare and education in detention

Education in detention

- 3.94 Access to education in detention was raised as a key right for children, including those in incarceration, and an important part of their rehabilitation.¹¹² However, the committee heard that consistent, meaningful and appropriate education is not being delivered in youth detention facilities in line with Australia’s international obligations.

¹⁰⁷ Change the Record, *Submission 67*, p. 9.

¹⁰⁸ Change the Record, *Submission 67*, p. 9.

¹⁰⁹ Guardian for Children and Young People, *Submission 88*, p 10.

¹¹⁰ National Organisation for Fetal Alcohol Spectrum Disorders, *Submission 56*, p. 17; Sisters Inside Inc., *Submission 61*, [p. 7]; Human Rights Law Centre, *Submission 75*, p. 4; Praxis Youth, *Submission 109*, p. 11.

¹¹¹ Ms Anne Hollonds AO, *Committee Hansard*, 10 April 2026, p. 1.

¹¹² Legal Aid WA, *Submission 68*, p. 11.

- 3.95 The Australian Lawyers Alliance (ALA) submitted that, over the years, numerous inquiries and independent oversight bodies have documented ‘serious and systemic breaches’ of Australia’s international obligations in youth detention facilities across the country.¹¹³ This includes the denial of education services in these facilities.¹¹⁴
- 3.96 Anglicare Southern Queensland described access to education in youth detention facilities as ‘fragmented’, ‘inconsistent’ and ‘falling well short of mainstream standards’.¹¹⁵ In their submission to the committee, Anglicare highlighted findings from several landmark royal commissions and reports about this issue:
- Reports from the Royal Commission into the Protection and Detention of Children in the Northern Territory and the Australian Human Rights Commission have documented limited curriculum offerings, short school days, frequent class cancellations due to lockdowns or staffing shortages, and inadequate access to qualified teachers. The Commission also identified that many detained children had disability or learning needs that were unsupported and oftentimes exacerbated by the detention environment.¹¹⁶
- 3.97 The Victorian Aboriginal Child and Community Agency (VACCA) reported similar issues. VACCA explained that in Victoria, education is provided to children in custody through Parkville College. This includes an Aboriginal education program for First Nations children. However, VACCA stated that there are numerous barriers to delivering this program, including ‘inadequate staffing levels, a lack of oversight and support for teachers, and rotations and lockdowns’.¹¹⁷
- 3.98 A similar situation was reported in Western Australia. Following an inspection of Banksia Hill Detention Centre and Unit 18 by the Office of the Inspector of Custodial Services in 2023, the Inspector reported that ‘education staff were regularly unable to provide meaningful classes’.¹¹⁸

Lived experience of accessing education in detention

- 3.99 One young person detailed how they were able to get a formal education while in custody, but explained the barriers they faced to do this:

...I was one of the very few that was able to do actual school in there. So the general population of custody, the school that they go to, it’s not like a

¹¹³ Australian Lawyers Alliance, *Submission 49*, p 9.

¹¹⁴ Australian Lawyers Alliance, *Submission 49*, p 9.

¹¹⁵ Anglicare Southern Queensland, *Submission 57*, p. 9.

¹¹⁶ Anglicare Southern Queensland, *Submission 57*, p. 9.

¹¹⁷ Victorian Aboriginal Child and Community Agency, *Submission 70*, p 22.

¹¹⁸ Legal Aid WA, *Submission 68*, p. 5.

normal school. They don't really teach anything at all there. It's more just doing paintings and all of that stuff.

If you want to do you High School Certificate like I wanted to, or even if there's cases of people doing uni inside, you've got to actually apply, and it's a very hard process for you to get accepted into a class, which is called the Sydney Distance Education class. You're allowed computers in [that class] so it's considered a high-risk class. So you have to go through the whole process of approvals and everything just to achieve some sort of schooling in there.¹¹⁹

3.100 As a result of this experience, the young person concluded that 'there's a lot of room for improvement in regard to education in custody'.¹²⁰

Healthcare in detention

3.101 Submitters and witnesses to the inquiry discussed the prevalence of children in the justice system with complex health issues and disabilities. Significant evidence was received about children struggling with their mental health and with neurodevelopmental disabilities, as discussed in the previous chapter, and the adequacy of supports for these conditions.

3.102 The need for allied health support for young people in detention was raised by multiple submitters. These supports, such as speech therapists, occupational therapists and clinical psychologists, are important for helping children participate in decisions that affect them and address neurodevelopmental impairments.¹²¹

3.103 UN Youth Australia also raised stories of young women and girls in detention being denied menstrual hygiene products or required medication.¹²²

Support for children with neurodevelopmental disabilities

3.104 Numerous stakeholders, including from the medical profession raised the overrepresentation of children with neurodevelopmental disabilities in the justice system, including Fetal Alcohol Spectrum Disorder (FASD), and the lack of support for them.¹²³

3.105 Extensive research was conducted at Banksia Hill Youth Detention Centre in 2018 which found that nine out of ten young people at the centre were severely impaired in at least one area of brain function, including memory, language,

¹¹⁹ Praxis Youth, *Submission 109*, p. 50.

¹²⁰ Praxis Youth, *Submission 109*, p 50.

¹²¹ Dr Hayley Passmore, Private capacity, *Committee Hansard*, 17 March 2026, p. 20; Anglicare Southern Queensland, *Submission 57*, p. 8.

¹²² UN Youth Australia, *Submission 1*, p. 11.

¹²³ See for example; The Kids Research Institute Australia, *Submission 116 (47)*, [p. 2]; Social Reinvestment WA, *Submission 42*, p. 47; Royal Australian College of General Practitioners (RACGP), *Submission 37 (47)*, p. 5.

attention, and executive function. Further, the research revealed that one in three young people assessed had FASD.¹²⁴

- 3.106 The Kids Research Institute defined FASD as a ‘severe neurodevelopmental impairment resulting from an unborn child's exposure to alcohol during pregnancy’. This can result in ‘brain damage leading to delayed and abnormal development, social, emotional, behavioural, communication and learning problems’.¹²⁵ The Kids Research Institute explained that FASD can lead to ‘life limiting secondary outcomes’, which include poor school performance, unemployment, early onset substance abuse, and mental health problems. Additionally, it can lead to early engagement in out-of-home care and the youth justice system.¹²⁶
- 3.107 While the committee heard there have some positive steps in some jurisdictions to screen, assess and manage children with FASD, evidence to this inquiry suggested that ‘most youth detention facilities lack FASD-informed practice frameworks.’¹²⁷

Lived experience of accessing mental health supports in detention

- 3.108 As discussed in Chapter 2, the committee heard that young people involved in the justice system are more likely to experience mental health issues compared to the general population.¹²⁸ Furthermore, these children often have complex mental health needs and require immediate access to psychological support.¹²⁹
- 3.109 However, while some young people reported positive experiences accessing supports in custody,¹³⁰ the evidence largely indicated there is inadequate access to specialist mental health services within youth justice facilities.¹³¹
- 3.110 For example, NAAJA raised the lack of timely psychological support for young people at the youth detention centre in Darwin:

There is currently a waitlist to see a psychologist at HYDC, with priority given to sentenced young people. Timely access to mental health care is a

¹²⁴ Hayley M Passmore, Carol Bower and Raewyn Mutch, ‘Almost every young person in WA detention has a severe brain impairment’, *The Conversation*, 14 February 2018, <https://theconversation.com/almost-every-young-person-in-wa-detention-has-a-severe-brain-impairment-90695> (accessed 18 August 2026).

¹²⁵ The Kids Research Institute Australia, *Submission 116* (47), [p. 2].

¹²⁶ The Kids Research Institute Australia, *Submission 116* (47), [p. 2].

¹²⁷ NOFASD Australia, *Submission 56*, p. 8.

¹²⁸ Social Reinvestment WA, *Submission 42*, p. 36.

¹²⁹ North Australian Aboriginal Justice Agency (NAAJA), *Submission 108*, p. 7.

¹³⁰ Praxis Youth, *Submission 109*, pp. 33-34.

¹³¹ Royal Australian College of General Practitioners (RACGP), *Submission 5* (47), p. 5.

fundamental component of a rehabilitative youth justice system. Detention is an inherently distressing experience for any young person, and all young people in detention should be entitled to immediate and equitable mental health care regardless of their legal status.¹³²

3.111 This was affirmed by evidence from the NT Council of Social Service, noting long wait times and high cost for assessment of young people for neurodevelopmental delay and disability, contributing to delays in the court process too.¹³³

3.112 Following interviews with children with lived experience in the justice system, Praxis Youth advised that mental health care in detention is limited in scope and continuity, and relies heavily on medication as the solution.¹³⁴

3.113 As explained by one young person with experience in the system:

When I first went in, I already had depression, anxiety, bipolar. When you try to do something about it, they just throw you on meds. That's cool, but where's the actual fix? You're drugged up inside, you can't do anything and no one really takes you seriously. The people who say they care are paid to say they care and to give you the drugs. I was on antidepressants and risperidone. I put on a lot of weight and asked about side effects. They said no, just take it and you'll feel happier. When I gained weight, they didn't help. They upped the dose. We shouldn't just be fed meds inside to be happy. There should be programs and other things going on.¹³⁵

3.114 Likewise, another young person stated that 'mental health is just meds, trauma isn't dealt with'.¹³⁶ To combat this, they suggested that funding be directed towards a 'proper team of psychologists' in youth detention centres.¹³⁷

Cost of detention

3.115 According to the Productivity Commission, in 2024–25, the average cost of detaining one young person was \$3625 per day. Comparatively, the average cost for a young person under a community-based supervision order was \$424 per day.¹³⁸ This brings the collective cost of detaining young people to more than

¹³² North Australian Aboriginal Justice Agency (NAAJA), *Submission 108*, p. 7.

¹³³ NT Council of Social Service, *Submission 16*, p. 2.

¹³⁴ Praxis Youth, *Submission 109*, p. 45.

¹³⁵ Praxis Youth, *Submission 109*, p. 45.

¹³⁶ Praxis, *Submission 109*, p. 47.

¹³⁷ Praxis, *Submission 109*, p. 47.

¹³⁸ This figure did not include the Northern Territory. Productivity Commission, Report on Government Services 2026, 29 January 2026, <https://www.pc.gov.au/ongoing/report-on-government-services/community-services/youth-justice/> (accessed 5 August 2026).

\$1 billion, out of a total spending on youth justice supervision of \$1.7 billion in 2024–25.¹³⁹

- 3.116 This is a significant increase in the cost of youth detention since 2014–15 when the average cost of detaining one person was \$1686 per day, and \$147 per day for a young person under a community-based supervision order.¹⁴⁰
- 3.117 For First Nations people aged 10–31 (born in 1983–84), chronic offenders were estimated to cost the criminal justice system over \$380 000, compared to approximately \$75 000 for non-Indigenous offenders, which was attributed to greater frequency and length of youth justice sanctions.¹⁴¹
- 3.118 The Royal Australian College of General Practitioners directed the committee to a report that estimated the total cost to the justice system of crime due to ADHD was \$307 million in 2019.¹⁴²
- 3.119 A 2019 study of children at risk of criminalisation found that, in NSW, 1 per cent of individuals under 25 years old would account for 32 per cent of NSW's justice services costs by the time they were 40 years old.¹⁴³
- 3.120 Ms Rebecca Minty, Australian Capital Territory Inspector of Custodial Services, also put to the committee to consider not just the financial cost on paper of preventing incarceration, but also 'to weigh that against the human cost for that young person of coming in [to detention] and the criminogenic propensity to stay longer or become involved in the justice system further down the track'.¹⁴⁴
- 3.121 Many stakeholders pointed out to the committee that despite the high cost of youth detention, recidivism remains high, which is discussed further below.¹⁴⁵

¹³⁹ Productivity Commission, Report on Government Services 2026, 29 January 2026, <https://www.pc.gov.au/ongoing/report-on-government-services/community-services/youth-justice/> (accessed 5 August 2026); Law Council of Australia, *Submission 112*, p. 2.

¹⁴⁰ Mission Australia, *Submission 64*, p. 14.

¹⁴¹ Mission Australia, *Submission 64*, pp. 14–15. Australian Institute of Health and Welfare, National Indigenous Australians Agency, 2.11 Contact with the criminal justice system, <https://www.indigenoushpf.gov.au/measures/2-11-contact-with-the-criminal-justice-system>, (accessed 5 August 2026).

¹⁴² Royal Australian College of General Practitioners, *Submission 37*, p. 5.

¹⁴³ Justice Reform Initiative, *Submission 59*, [pp. 4–5].

¹⁴⁴ Ms Rebecca Minty, Inspector of Custodial Services, Australian Capital Territory, *Committee Hansard*, 3 July 2026, p. 52.

¹⁴⁵ See, for example, Royal Australian College of General Practitioners, *Submission 37*, pp. 3–4; UNICEF Australia, *Submission 26*, p. 5; National Legal Aid, *Submission 46*, p. 7.

Monitoring of places of detention and complaints

3.122 The Australian Association of Social Workers (AASW) warned that ‘human rights non-compliance is widespread and embedded within youth detention facilities’, and that ‘oversight is minimal, and mechanisms for reporting human rights breaches are limited’.¹⁴⁶

Lived experience of making a complaint

3.123 In the Mounty Yarns resource, ‘Lived Experiences of Aboriginal young people in Mt Druitt’, one contributor recounted:

And you can’t complain about the writeups either. You get targeted if you complain. You can’t get through to the [Ombudsman]. I tried 23 times in one day before I got through or it just goes to the Centre Manager and you get targeted. So who do we complain to about the [Ombudsman]? The boys complain to the Official Visitors about the food quality but it doesn’t change, even though she’s good. Complaints take so long. We wanted to get cutlery. Even that didn’t work. Complaints go nowhere.¹⁴⁷

3.124 SNAICC and NATSILS also informed the committee of a formal complaint which had been made to the United Nations Committee on the Elimination of Racial Discrimination regarding the treatment of Aboriginal and Torres Strait Islander children, including alleged human rights abuses and overrepresentation in the youth justice system.¹⁴⁸

Ongoing impacts of youth detention

3.125 Upon release from detention, children face considerable uncertainty and additional disadvantage including the social stigma surrounding their incarceration.

3.126 The committee was pointed to evidence that children who had contact with the youth justice system were 4.2 times more likely to die prematurely, mostly before the age of 25 years old, and largely by preventable causes including suicide, traffic accidents and drug poisoning.¹⁴⁹

¹⁴⁶ Australian Association of Social Workers, *Submission 84*, p. 9.

¹⁴⁷ Lived Experiences of Aboriginal young people in Mt Druitt, p. 18, www.justreinvest.org.au/wp-content/uploads/2023/09/Mounity-Yarns-FINAL-web-version.pdf (accessed 18 August 2026).

¹⁴⁸ SNAICC – National Voice for Our Children, *Submission 31*, p. 18; National Aboriginal and Torres Strait Islander Legal Services, *Submission 120*, p. 15.

¹⁴⁹ This finding was based on a longitudinal study of 48 670 children in Queensland, including 27.2 per cent Aboriginal or Torres Strait Islander children, who had youth justice contact between 1993–2014. SNAICC – National Voice for Our Children, *Submission 31*, p. 8; Justice Reform Initiative, *Submission 59*, [pp. 33–34].

Exiting detention

3.127 Almost half (49 per cent) of sentenced detention periods that ended in 2024–25 ended because the young person was released on parole. A further 39 per cent of sentenced detention periods ended with the period being completed. The remaining 20 per cent ended for other reasons, including transfer (which can include transfer to another youth detention centre, the adult system or interstate).¹⁵⁰

3.128 SNAICC put to the committee that Aboriginal and Torres Strait Islander children need appropriate support when leaving incarceration to return to their families and communities, requiring pre- and post-release support, to address exacerbation of struggles as a result of discrimination, social exclusion and adverse wellbeing.¹⁵¹

3.129 Social Reinvestment WA noted that if, when children and young people leave detention, they are not supported to access ‘safe and secure housing, educational and employment opportunities... [and] robust support networks’ there is a risk of them becoming entrenched in disadvantage, homelessness and poor health.¹⁵² Providing these wrap-around or through-care supports is aligned with international child rights to have their needs addressed following release from custody.¹⁵³

3.130 The Queensland Family and Child Commissioner observed that:

If there is no material change in family, housing, schooling, employment at the end of a youth justice program it is unlikely to achieve sustained change. The most successful programs I have seen include long post-program case management (though-care) including employment and schooling support.¹⁵⁴

3.131 The committee heard about the need to start planning for a child or young person’s exit from detention from their first day, not their last day, so they can be best supported to succeed, rather than return to the system.¹⁵⁵ This is because the period immediately following release is one of ‘heightened vulnerability’.¹⁵⁶

3.132 A young person described the difficulty of planning for release and support:

¹⁵⁰ Australian Institute of Health and Welfare, *Youth Justice in Australia 2024–25*, last updated 12 May 2026, www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-2024-25/contents/detention/sentenced-detention (accessed 3 August 2026).

¹⁵¹ SNAICC – National Voice for Our Children, *Submission 173 (47)*, [p. 20].

¹⁵² Social Reinvestment Western Australia, *Submission 42, Attachment 1*, p. 75.

¹⁵³ Save Our Children, *Submission 63 Attachment 1*, p. 58.

¹⁵⁴ Queensland Family and Child Commission, *Submission 14*, p. 20.

¹⁵⁵ See, for example, Interlace Advisory Pty Ltd, *Submission 32*, p. 4.

¹⁵⁶ NAPCAN, *Submission 69*, p. 3.

So many people are released – either on bail or through sentencing – without access to programs. Caseworkers and community organisations can't plan effectively. You can't line up employment or housing when you have no idea if someone will be released tomorrow or in two years.¹⁵⁷

Health and socio-economic consequences

3.133 The Australian and New Zealand Children's Commissioners, Guardians and Advocates (ANZCCGA) discussed the lifelong impacts that detention can have on children:

The lifelong consequences of imprisonment and institutionalisation of children are multifarious. Children deprived of liberty often experience post-traumatic stress disorder (particularly when isolated), their risk of developing or exacerbating mental health conditions increases tenfold, and there is a correlation between higher rates of early death of children in detention than their community peers, attributable to drug overdose, suicide, injury and violence. Where detained, younger children are also at greater risk of violence or negative influence from older children.¹⁵⁸

3.134 Similarly, National Legal Aid contended that the current conditions in youth detention in Australia are causing 'irreparable harm' to the physical and mental health of children.¹⁵⁹ Specifically, NOFASD Australia highlighted that solitary confinement has health impacts including 'anxiety, depression, psychosis-like symptoms, cognitive decline, confusion, and increased suicide risk' which are 'magnified' for children with neurodevelopmental disabilities.¹⁶⁰

3.135 UNICEF Australia emphasised how involvement with the youth justice system can impact every aspect of a young person's life, from their development to their health and relationships:

- Development: Incarceration can significantly disrupt a young person's natural development. Adolescence is a critical period for emotional, social, and cognitive growth which is hindered in a detention environment, making it harder for young people to mature and develop healthy coping mechanisms.
- Education: Incarceration often interrupts a young person's education, making it difficult for them to reintegrate into the school system upon release. This educational disruption can have long-term impacts on their employment prospects and overall life opportunities.
- Health: The environment in detention centres can be stressful and traumatic, contributing to mental health issues such as anxiety, depression, and post-traumatic stress disorder (PTSD). The lack of

¹⁵⁷ Praxis Youth, 48 *Submission* 109, p. 28.

¹⁵⁸ Australian and New Zealand Children's Commissioners, Guardians and Advocates, *Submission* 74 (47), p. 2.

¹⁵⁹ National Legal Aid, *Submission* 46, p. 7.

¹⁶⁰ NOFASD Australia, *Submission* 56, pp. 12, 17.

adequate mental health support in these facilities can exacerbate these problems.

- Social: Being incarcerated can lead to stigmatisation and social exclusion. Young people may face discrimination and negative labelling, which can affect their self-esteem and hinder their ability to build positive relationships and integrate into society.
- Families and communities: The incarceration of a young person can have ripple effects on their family and community. Families may experience emotional and financial strain, and communities may lose the potential contributions of these young individuals.¹⁶¹

3.136 Just Reinvest NSW pointed out that young people who are detained then have higher rates of subsequent psychiatric hospitalisation, including when compared to those who on community supervision sentences.¹⁶²

3.137 SNAICC and the Australian Childhood Foundation also highlighted to the committee that self-harming behaviours in children and young people often escalate in custodial settings.¹⁶³ Both Aboriginal and Torres Strait Islander young people and young people who have had contact with the youth justice system are more likely to be at risk of self-harm.¹⁶⁴

3.138 The Royal Australian College of General Practitioners raised concerns that time in detention delays opportunities for young people to receive diagnosis and management of neurodevelopmental disorders, specifically FASD and ADHD.¹⁶⁵ Mr Geoffrey Radford, CEO of Northern Territory Mental Health Coalition, suggested that when assistance with diagnosing, disability support and healthcare are not provided to children or young people while they are in detention, it should not be surprising that they return to the youth justice system.¹⁶⁶

3.139 As many children in detention have undiagnosed disabilities, the harsh conditions and treatment of them in the youth justice system exacerbates existing trauma, mental health issues, disabilities and learning problems, failing to address the cause of their behaviours and actions.¹⁶⁷

¹⁶¹ UNICEF Australia *Submission 83* (47), p. 6.

¹⁶² Just Reinvest NSW, *Submission 30*, p. 5.

¹⁶³ Australian Childhood Foundation, *Submission 78*, p. 4.

¹⁶⁴ SNAICC – National Voice for Our Children, *Submission 31*, p. 7.

¹⁶⁵ Royal Australian College of General Practitioners, *48 Submission 37*, p. 5.

¹⁶⁶ Mr Geoffrey Radford, CEO, Northern Territory Mental Health Coalition, *Committee Hansard*, 28 April 2026, p. 25.

¹⁶⁷ Ms Anne Hollonds AO, *Committee Hansard*, 10 April 2026, p. 2.

3.140 Inadequate support services available to children and young people with a disability on release further contribute to high reoffending rates.¹⁶⁸

Education and employment prospects

3.141 Children who engage with the youth justice system are less likely to complete school or further education, or gain employment.¹⁶⁹ This is due to barriers to re-entering education at an appropriate level or seeking employment.¹⁷⁰ This difficulty risks a cycle of disadvantage and recidivism, as disengagement from education and lack of employment prospects are recognised risk factors for children and young people becoming engaged in the youth justice system.¹⁷¹

3.142 SNAICC reiterated the challenges for Aboriginal and Torres Strait Islander young people exiting detention requiring culturally safe support with schooling and vocational training to reduce the likelihood of future contact with the youth justice system.¹⁷²

3.143 These disruptions occur for all children and young people who are detained, regardless for how short or long a period, including those held on remand who never receive a detention sentence.¹⁷³

3.144 Mission Australia commented on the future employment prospects of young people who have been in detention:

Regardless of age, many people with criminal histories find it difficult to gain and maintain lawful employment due to both employer criminal record checks and stigma, despite evidence that meaningful employment is associated with reduced offending, and increased social participation, economic stability, sense of purpose and community safety.¹⁷⁴

3.145 Mission Australia also raised that due to being overrepresented in the youth justice system, Aboriginal and Torres Strait Islander young people are also more likely to be 'negatively affected by employment processes that involve criminal record checks'.¹⁷⁵

¹⁶⁸ PeakCare, *Submission 3*, [p.1].

¹⁶⁹ Royal Australian College of General Practitioners, *Submission 37*, p. 4; Griffith Criminology Institute, Griffith University, *Submission 60*, [p. 3].

¹⁷⁰ Australian Services Union, *Submission 53*, p. 2.

¹⁷¹ Legal Aid WA, *Submission 68*, p. 4

¹⁷² SNAICC – National Voice for Our Children, *Submission 173 (47)*, [p. 20].

¹⁷³ Praxis Youth, *Submission 109*, p. 9.

¹⁷⁴ Mission Australia, *Submission 64*, p. 11.

¹⁷⁵ Mission Australia, *Submission 64*, p. 13.

Recidivism rates

3.146 In addition to these concerning impacts, numerous submitters pointed to the extremely high rates of recidivism amongst young people who have been in the justice system.¹⁷⁶ As a case in point, in Queensland, more than 90 per cent of children released from detention reoffend within 12 months.¹⁷⁷

3.147 This is supported by AIHW data which revealed that 84 per cent of children sentenced to detention return to custody within 12 months.¹⁷⁸ This only reflects children who were held in sentenced detention, and does not account for recidivism of children who were held on remand but did not receive a sentence of detention.¹⁷⁹

3.148 The Law Council asserted that the ‘detention and institutionalisation of children in their formative years is a proven key factor in recidivism rates’, explaining:

It needs to be clearly understood and consistently communicated that policies of remanding and imprisoning children—popular as they may be during perceived youth crime waves—have been comprehensively debunked as effective community safety solutions.¹⁸⁰

3.149 Relatedly, the younger a child is when they come into contact with the youth justice system, the more likely they will continue to offend either by undertaking more serious offences or resulting in engagement with the adult criminal justice system.¹⁸¹

3.150 First Nations young people were more likely to return to sentenced youth justice supervision from sentenced community-based supervision during 2020–21, with 64 per cent returning within 12 months, compared to 50 per cent of non-Indigenous young people.¹⁸² They were also more likely to return after release from detention, with 88 per cent of First Nations young people returning to

¹⁷⁶ See, for example, National Legal Aid, *Submission 46*; Multicultural Youth Advocacy Network, *Submission 2*; Mission Australia, *Submission 64*.

¹⁷⁷ PeakCare, *Submission 3*, [p.1].

¹⁷⁸ Australian Institute of Health and Welfare, *Young people returning to sentenced youth justice supervision 2023-24*, Last updated 04 September 2025, www.aihw.gov.au/reports/youth-justice/young-people-returning-to-youth-justice-2023-24/contents/about (accessed 3 August 2026).

¹⁷⁹ SNAICC – National Voice for Our Children, *Submission 173 (47)*, [p. 14].

¹⁸⁰ Law Council of Australia, *Submission 195 (47)*, p. 7.

¹⁸¹ See, for example, Australian and New Zealand Children's Commissioners and Guardians and Advocates, *Submission 45*, p. 4; Just Reinvest NSW, *Submission 30*, p. 5; Anne Hollonds AO, *Committee Hansard*, 10 April 2026, p. 7, SNAICC – National Voice for Our Children, *Submission 31*, pp. 6, 11.

¹⁸² Australian Institute of Health and Welfare, *National Indigenous Australians Agency, 2.11 Contact with the criminal justice system*, www.indigenoushpf.gov.au/measures/2-11-contact-with-the-criminal-justice-system (accessed 5 August 2026).

detention within 12 months compared to 79 per cent of non-Indigenous young people.¹⁸³

3.151 Not only is this figure concerning for the prospects of children and young people currently in the youth justice system, but it shows that the current youth justice system is failing to rehabilitate young people and to keep the community safe.¹⁸⁴ As the then Northern Territory Children's Commissioner, Ms Shaleena Musk, commented:

If a tough-on-crime approach worked, the Territory would be the safest place in Australia, yet, as the data shows, a punitive response reinforces the very behaviour we seek to change and increases the chance of further offending.¹⁸⁵

¹⁸³ Australian Institute of Health and Welfare, National Indigenous Australians Agency, 2.11 Contact with the criminal justice system, www.indigenoushpf.gov.au/measures/2-11-contact-with-the-criminal-justice-system (accessed 5 August 2026).

¹⁸⁴ SNAICC – National Voice for Our Children, *Submission 31*, p. 6.

¹⁸⁵ Ms Shaleena Musk, Children's Commissioner, Northern Territory, *Committee Hansard*, 28 April 2026, p. 3.

Chapter 4

Early intervention, diversion and justice reinvestment

Introduction

- 4.1 It is clear from evidence to this inquiry that Australia's current approach to youth justice requires improvement. Children experiencing vulnerabilities and disadvantages, as set out in Chapter 2, are funnelled into a system that is known to cause harm, as set out in Chapter 3.
- 4.2 As evidenced in Chapter 3, the current approach is financially costly, is not addressing the root causes of children and young people offending as seen in the high recidivism rate and is not keeping the community safe long-term.
- 4.3 A broad range of submitters and witnesses to the inquiry called for a new approach that is preventative and protective. This approach would be based on the principle that detention is used only as a last resort. Instead, the committee was told that the focus must shift to long-term, evidence-based early intervention and diversion at every available opportunity to keep children out of the youth justice system in the first place. This requires engagement with education, housing, health, mental health, child protection systems and the community.
- 4.4 This chapter will consider:
- the calls for reform and the key principles that underpin the reforms sought;
 - aspects of the reforms, including what the supports could look like, and how they could be delivered;
 - examples of successful programs and initiatives that have been effective in Australia and internationally, in line with this new approach.

Calls for a new approach

- 4.5 The committee heard submitters call to replace a punitive custodial approach with a preventive approach to youth justice that prioritises early intervention, rehabilitation and diversion. To bring about the reforms envisioned, the committee heard that a nationally led and coordinated approach is needed, which will be discussed more in the following chapters.
- 4.6 The Law Council of Australia discussed the need for the reforms and highlighted the leadership and coordination that is required to bring this about:

As a nation, we must turn towards a preventive and protective approach to child justice in line with Australia's international human rights obligations and the best available research, for the sake not only of children who might break the law, but also potential victims, their families and the broader

community. The Law Council encourages national leadership by the Australian Government in this area, not only to promote evidence-based approaches to policy making and to fund services that address underlying issues behind youth offending, but also to defend the human rights and common law rights of children involved (or likely to become involved) with the criminal justice system.¹

- 4.7 SNAICC – National Voice for our Children (SNAICC) further emphasised that reforms must provide for culturally safe programs and supports for First Nations children:

The Commonwealth and jurisdictions must adopt a national, coordinated approach that shifts resourcing from punitive approaches to culturally safe, therapeutic, preventative and healing community-led ones. Rather than further criminalising children, solutions to offending and over representation should be grounded in self-determination and targeted at addressing the social determinants of criminalisation, including through increased investment in ACCO [Aboriginal community controlled organisations]-led early intervention and culturally safe supports... To be successful, future responses must centre children's dignity and their needs.²

- 4.8 The Queensland Family and Child Commission submitted that reform must 'prioritise stability, healing and developmental growth'.³ While acknowledging the importance of early intervention and diversion, they made clear that reform cannot be limited to these aspects only:

Addressing root causes of offending is not discrete to early intervention or prevention strategies but rather should be considered and embedded in every element of the youth offending response. That is to say, it is never "too late" to address root causes of offending for youthful offenders, and the investment in exploring, understanding, and intervening with the drivers of offending needs to be present in every stage of the youth justice response – from deterrence and prevention strategies, through early intervention, and particularly in punishment responses such as custodial detention.⁴

- 4.9 The committee heard directly from Aboriginal young people in Mount Druitt, New South Wales. This call to action comes from children with lived experience in the justice system and articulates what changes are needed for young people:

Call to Action

As a community and as young people, we know what works for us. Solutions need a strong focus on self-determination, investing in young people, and changing the way other people look at young people in Mount Druitt.

¹ Law Council of Australia, *Submission 112*, p. 3.

² Secretariat of National Aboriginal and Islander Children Care – National Voice for our Children (SNAICC), *Submission 31*, p. 17.

³ Queensland Family and Child Commission, *Submission 14*, p. 3.

⁴ Queensland Family and Child Commission, *Submission 14*, p. 3.

Solutions need to be centred around youth and community leadership, with the goal of intergenerational change.

As Aboriginal young people we can tell you that the “Justice System” is not working and is actually having a devastating effect. Our young people need to know that we as a community care for them. The way systems are set up at the moment, it is hard to tell. Nothing improves by locking up kids. When you do, you take us away from everything we value – our family, our culture, our country.

Governments need to stop investing so much in police and prisons and start investing in young people, with proper support to keep them away from the criminal justice system in the first place. We are strong advocates for raising the age of criminal responsibility. As you read through the experiences of young people in Mount Druitt and see how young we were when we were harassed, traumatised and brutalised by police, and harmed by systems that didn’t support us, remember that no young person should be experiencing these things.

We want everyone to be able to learn from the experiences, strengths, challenges and resilience of us as young people. We speak for those young people who aren’t usually given a voice or listened to, young people who are actively disbelieved.

We share these yarns with you and ask that you listen and hear our truths.

We hope that you hear our solutions and back us to make change.⁵

Principles underpinning the reforms sought

4.10 The key principles which inform these calls for a new approach are:

- that children and young people are only placed in detention as a last resort, after all alternative avenues have been exhausted;
- recognition of the root causes of childhood offending; and
- diversion of resources from custodial measures to a holistic whole of system approach including early intervention, rehabilitation and diversionary measures that address the root causes of offending.

Detention as a last resort

4.11 Consistent with the requirements under the UNCRC, the overarching principle underpinning youth justice reforms must be to ensure that children are only detained as a last resort, and for the shortest period of time.⁶

⁵ Just Reinvest NSW, *Mounty Yarns: Lived Experiences of Aboriginal young people in Mt Druitt*, <https://static1.squarespace.com/static/644e27ff8602074e9b8ef945/t/64fe4341bf2ec6376e5d5db8/1694385003181/Mounty+Yarns.pdf> (accessed 14 July 2026).

⁶ See, for example, Australian Lawyers Alliance, *Submission 49*, pp. 6, 9; Australian Research Alliance for Children and Youth, *Submission 27*, pp. 4–5; Australia’s National Research Organisation for Women’s Safety, *Submission 8*, p. 5; International Commission of Jurists Australian Section, *Submission 19*, p. 3; Trans Justice Sydney, *Submission 40*, p. 13.

- 4.12 Under this principle, detention should only be used when the safety of the young person or community cannot be guaranteed through more appropriate measures in the community.⁷ In the rare cases that detention is used, detention centres must be reorientated as places of rehabilitation that support the wellbeing of young people.⁸
- 4.13 Instead of detention, the default should be that children are diverted to community-based services and supports in the first instance. These supports should address what the child needs - for example, rehabilitation for drug and alcohol addiction, support for poor mental health or a solution for unstable housing.

Recognising the root causes of childhood offending

- 4.14 The second key principle is the need to recognise and address the root causes of childhood offending to prevent and/or reduce youth offending in the first instance.
- 4.15 As detailed in the interim report⁹ and Chapter 2 of this report, the root causes of offending encompass a wide range of factors including living in low socioeconomic and remote/regional areas, family violence and instability, placement in out-of-home care, unmet health needs, drug and alcohol addiction, and disengagement from education.
- 4.16 By recognising that these vulnerabilities and life circumstances heavily contribute to childhood offending, reforms can be targeted at addressing those challenges when they first appear to achieve more long-term outcomes for individual children and improve community safety.¹⁰

Moving to a preventive approach – early intervention, rehabilitation and diversion

- 4.17 The third key principle is that the reforms must address the root causes of childhood offending by diverting efforts and resources from the youth justice system and detention to early intervention, rehabilitation and diversionary measures. As expressed by the Queensland Family and Child Commission:

All efforts and investment in all areas of the youth justice system should focus on the root-causes of youth offending – and the actions across

⁷ Social Reinvestment WA, *Submission 42*, p. 70.

⁸ See, for example, Queensland Family and Child Commission, *Submission 14*, p. 3; Social Reinvestment WA, *Submission 42*, p. 70.

⁹ Senate Legal and Constitutional Affairs Committee, *Australia's youth justice and incarceration system*, February 2025, pp. 11–30.

¹⁰ Australian and New Zealand Children's Commissioners and Guardians and Advocates, *Submission 45*, p. 6.

government, within education, health, housing, child safety, and communities, must be focused on pro-social engagement of young people.¹¹

4.18 This principle is consistent with several international standards including:

- the Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), which provide States with guidance on how to prevent juvenile delinquency in the first instance;¹² and
- the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), which promotes juvenile welfare to the greatest possible extent, and in doing so, minimises the necessity of intervention by the juvenile justice system.¹³

4.19 Social Reinvestment WA suggested a staged approach that indicates the level and nature of the support needed for children facing different circumstances (shown in Figure 4.1 below).¹⁴ These stages of support are as follows:

- **For every child** - adequate services and supports are needed for the whole family. This includes safe and secure housing, food security, healthcare, parenting support and community programs such as cultural celebrations and sporting events.
- **For children who need assistance to thrive in the community** - more responsive support is needed. This includes alternative schooling options, mental health supports and screening and support for disabilities.
- **For children who display the first signs of offending** - diversion is needed. This includes youth workers and mentors, cultural healing programs and targeted early intervention programs.
- **Once a child is involved in the justice system** - the focus must be on their rehabilitation in the community. This includes the use of restorative justice programs, safe bail accommodation and sentencing alternatives outside of youth detention such as drug and alcohol treatment in the community.
- **When community-based sentencing is not suitable** - community based therapeutic alternatives to detention should be considered, as well as individualised support for young people in a detention setting.¹⁵

¹¹ Queensland Family and Child Commission, *Submission 14*, p. 14.

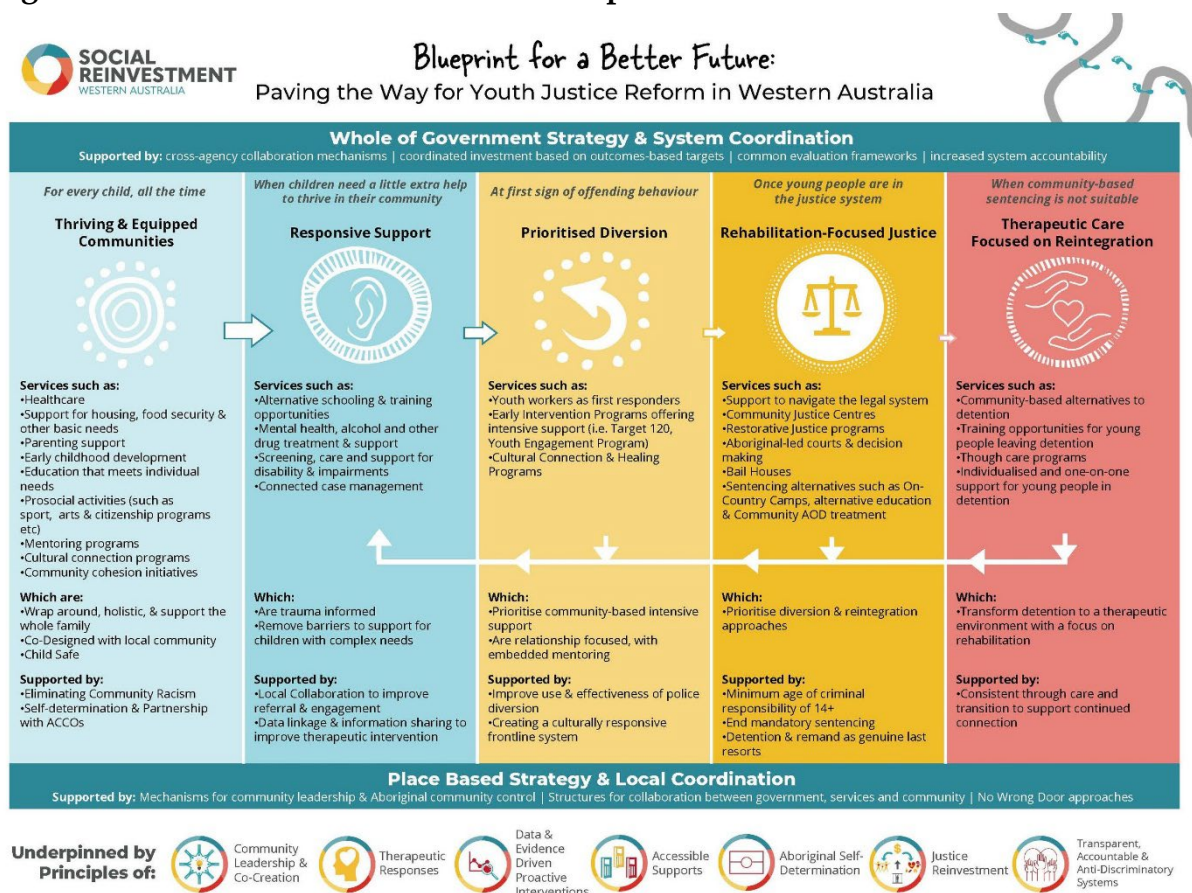
¹² *United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)*, 1990, <https://digitallibrary.un.org/record/105349?ln=en&v=pdf> (accessed 18 August 2026).

¹³ *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)*, 1989, <https://digitallibrary.un.org/record/75551?ln=en&v=pdf> (accessed 18 August 2026).

¹⁴ Social Reinvestment WA, *Submission 42*, p. 22.

¹⁵ Social Reinvestment WA, *Submission 42*, p. 22.

Figure 4.1 Social Reinvestment WA: Blueprint for a Better Future



Whole of government strategy and system coordination for youth justice reform in Western Australia

Source: Social Reinvestment WA, Submission 42, p. 22.

Types of reform

4.20 Considerable evidence was received about existing programs that take an alternative approach to youth justice already operating in Australia or overseas. This includes the use of alternative first responders instead of law enforcement, early intervention programs, diversion measures, drug and alcohol rehabilitation and justice reinvestment. Each of these aspects are considered below, together with successful examples of existing programs that are provided in certain communities.

Alternative first responders

4.21 To support the principle of detention as a last resort, the committee heard that where possible, alternative first responders should respond to incidents involving children and young people, rather than the police. This would significantly reduce initial contact between children and law enforcement in the first instance.¹⁶

¹⁶ Social Reinvestment WA, *Submission 42 Attachment 1*, pp. 50–52; Trans Justice Sydney, *Submission 40*, p. 9.

- 4.22 Alternative first responders are people outside of law enforcement who respond to calls for assistance.¹⁷ They are often community members and/or youth workers or other professionals who are deeply connected to their community. They are highly skilled to de-escalate situations, reduce harm and connect people with a wide range of supports.¹⁸
- 4.23 In response to concerns about police responses to callouts involving children, the National Justice Project, a not-for-profit human rights law firm, launched the 'Alternative First Responders' project. This project aims to bring about an alternative approach that is rooted in care, rather than force.¹⁹ In their submission to the committee, the National Justice Project discussed the importance of alternative first responders for children who are overrepresented in the justice system – including children in out-of-home care.²⁰
- 4.24 The National Justice Project explained that responses led by health, social and community services, rather than police, prioritise care, safety, and de-escalation. This approach is particularly important in situations involving children with trauma and mental health issues. This approach has the potential to prevent unnecessary involvement with the justice system while better meeting the needs of vulnerable children.²¹
- 4.25 As expressed by one pledger to the National Justice Project:
- I am a foster carer and work in the OOH [out of home care] industry. I want there to be de-escalation options available that are trauma informed and safe for an already incredibly vulnerable cohort. I want people suffering from trauma, mental health conditions and addiction to have an incident response option that includes kindness, de-escalation and support. While consequences may be necessary for our actions, we should all be met with understanding and dignity before judgement.²²

Early intervention

- 4.26 As expressed by the majority of submitters and witnesses, early intervention is critical to keep children out of the justice system and an essential aspect of the reforms called for by inquiry participants.²³

¹⁷ Alternative First Responders, *Submission 20*, p. 1.

¹⁸ Alternative First Responders, *Submission 20*, p. 2.

¹⁹ Alternative First Responders, *Submission 20*, p. 1.

²⁰ Alternative First Responders, *Submission 20*, p. 1.

²¹ Alternative First Responders, *Submission 20*, p. 1; Tangentyere Council, *Submission 79*, [p. 4].

²² Alternative First Responders, *Submission 20*, pp. 3–4.

²³ See, for example, yourtown, *Submission 17*, p. 4; Victoria Legal Aid, *Submission 47*, pp. 8–10; UNICEF Australia, *Submission 26*, pp. 3–4; Fams, *Submission 33*, p. 2; Australian Children's Commissioners, Guardians, and Advocates, *Submission 45*, p. 4; National Legal Aid, *Submission 46*, p. 9; Australian

4.27 Early intervention can include a wide range of measures, starting from birth, that address the root causes of childhood offending before behaviours escalate. This can range from early childhood screening and support for disabilities, to counselling and mentoring services, to the provisions of cultural programs and after-school sport.

4.28 As articulated by Youth Empowered Towards Independence (YETI):

While it is of course critical for children already in the criminal legal system to be fully supported while they are in and exiting the system, what will reduce the number of children within the system in the first place, as well as the impact of offending on the community, is ensuring access and early referrals to health, wellbeing, AOD [alcohol and other drug] and community supports that can also provide support (or make connections with support) around housing, relationships, culture, education and training – on a voluntary basis, in collaboration with other community services and without contact with child safety, police and youth justice officers or their associated government agencies.²⁴

4.29 Depending on the type of intervention, early intervention programs can be embedded in different ways in the community, that best reach the children that need them. For example, programs could be embedded within community centres, health centres, sporting clubs and schools.²⁵

Early intervention through schools

4.30 Participants to the inquiry identified schools as a central community hub that can play a critical role in early intervention for at-risk children, in several different ways. Firstly, as discussed in Chapter 2 of this report, school engagement is a strong protective factor against a child's involvement in the youth justice system while school disengagement is a known pathway into the system.²⁶

4.31 Yourtown explained the importance of keeping children engaged in school as follows:

Keeping young people engaged in education is a proven alternative to incarceration. Early identification, targeted family support, and investment in diverse, culturally responsive education pathways are essential, particularly for Aboriginal and Torres Strait Islander children and other minority groups. Furthermore, research confirms a strong link between low academic achievement and youth offending. Disengagement is cumulative and requires tailored interventions and teacher development to sustain

Association of Social Workers, *Submission 84*, p. 7; The Centre for Excellence in Child & Family Welfare, *Submission 92*, [pp. 3–4]; Deadly Connections, *Submission 100*, p. 3.

²⁴ Youth Empowered Towards Independence, *Submission 93*, p. 10.

²⁵ National Association for Prevention of Child Abuse and Neglect, *Submission 69*, p. 3.

²⁶ Jesuit Social Services, *Submission 107*, p. 9.

engagement. Maintaining participation in education and training reduces offending risk and promotes positive life outcomes.²⁷

School-based early intervention programs

4.32 To help keep children engaged in school, the committee heard about ReEngage, a program run by Jesuit Social Service (JSS), that is currently delivered in a small number of schools in Melbourne, in collaboration with the Department of Education (Vic) and the Australian Association for Restorative Justice.²⁸ This program was rolled out after a pilot program was undertaken by JSS in 2018–19 which showed a significant decrease in student suspensions and expulsions.²⁹

4.33 The ReEngage program aims to embed the use of restorative practices in schools to ‘decrease school disengagement and violence in schools, and improve student and staff wellbeing’.³⁰ Mr David Murray, Strategic Projects Lead at JSS, explained that this program supports teachers in a ‘whole-of-school approach that is restorative rather than punitive discussions when kids are getting into trouble’.³¹

4.34 Teachers and school staff are well placed to identify the children who need additional support. As explained by JSS:

To narrow it down, schools are, if you like, the community platform where we see early signs of trouble through noticing that children are either absent—they’re not attending—or not thriving. The opportunities exist in those environments to engage much more intensively, in a targeted way, to prevent the kind of disengagement that emerges usually in the transition from primary to secondary and up to year 9.³²

4.35 As an example of how these children can be supported, JSS advised the committee of its Navigator program, which is targeted at children aged 12 to 17 years who are disengaged from the education system.³³ Navigator involves a case manager working closely with the young person, their family, school and

²⁷ yourtown, *Submission 17*, p. 5.

²⁸ Jesuit Social Services, *Submission 107*, p. 9.

²⁹ Jesuit Social Services, *Submission 107*, p. 9.

³⁰ Jesuit Social Services, *Submission 107*, p. 9.

³¹ Mr David Murray, Strategic Projects Lead, Justice, Jesuit Social Services, *Committee Hansard*, 16 March 2026, p. 34.

³² Mr David Murray, Strategic Projects Lead, Justice, Jesuit Social Services, *Committee Hansard*, 16 March 2026, p. 34.

³³ Jesuit Social Services, *Submission 107*, p. 9–10; Jesuit Social Services, *Navigator*, <https://jss.org.au/programs/navigator/> (accessed 15 July 2026).

support network to identify and work towards overcoming the underlying barriers to their engagement with school.³⁴

- 4.36 In 2025, 64 per cent of participants in the Navigator program recorded positive outcomes of improved and consistent attendance in an educational setting.³⁵ However, JSS made the point that as the program is only offered to children who have attended less than 30 per cent of the previous term, there are many children who would benefit from the program who are currently missing out:

An optimally effective early intervention response would therefore see a Navigator case manager come on board, wherever possible, when a child or young person begins to disengage from school. This would make the process simpler for children and young people and their families, schools and communities and would improve overall outcomes.³⁶

- 4.37 KidsXpress opined that schools ‘need mental health professionals embedded within their community who can work alongside teachers and staff, providing specialised support.’³⁷ This led to the development of the School Partnership Program (SPP), which provides:

- individual therapy for students with complex cases;
- group therapy for students with mild to moderate cases;
- support for all students through playground connection activities, ad-hoc counselling for self-referring students, and peer conflict support during break times;
- support for staff with one-on-one consultations, classroom observation, professional development training for all staff, socio-emotional lessons for whole classes, school wellbeing support team assistance, discipline policy review, and behaviour management plan support; and
- kindergarten and high school transition programs.³⁸

- 4.38 The SPP has been running since 2020, and at the time of submitting, KidsXpress provided the program in five schools, with great success:

The impact of this approach is profound. Schools involved in the SPP have reported significant improvements in emotional regulation, resilience, and classroom behaviour, all of which contribute to a more positive learning environment. Children who may otherwise be overlooked due to under-resourced mental health services are provided with consistent, structured support that enables them to process trauma, develop healthier coping mechanisms, and engage more positively with their peers and educators. This coordinated, community-based model of intervention not only

³⁴ Jesuit Social Services, *Submission 107*, pp. 9–10.

³⁵ Jesuit Social Services, *Submission 107*, p. 10.

³⁶ Jesuit Social Services, *Submission 107*, p. 10.

³⁷ KidsXpress, *Submission 1 (47)*, p. 5.

³⁸ KidsXpress, *Submission 1 (47)*, pp. 5–6.

mitigates the immediate behavioural issues linked to trauma but also has long-term benefits by reducing the risk of youth incarceration. By addressing trauma at its root, the SPP promotes emotional stability, reduces aggressive behaviours, and fosters a sense of belonging and self-worth in vulnerable students.³⁹

- 4.39 Given the success of the SPP as an effective early intervention measure, KidsXpress submitted that funding to expand the program would allow more children at risk of entering the youth justice system to access trauma-informed therapeutic support in their school community.⁴⁰
- 4.40 Another example of a school-based therapeutic early intervention program is the Kids Helpline @ School program delivered by yourtown. Yourtown developed this program after recognising that school disengagement is a major risk factor for youth offending in Australia.⁴¹ This program is provided at no cost for schools and operates during school hours to provide students with structured opportunities for counselling, skill building and emotional support.⁴² The aim of the sessions are to help young people develop resilience, improve social skills and address challenges before they escalate.⁴³
- 4.41 Mrs Jo Allen-Keeling, Chief Service and Impact Officer at yourtown, explained that the program involves a kids helpline counsellor ‘beaming into a classroom’ and providing education around a variety of issues impacting children, for example, bullying, respectful relationships and online safety. The sessions are planned with the classroom teacher, so they can address the ‘particular pain points’ of the class.⁴⁴

Need for adequate funding and resources

- 4.42 In advocating for school-based early interventions, stakeholders acknowledged that currently, many schools are not adequately resourced to take on this extra work. Some warned that many schools are already operating with stretched resources.⁴⁵
- 4.43 The point was also made that the responsibility for early intervention programs cannot fall solely on teachers and existing school staff, who already face the

³⁹ KidsXpress, *Submission 1 (47)*, p. 7.

⁴⁰ KidsXpress, *Submission 1 (47)*, p. 7.

⁴¹ yourtown, *Submission 17*, p. 6.

⁴² yourtown, *Submission 17*, p. 6.

⁴³ yourtown, *Submission 17*, p. 6.

⁴⁴ Mrs Jo Allen-Keeling, Chief Service and Impact Officer, yourtown, *Committee Hansard*, 3 July 2026, p. 31.

⁴⁵ See, for example, KidsXpress, *Submission 1 (47)*, p. 5; Ms Anoushka Jeronimus, Co-convenor, Smart Justice for Young People, *Committee Hansard*, 16 March 2026, p. 42.

immense challenge of addressing a broad spectrum of student needs.⁴⁶ Preferably, schools need additional professional staff (or visiting staff) that can provide the relevant services such as through SPP.

- 4.44 The committee heard that schools need strong external supports and community and private partnerships in order to deliver the type of supports envisioned. As JSS explained:

... we've started to look at ways in which we can partner with schools to assist them. That's given that, of course, schools and teachers always say, 'Oh, we're always responsible for everything; we've got to fix everything,' which is a burden on the system and a burden on teachers. We have started to explore the ways we can work with schools to support them to create the environment where children who are identifying trouble early can get the help they need. But it's also to create an environment where schools are better equipped to respond to conflict and behavioural difficulties that are emerging in schools.⁴⁷

- 4.45 The Justice Reform Initiative pointed the committee to a 2019 analysis of resourcing for early intervention 'which found that one dollar invested in early childhood education yields a return of two dollars'.⁴⁸

Health based early intervention

- 4.46 As detailed in Chapter 2 of this report, many children in the youth justice system have undiagnosed and/or untreated health issues, including cognitive impairments and disabilities. To prevent these children from entering the justice system, stakeholders conveyed the need for wide-spread health based early intervention measures.

- 4.47 Dr Nirosini Kennedy from the Royal Australasian College of Physicians discussed the importance of preventative health checks for children, and the potentially disastrous consequences if these checks are missed:

In my practice, many of the children who fall through the cracks are the children who haven't had the opportunity to have preventive health checks that might, for example, identify that a child who is falling asleep at school and constantly late to school might actually have an undiagnosed sleep apnoea and actually need surgical treatment for tonsils and adenoids, that a child who may supposedly not be paying attention in class might actually have undiagnosed glue ear and a hearing impairment that requires surgery or that a child who might be constantly on edge in class and perhaps a little bit difficult might be living in a family that is experiencing family violence—

⁴⁶ See, for example, Australian Education Union, *Submission 38*, [p. 3]; Australian Association for Restorative Justice, *Submission 97 Attachment 1*, p. 12.

⁴⁷ Mr David Murray, Strategic Projects Lead, Justice, Jesuit Social Services, *Committee Hansard*, 16 March 2026, p. 34.

⁴⁸ Justice Reform Initiative, *Submission 59*, [p. 5].

this is a heightened and traumatised child who actually needs trauma focused therapy.⁴⁹

- 4.48 The RACGP highlighted that early intervention, including trauma-informed healthcare and community-led support are ‘proven to reduce offending and improve long-term health and wellbeing outcomes’, noting that:

...children with neurodevelopmental disorders and those who have experienced multiple adverse childhood experiences need healthcare and support, not criminalisation.⁵⁰

- 4.49 In support of this approach, Dr Peter Malouf, Chief Executive Officer of the Australian Indigenous Doctors Association, strongly urged for a health-first model to be adopted that includes:

...appropriate screening for disability and neurodevelopment concerns, mental health, social and emotional wellbeing, and cultural disconnection. It would require Aboriginal and Torres Strait Islander led services to be funded as essential infrastructure and not discretionary programs, and it would place elders and community at the centre of the response.⁵¹

- 4.50 Dr Malouf clarified that a health-first response does not mean ‘doing nothing’ when harm occurs, rather:

...it means doing what is more likely to prevent harm from happening again and restorative accountability, early intervention and cultural connection. It is evidence informed, fiscally responsible and ethically necessary.⁵²

- 4.51 Northern Territory paediatrician, Dr Sophie Dunn, advised that timely health based early interventions can divert children away from the justice system:

With appropriate early diagnosis and then early intervention, we can definitely change, longer term, the behaviours, the emotional regulation and the cognitive function of some of these children.⁵³

- 4.52 However, Dr Dunn emphasised that interventions must begin at an early age to be most effective:

We talk about the first 1,000 days as being extremely important in the development of a child. If you're waiting 18 months to two years to see a paediatrician in the first instance and then that diagnostic process takes a very long time—and then it's not just the assessment but the access to allied

⁴⁹ Dr Niroshini Kennedy, Fellow and President, Paediatrics and Child Health Division, Royal Australasian College of Physicians, *Committee Hansard*, 3 July 2026, p. 27.

⁵⁰ Royal Australian College of General Practitioners (RACGP), *A health first approach to support young people at risk of contact with the justice system*, additional information received 9 July 2026, [p. 1].

⁵¹ Dr Peter Malouf, Chief Executive Officer, Australian Indigenous Doctors Association, *Committee Hansard*, 3 July 2026, p. 23.

⁵² Dr Peter Malouf, Chief Executive Officer, Australian Indigenous Doctors Association, *Committee Hansard*, 3 July 2026, p. 23.

⁵³ Dr Sophie Dunn, Personal capacity, *Committee Hansard*, 29 April 2026, p. 4.

health professionals and people that can actually then carry on the therapy—then we've missed the boat for a lot of these children. That's certainly a focus in terms of prevention.⁵⁴

Health based early intervention programs

- 4.53 The committee heard about several health based early intervention programs and initiatives that are currently in place in Australia.
- 4.54 Providing support from the very beginning of children's lives, the Australian Nurse-Family Partnership Program provides culturally appropriate support for Aboriginal and Torres Strait Islander mothers in metropolitan, regional and remote Australia. A 2024 evaluation found 'a range of positive health and wellbeing outcomes for mothers who participated in the program including addressing several risk factors and strengthening protective factors associated with future offending'.⁵⁵
- 4.55 Another example is the Aboriginal and Torres Strait Islander health check. This is a free health check under Medicare that all First Nations people, including children, can undertake each year.⁵⁶
- 4.56 The National Clinical Assessment Framework for Children and Young People in Out-of-Home Care was developed in 2011 and provides guidance on which health checks and screenings should occur within the first few weeks of a child entering out-of-home care. In discussing this framework, Dr Kennedy explained that, ideally, under the framework children entering out-of-home care will receive an initial assessment with a general practitioner followed by a more thorough assessment within three months with a paediatrician, a mental health professional and a speech pathologist. The goal of these checks is to pick up health issues in a vulnerable cohort of children.⁵⁷
- 4.57 While there have been efforts to improve access to health care for vulnerable children – including through the Health Navigator Pilot Program (HNPP) in Western Australia for children in out-of-home care across certain trial sites – this is not the standard practice⁵⁸ and many children are slipping through the cracks. Regarding the framework for children in out-of-home care, Dr Kennedy relayed

⁵⁴ Dr Sophie Dunn, Personal capacity, *Committee Hansard*, 29 April 2026, p. 7.

⁵⁵ Justice Reform Initiative, 48 *Submission* 59, [p. 7].

⁵⁶ Damien Linnane, *Submission* 11 (47), p. 2; Royal Australasian College of General Practitioners, *Submission* 12 (47), p. 7.

⁵⁷ Dr Niroshini Kennedy, Fellow and President, Paediatrics and Child Health Division, Royal Australasian College of Physicians, *Committee Hansard*, 3 July 2026, p. 26.

⁵⁸ Dr Jacqueline McGowan-Jones, Commissioner for Children and Young People, Western Australia, *Committee Hansard*, 17 March 2026, p. 7.

that only one per cent of children in out-of-home care are currently getting compliant health assessments.⁵⁹

- 4.58 Dr Fleetwood suggested listening to communities to hear what they want. The Institute of Urban Indigenous Health in Queensland did this when introducing a free footy shirt (with new designs each year) for all children and adults who see their GP for an annual health check which has facilitated an increased uptake of health checks.⁶⁰

First Nations led early intervention

- 4.59 The committee heard that First Nations-led solutions are essential to addressing the disproportionate incarceration of Aboriginal and Torres Strait Islander children. Therefore, reform must embed co-design principles and community partnerships with Aboriginal and Torres Strait Islander peoples to ensure culturally safe, effective responses.⁶¹
- 4.60 In response to the continued overrepresentation of Aboriginal and Torres Strait Islander children in the youth justice system, Secretariat of National Aboriginal and Islander Children Care - National Voice for our Children (SNAICC) submitted that urgent priority must be given to explore options for 'intensive wrap around culturally safe therapeutic care for children to prevent progression into the justice system'.⁶²
- 4.61 SNAICC expressed that work should be led and delivered by Aboriginal Community Controlled Organisations (ACCOs) as they are best placed to deliver 'holistic, integrated and culturally safe child and family early intervention services'.⁶³ SNAICC further detailed:

ACCO services range from holistic universal supports in fields such as early education, health, and disability to more targeted and intensive, culturally safe supports aimed at addressing the complex needs of families experiencing vulnerabilities, and assistance for families to access and navigate the broader service system.

ACCOs work with children and families to support their mental health and social and emotional wellbeing, their learning and development, their relationships with each other and the wider community, and support their access to health and wellbeing services. These services may also include

⁵⁹ Dr Niroshini Kennedy, Fellow and President, Paediatrics and Child Health Division, Royal Australasian College of Physicians, *Proof Committee Hansard*, 3 July 2026, p. 26.

⁶⁰ Dr Jacqueline Fleetwood, Fellow and Member, Aboriginal and Torres Strait Islander Health Committee, Royal Australasian College of Physicians, *Proof Committee Hansard*, 3 July 2026, p. 30.

⁶¹ Centre for Excellence in Child and Family Welfare, *Submission 92*, p. 3.

⁶² SNAICC, *Submission 31*, p. 17.

⁶³ SNAICC, *Submission 173 (47)*, [p. 17].

early developmental screenings and interventions for children with neurodevelopmental risks, as well as drug and alcohol supports...

Because of their connection to communities and deep understanding of cultural practice and relationships, alongside years of trust they have built with families, ACCOs are best placed to continue preventative supports once such risk factors have begun to impact on children and affect their behaviour.⁶⁴

- 4.62 Similarly, Deadly Connections advised that the Australian Government must prioritise referrals to Aboriginal community-led, early intervention, preventative, and diversionary services for all First Nations children and their families:

Referrals must be directed to the right services—those with demonstrated cultural authority, trauma-informed practice, and staff with lived and living experience of justice involvement and justice-related harm. Services led by people who are justice-impacted are best placed to build trust, provide credible support, and respond effectively to the realities faced by First Nations children and families. Without appropriate resourcing and intentional service selection, early-intervention and diversion efforts will continue to fail those most at risk of criminalisation.⁶⁵

- 4.63 As such, Deadly Connections made clear that ACCOs must receive ‘increased, sustainable, and long-term funding’ to enable them to deliver these crucial services.⁶⁶

- 4.64 Additionally, the committee heard about the importance of cultural connection as a ‘robust protective factor’ for First Nations children, and the need for this to be incorporated into early intervention or diversionary measures for this cohort of children. For example, SNAICC advised:

Culture is critical to their development, identity and self-esteem, and strengthens their overall health, wellbeing and lifelong capacity to manage intergenerational trauma. Nurturing a child’s culture and connections to family and community supports their social and emotional wellbeing, which is an integral protective factor in child justice prevention.⁶⁷

First Nations led early intervention programs:

- 4.65 During this inquiry, evidence was received about numerous effective First Nations led early intervention programs currently being delivered. Some examples of these programs are discussed below.

- 4.66 One compelling example that was brought to the committee’s attention during this inquiry is the work of Aboriginal owned organisation, Hoops 4 Health.

⁶⁴ SNAICC, *Submission 173* (47), [p. 17].

⁶⁵ Deadly Connections, *Submission 100*, p. 5.

⁶⁶ Deadly Connections, *Submission 100*, p. 5.

⁶⁷ SNAICC, *Submission 173* (47), [p. 17].

Hoops 4 Health has delivered programs throughout the Northern Territory since 1995, including in custodial settings.⁶⁸

- 4.67 Founder and Chief Executive Officer, Mr Timmy Duggan OAM, made clear that 'Hoops 4 Health is more than just basketball'.⁶⁹ Rather:

We are a structured, healing centred approach that uses sport and active movement as a vehicle to build regulation, relationships and life skills and maintain our cultural identity.⁷⁰

- 4.68 Social and emotional wellbeing and healing of First Nations children and young people through sport and movement is a priority for Hoops 4 Health. To do this, the organisation operates a variety of targeted programs that integrate cultural knowledge with neuroscience and research on brain development and trauma to facilitate healing-centred sport.⁷¹

- 4.69 As explained by Mr Duggan OAM:

Our evidence informed approach is built on a unique dual knowledge framework, where we integrate 65,000-plus years of our own Aboriginal cultural wisdom and healing practices with the adaptation of the world-leading neuroscience of leading childhood trauma expert Dr Bruce Perry, whom we've linked in through his neurosequential model and network. By adapting Dr Bruce Perry's research on brain development and trauma within a culturally grounded, movement based model, we provide a top-down and bottom-up approach to healing. This allows us to translate clinical insights into a framework that respects the fact that, for our young people, cultural connection is a biological necessity for regulation and health. This framework is translated into action through our healing centred sport model. We move beyond sport as recreation to use it as a tool for social and emotional wellbeing.⁷²

- 4.70 Evaluation research by Charles Darwin University into Hoops 4 Health found that participants had improved emotional regulation, increased feelings of safety, and positive behaviour changes in high-risk environments.⁷³

⁶⁸ Mr Timmy Duggan OAM, Chief Executive Officer, Hoops 4 Health, *Committee Hansard*, 28 April 2026, p. 35.

⁶⁹ Mr Timmy Duggan OAM, Chief Executive Officer, Hoops 4 Health, *Committee Hansard*, 28 April 2026, p. 35.

⁷⁰ Mr Timmy Duggan OAM, Chief Executive Officer, Hoops 4 Health, *Committee Hansard*, 28 April 2026, p. 35.

⁷¹ Mr Timmy Duggan OAM, Chief Executive Officer, Hoops 4 Health, *Committee Hansard*, 28 April 2026, p. 37.

⁷² Mr Timmy Duggan OAM, Chief Executive Officer, Hoops 4 Health, *Committee Hansard*, 28 April 2026, p. 35.

⁷³ Mr Timmy Duggan OAM, Chief Executive Officer, Hoops 4 Health, *Committee Hansard*, 28 April 2026, p. 35.

Other early intervention programs

- 4.71 The need for variety of community led early intervention programs was raised by numerous submitters and witnesses. These can range from after-school and weekend recreation activities, which can deter childhood offending.
- 4.72 For example, in Fitzroy Crossing, Western Australia the Marra Worra Worra Aboriginal Corporation has launched a community-based youth initiative, The Night Place.⁷⁴ The committee heard that the Night Place provides a safe, welcoming space for young people including delivering structured workshops on important life lessons with nearly 400 young people attending in the first seven months of operation.⁷⁵ The most frequent attenders at the Night Place were males aged 10 to 14, which is their key target demographic, as the group most likely to have contact with the youth justice system.⁷⁶ In the local area, after the initiative started running, there was an 85 per cent decline in car thefts between January to March 2025 compared to the previous year.⁷⁷
- 4.73 In Western Sydney, 'A Place to Go' is an initiative run by MacKillop Family Services since November 2018. Referrals are made by Nepean Police Area Command and Parramatta Children's Court for children who have contact with the youth justice system.⁷⁸ A Place to Go provides children short-term accommodation and links them to appropriate community supports and services, health services, education and provides ongoing support to maintain long-term accommodation.⁷⁹
- 4.74 The Alcohol and Drug Foundation have a Good Sports program which works with sporting clubs to protect against offending by having a 'healthy baseline culture around alcohol and drug use'.⁸⁰ The Foundation has then established a program Stronger Through Sport which links referred young people with a Good Sports club and other community service organisations. The program aims to reduce barriers to sports engagement, like transport and uniform cost,

⁷⁴ National Justice Project, *Submission 20*, p. 7.

⁷⁵ National Justice Project, *Submission 20*, p. 7.

⁷⁶ National Aboriginal and Torres Strait Islander Legal Services, answer to question on notice, [p. 34], 11 August 2026 (received 20 August 2026).

⁷⁷ National Justice Project, *Submission 20*, p. 7.

⁷⁸ Justice Reform Initiative, *Submission 20 (47)*, p. 31.

⁷⁹ Justice Reform Initiative, *Submission 59*, [p. 11]; Justice Reform Initiative, *Submission 20 (47)*, p. 31; MacKillop Family Services, *A Place to Go*, <https://www.mackillop.org.au/programs/a-place-to-go> (accessed 13 August 2026).

⁸⁰ Ms Amy Herbert, Manager, Policy and Engagement, Alcohol and Drug Foundation, *Committee Hansard*, 16 March 2026, p. 46.

and to encourage engagement with the team and wider community as a protective factor to offending.⁸¹

- 4.75 Another example are the programs delivered by the Johnathan Thurston Academy (the Academy), which provides services to children across Australia, with a focus on Aboriginal and Torres Strait youth. The Academy submitted that it uses a ‘strengths-based, evidence-informed approach’ to support young people experiencing educational disengagement, social disadvantage and other risk factors associated with contact with the youth justice system.⁸² The Academy provides four programs that aim to build confidence, resilience and positive life pathways in children.⁸³
- 4.76 The JTYouGotThis program (JTYGT) is designed to support vulnerable young people who are at-risk of entering the justice system. It delivers a structured weekly workshop that combines practical life skills with personal development for young people covering topics such as family and belonging, healthy relationships, emotional regulation, goal setting, budgeting, community safety, leadership and positive decision-making.⁸⁴ JTYGT has seen outcomes including:
- increased school attendance, reduced antisocial behaviour, improved compliance with Youth Justice requirements, strengthened cultural identity, improved emotional wellbeing and greater engagement with education and employment pathways.⁸⁵
- 4.77 The JTLeadLikeAGirl program is made up to ten interactive workshops specifically targeted at young women and relevant topics such as leadership, positive body image and emotional regulation.⁸⁶ Participants are introduced to positive female role models and career pathways, encouraging them to broaden their aspirations and plan for their future.⁸⁷
- 4.78 This program received positive feedback from educators at Mapoon State School, who described students developing confidence and leadership that had not previously been observed:
- Young women who initially lacked the confidence to speak publicly found the courage to ask questions, share their thoughts and actively participate. Teachers reported that participants challenged personal barriers they would

⁸¹ Alcohol and Drug Foundation, *Submission 4*, p. 3; Ms Amy Herbert, Manager, Policy and Engagement, Alcohol and Drug Foundation, *Committee Hansard*, 16 March 2026, pp. 46–47.

⁸² Johnathan Thurston Academy, *Submission 127*, p. 2.

⁸³ Johnathan Thurston Academy, *Submission 127*, p. 3.

⁸⁴ Johnathan Thurston Academy, *Submission 127*, pp. 6–7.

⁸⁵ Johnathan Thurston Academy, *Submission 127*, p. 6.

⁸⁶ Johnathan Thurston Academy, *Submission 127*, pp. 6–7.

⁸⁷ Johnathan Thurston Academy, *Submission 127*, p. 6.

not have attempted only weeks earlier, attributing these changes to the program's mentoring, encouragement and culturally relevant role models.⁸⁸

- 4.79 In Hervey Bay, participants of the JTYGT and JTLeadLikeAGirl programs saw 71 per cent of participants have improved school attendance and 66 per cent have improved behaviours.⁸⁹
- 4.80 The JTBelieve program focuses on improving school engagement by increasing connection to education, peers and the wider community through workshops and mentoring focused on confidence in ability.⁹⁰ The JTSucceed program equips young people for participation in employment, particularly in regional and remote communities. Young people are supported to develop skills, identify barriers, and connect with employment pathways to engage long-term with study or work.⁹¹

Examples of early intervention in Scotland

- 4.81 The committee heard from Ms McCluskey, the Chief Executive of Community Justice Scotland, about principles that Scotland has implemented to take 'a wholesale preventative approach' to childhood offending by deliberately investing in children's early years.⁹² Scotland has adopted a policy called 'Getting it Right for Every Child' so regardless of where or why they engage with a child, all professionals are mandated to intervene and support a child's wellbeing.⁹³
- 4.82 Scotland has adopted a 'zero exclusion policy' in schools, which requires all children to attend school and prohibits exclusion. While Ms McCluskey acknowledged this was challenging for teachers, in 2024, Scotland had no children excluded from school.⁹⁴
- 4.83 Scotland is also increasing investment in health and wellbeing of children from infancy and their families. Investment in early years and parenting support is evidence-based and has cross-parliamentary support.⁹⁵ Ms McCluskey

⁸⁸ Johnathan Thurston Academy, *Submission 127*, p. 6.

⁸⁹ Johnathan Thurston Academy, *Submission 127*, p. 10.

⁹⁰ Johnathan Thurston Academy, *Submission 127*, p. 8.

⁹¹ Johnathan Thurston Academy, *Submission 127*, p. 7.

⁹² Ms Karyn McCluskey, Private capacity, *Committee Hansard*, 26 June 2026, p. 3.

⁹³ Ms Karyn McCluskey, Private capacity, *Committee Hansard*, 26 June 2026, pp. 3, 8.

⁹⁴ Ms Karyn McCluskey, Private capacity, *Committee Hansard*, 26 June 2026, p. 3.

⁹⁵ Ms Karyn McCluskey, Private capacity, *Committee Hansard*, 26 June 2026, p. 8.

encouraged the committee that focusing on positive outcomes and stories of change enables accountability and public interest.⁹⁶

Diversion

4.84 Diversion refers to measures that directly divert children away from the youth justice system and into alternative programs and supports.⁹⁷ It is a key aspect of the reforms sought, to implement the principle that children are only placed in detention as a last resort.

4.85 The importance of diversion was set out by the Australian and New Zealand Children's Commissioners, Guardians and Advocates (ANZCCGA):

The evidence is well-established and clear – the younger a child is when they come into contact with the justice system, the greater the likelihood that they will continue to offend, that their offences will become more serious in nature, and that they will progress to engagement with the adult justice system. The diversion of matters away from the criminal justice system and into appropriate alternative programs and support services should be the preferred option for children.⁹⁸

4.86 Diversion can include a wide range of measures, for example;

- providing therapeutic supports to a child experiencing a mental health episode, rather than arresting them;
- providing rehabilitation for a child who is behaving dangerously due to substance use instead of youth detention; and
- offering a restorative justice option to allow a child to understand how their actions hurt others, rather than the traditional court system.

4.87 During the inquiry, the committee heard about several effective diversionary programs that are in place in some communities. These programs will be discussed below to illustrate how the measures work in practice.

Therapeutic diversionary measures

4.88 Considerable evidence was received about the effectiveness of therapeutic diversionary measures, given the complex issues and trauma that affect many children engaged in childhood offending.

Multisystemic Therapy as an alternative to incarceration

4.89 Life Without Barriers discussed the effectiveness of Multi-systemic Therapy (MST) as an effective child-centred, therapeutic response to anti-social behaviour. It can be offered at any stage of a child's involvement with the youth

⁹⁶ Ms Karyn McCluskey, Private capacity, *Committee Hansard*, 26 June 2026, p. 15.

⁹⁷ Australian and New Zealand Children's Commissioners, Guardians and Advocates, *Submission 74 (47)*, p. 2.

⁹⁸ Dr Kristy Jennings, Deputy Chair, Aboriginal and Torres Strait Islander Health Faculty, Royal Australian College of General Practitioners, *Committee Hansard*, 3 July 2026, p. 25.

justice system, including as an 'intensive, community-based alternative to incarceration'.⁹⁹

- 4.90 This program is delivered by highly trained clinicians who work intensively with a child's caregivers and broader support systems, including their peers, school and community over a 3-to-5-month period.¹⁰⁰ The program seeks to transition the child back into education, employment and structured extracurricular activities while supporting caregivers to facilitate positive change and address their own issues.¹⁰¹
- 4.91 The committee understand that MST has been implemented in 15 countries and is proven to reduce offending behaviours while delivering broad social economic benefits to communities.¹⁰² Life Without Barriers submitted that trends seen in evaluation of MST programs across Australia and New Zealand demonstrate its ability to meet its core objectives of 'keeping young people safely at home, reducing offending, and supporting family stability'.¹⁰³
- 4.92 An evaluation in Queensland 18 months post-completion of an MST program found up to a 43 per cent reduction in reoffending and up to a 92 per cent reduction in nights in custody.¹⁰⁴ In 2025–26, eight programs with a total of 154 participants had results at discharge including 91 per cent of young people living at home and 73 per cent had no further arrests.¹⁰⁵
- 4.93 Life Without Barriers provided the following de-identified case study to highlight the effectiveness of MST:

J, a 15 year old male, presented with a history of high-risk offending (robbery, unlawful entry/ use of motor vehicle), frequent absconding, anti-social peer networks, and low participation in education and prosocial activities. The MST clinician supported J's caregivers to establish clear family structure and routines, increased supervision, and strengthened communication between home and school. At the end of treatment J had sustained positive change for 10 weeks - remaining at home, not committing any further offences, and attending school full time over this period. A six-week post-MST follow up confirmed that the family had been able to maintain this success, utilising the skills and plans they had gained during the program.¹⁰⁶

⁹⁹ Life Without Barriers, *Submission 95*, p. 13.

¹⁰⁰ Life Without Barriers, *Submission 95*, p. 21; Ferdinand Neligan, *Submission 72*, [p. 15].

¹⁰¹ Life Without Barriers, *Submission 95*, p. 21.

¹⁰² Life Without Barriers, *Submission 95*, p. 13.

¹⁰³ Life Without Barriers, *Submission 95*, p. 19.

¹⁰⁴ Ms Suellen Lembke, Manager, Life Without Barriers, *Committee Hansard*, 17 March 2026, p. 42.

¹⁰⁵ Ms Suellen Lembke, Manager, Life Without Barriers, *Committee Hansard*, 17 March 2026, p. 42.

¹⁰⁶ Life Without Barriers, *Submission 95*, p. 17.

Rehabilitation for alcohol and other drug abuse

4.94 As discussed in Chapter 2, alcohol and other drug (AOD) use is a risk factor for children and young people to become engaged with the youth justice system. Mrs Holmes from the Association of Alcohol and Other Drug Agencies NT explained that identifying substance use is important, but without addressing it through treatment the behaviour will continue, and detention alone will not stop the behaviour.¹⁰⁷ A key diversionary measure is rehabilitation for children dealing with drug and alcohol abuse.

4.95 The work of Queensland organisation, Youth Empowered Towards Independence (YETI), has focused on helping young people stop, reduce or be safer with alcohol or other drugs. YETI also work towards building the narrative that community-based AOD support and residential rehabilitation can be voluntary options for care, safety and change rather than a punitive response.¹⁰⁸

4.96 YETI provided a case study example of supporting 'RP', an Aboriginal teenager residing in Far North Queensland, to coordinate his voluntary admission to a residential drug treatment program and the impact this had on his life:

RP demonstrated strong commitment to treatment, successfully attending the program for two months. He went to Far North Queensland for a scheduled family visit before independently returning to the program to complete his final month of treatment. RP graduated from the program, with his mother and a YETI worker attending the graduation ceremony in recognition of his achievement.

RP has now returned to Far North Queensland and has secured employment. This represents a significant positive transition and reflects RP's engagement with rehabilitation, community connection, and future-focused planning.

His progress demonstrates substantial capacity for change when provided with culturally responsive, trauma-informed, and consistent support.¹⁰⁹

4.97 The committee also heard about Triple Care Farm, run by Mission Australia in the NSW Southern Highlands. This is a voluntary youth drug and alcohol program offering a withdrawal program or residential rehabilitation programs, with 6 months of aftercare.¹¹⁰ An evaluation found that six months after completing the program, 80 per cent of participants had a reduction in chronic use of AOD and were engaged in training or education, and 100 per cent were

¹⁰⁷ Mrs Stephanie Holmes, Executive, Association of Alcohol and Other Drug Agencies NT, *Committee Hansard*, 28 April 2026, pp. 26–27.

¹⁰⁸ Youth Empowered Towards Independence, *Submission 93*, p. 2.

¹⁰⁹ Youth Empowered Towards Independence, *Submission 93*, p. 11.

¹¹⁰ Justice Reform Initiative, *Submission 20 (47)*, pp. 35–36.

in stable housing.¹¹¹ It was reported that ‘for every \$1 invested in the program, approximately \$3 of social value was created’.¹¹²

Proposal for mandatory therapeutic orders

- 4.98 In her capacity as Churchill Fellow, Reserve Magistrate Jennifer Bowles, shared with the committee her proposal for a youth therapeutic order approach to divert young people from the youth justice system and into a mandatory stay in a rehabilitative environment.¹¹³
- 4.99 This would involve ‘appropriately assessed young people... initially attend secure yet homely service, progressively step down to less secure environments and participate in group and individual counselling, education and recreation’.¹¹⁴ Eligibility for the therapeutic order would involve existing substance abuse issues, and that the young person is a risk to themselves or other members of the community.¹¹⁵ A therapeutic order would not be a sentence, but progress under the order would be considered by the court in sentencing.¹¹⁶
- 4.100 These services would need to be provided by a professional workforce of psychiatrists, psychologists, or nurses rather than residential care workers.¹¹⁷ Consideration should also be given to ensuring culturally safe services for First Nations young people which may involve separate facilities.¹¹⁸
- 4.101 Reserve Magistrate Bowles described the need for mandatory youth therapeutic orders rather than a voluntary service model for young people who have very entrenched issues as:

The gap is that we need to give them time out of their chaotic lives by making a youth therapeutic order where, in a safe environment, they've got expert specialists working with them to deal with, like an onion, peeling back the trauma or the reason why they're using, and then working on them getting well. There's education—all the facilities I saw overseas had schools attached—or training and recreation for some structure into their day. As one of the clinicians said to me in Sweden, it's about the children looking at themselves in the mirror and seeing—where is my life heading? There are

¹¹¹ Justice Reform Initiative, *Submission 59*, [p. 15].

¹¹² Justice Reform Initiative, *Submission 20 (47)*, p. 36.

¹¹³ Reserve Magistrate Jennifer Bowles, *Submission 153 (47)*, p. 5.

¹¹⁴ Reserve Magistrate Jennifer Bowles, Churchill Fellow, *Committee Hansard*, 16 March 2026, p. 52.

¹¹⁵ Reserve Magistrate Jennifer Bowles, Churchill Fellow, *Committee Hansard*, 16 March 2026, p. 55.

¹¹⁶ Reserve Magistrate Jennifer Bowles, *Submission 153 (47)*, p. 6; Reserve Magistrate Jennifer Bowles, Churchill Fellow, *Committee Hansard*, 16 March 2026, pp. 52, 54.

¹¹⁷ Reserve Magistrate Jennifer Bowles, Churchill Fellow, *Committee Hansard*, 16 March 2026, p. 54.

¹¹⁸ Reserve Magistrate Jennifer Bowles, Churchill Fellow, *Committee Hansard*, 16 March 2026, p. 53.

other options which at the moment they're not in a position to see, because their world is so chaotic. So that's the gap: the fact that it's all voluntary at the moment, and there's a group of the most seriously substance affected kids that are not engaging.¹¹⁹

4.102 Reserve Magistrate Bowles provided evidence that based on costings, the daily operational costs of for this model are less than the costs of detention, particularly if the cumulative cost intergenerationally of not intervening is considered.¹²⁰

4.103 Although therapeutic orders would impose a restriction on individual liberty, the committee heard that focusing on a therapeutic rather than punitive purpose enhances the prospects of rehabilitation.¹²¹ It also mirrors effective approaches used internationally which are discussed below.

Restorative justice

4.104 Restorative justice refers to the use of restorative practices. This can be at the initial stage after offending has occurred, to directly divert individuals away from the criminal justice system, or at sentencing or after release from detention.¹²²

4.105 According to the Australian Association for Restorative Justice (AARJ), the most well-known restorative processes are facilitated meetings called group conferences. Group conferences support participants to 'reach a shared understanding of their situation, and then typically also to reach an agreement to improve it'.¹²³

4.106 Participation in these conferences can provide a healing response when someone has harmed someone else.¹²⁴ In its submission to the inquiry, the AARJ reported that evaluations over the least three decades have shown that 'well-facilitated group conferences dealing with incidents of harm can help those affected to heal from that harm, and reduce rates of reoffending'.¹²⁵

4.107 The committee heard that JSS has delivered Youth Justice Group Conferencing (YJGC) in Victoria since 2003 and the Northern Territory since 2016 with pre-plea and pre-sentencing options for children and young people aged 10 to 17.¹²⁶

¹¹⁹ *Committee Hansard*, 16 March 2026, p. 53.

¹²⁰ Reserve Magistrate Jennifer Bowles, *Submission 153 (47)*, p. 7.

¹²¹ Reserve Magistrate Jennifer Bowles, Churchill Fellow, *Committee Hansard*, 16 March 2026, p. 56.

¹²² Australian Association for Restorative Justice, *Submission 30 (47)*, p. 5.

¹²³ Australian Association for Restorative Justice, *Submission 30 (47)*, p. 5.

¹²⁴ Australian Association for Restorative Justice, *Submission 30 (47)*, p. 5.

¹²⁵ Australian Association for Restorative Justice, *Submission 30 (47)*, p. 5.

¹²⁶ Jesuit Social Services, *Submission 107*, p. 12; Jesuit Social Services, *Submission 71*, p. 9.

The goal is to divert young people from further or more serious offending by helping the young person see the impact of their actions and make amends for harm done.¹²⁷

4.108 JSS' Dr Simone Gristwood described the program as:

...bringing together a young person who has caused harm with those impacted by actions—including victims, family members and police—to allow the young person to take responsibility, make amends, restore the harm caused and be supported onto more positive pathways.¹²⁸

4.109 A 2022 paper found participation in YJGC was associated with a 26 to 40 per cent reduced likelihood of recurrent recidivism (controlling for individual propensity for recidivism and other predictors).¹²⁹

4.110 JSS provided the following case study example that demonstrates how the YJGC program works and its impact:

Mark and Quincy are two young Muslim men from Afghanistan – cousins – who were referred to Jesuit Social Services' YJGC aged 16. They were charged for a series of armed robberies of service stations and a later assault which had resulted in a breach of bail conditions. Both young men were on remand in Cherry Creek Youth Justice Precinct.

The YJGC Convenor met with Mark and Quincy multiple times ahead of a joint conference, as well as meeting with their families and with one victim. The conference was held jointly due to the possibility of a victim's attendance (avoiding the requirement for the victim to attend twice), the opportunity to reset family relationships, and the location of both young men.

Cultural workers were included in the conversations with Mark and Quincy, and they started to reengage with faith during the preparation period, and reconnected with a number of family members.

The conference was attended by 22 people, including an interpreter to support family members. It was held at the Cherry Creek Youth Justice Precinct training area. Victims did not ultimately attend, and a Victim Services Support and Reform representative represented two victims in the conference, recounting the direct victim impact on their behalf.

The conference was opened and closed with prayers by Mark and Quincy, and a break for prayer with their fathers and cultural workers during the conference.

Mark and Quincy were focused throughout the conference, answering all questions and listening intently as others spoke. Mark's sister read his letter

¹²⁷ Jesuit Social Services, *Youth Justice Group Conferencing*, <https://jss.org.au/programs/youth-justice-group-conferencing/> (accessed 15 July 2026).

¹²⁸ Dr Simone Gristwood, Executive Director, Justice, Jesuit Social Services, *Committee Hansard*, 16 March 2026, p. 33.

¹²⁹ Jesuit Social Services, *Submission 107*, p. 13; Dr Simone Gristwood, Executive Director, Justice, Jesuit Social Services, *Committee Hansard*, 16 March 2026, p. 33.

of apology to the victim. Both young men stood up to read their outcome plans.

During the conference, Quincy said: "I am honoured to have this chance, I promise not to disappoint any of you."

In the subsequent court return, Quincy received a 12-month Youth Attendance Order with conviction, and Mark received a 12-month Youth Supervision Order with no conviction.¹³⁰

Circle sentencing

4.111 Circle sentencing has been introduced in some jurisdictions for First Nations young people as a diversionary measure. This involves collaboration between the justice system and First Nations communities to increase trust and cooperation, by respecting cultural traditions and focusing on accountability and rehabilitation.¹³¹ Participation in circle sentencing has a positive effect on outcomes, with 'participants having lower rates of both imprisonment and recidivism compared to those sentenced through the traditional court process'.¹³²

4.112 SNAICC drew parallels to culturally informed and specialised courts in the child protection system, where more Aboriginal and Torres Strait Islander children being placed in kinship care and increased cultural connections.¹³³

4.113 The NSW Council for Civil Liberties explained the process as involving community members, Elders, the presiding Judge or Magistrate, and sometimes the victim or their representative. The process then involves a discussion of 'the offender's circumstances, the impact of the crime on the community and potential ways to address the underlying issues contributing to the offender's behaviour'.¹³⁴

4.114 For example, the Warrumbul Children's Circle Sentencing Court operates as an alternative sentencing model in the ACT Children's Court. However, participation in the Warrumbul Court requires the young person to plead guilty, which can impede participation in circle sentencing where pleading guilty may not be in the young person's best interests.¹³⁵

¹³⁰ Jesuit Social Services, *Submission 107*, p. 14.

¹³¹ NSW Council for Civil Liberties, *Submission 86 (47)*, pp. 9–10.

¹³² Just Reinvest NSW, *Submission 30*, p. 5.

¹³³ SNAICC, *Submission 173 (47)*, pp. 23–24.

¹³⁴ NSW Council for Civil Liberties, *Submission 86 (47)*, p. 10.

¹³⁵ ACT Aboriginal and Torres Strait Islander Children & Young People Commissioner Office, *Submission 96*, p. 8.

4.115 In the Mounty Yarns resource, ‘Lived Experiences of Aboriginal young people in Mt Druitt’, one contributor recounted their experience of going to Koori Court in positive terms:

I was so happy when I got accepted into the Youth Koori Court. In Youth Koori Court they actually see the effort you’re making, even the small things that feel big to you. In normal court, they don’t care how long it’s been between your offending.

...

At Youth Koori Court they actually give you a chance and listen to you. They listen to what you have to say and how you feel. They actually sit down and talk about what’s going on for you, so they can try and understand why you’ve ended up here. It’s not just people deciding what’s best for you without even knowing anything about you. It feels like they actually care and that they want to help you, not just lock you up. It definitely helps, stuff actually gets done. In other courts they just look at the charge and then look at you like that’s you. They only see one side.¹³⁶

Diagrama Foundation, Spain

4.116 Many submitters referred the committee to the Diagrama model in Spain.¹³⁷

4.117 Dr David McGuire, Chief Secretary of the Diagrama Foundation, gave evidence to the committee about the history of Spain’s incarceration of children to demonstrate the significance of the change seen over three decades in Spain.¹³⁸ He explained that this required a change in approach so that when a child commits a crime:

...we ask, ‘Why? What are their needs? What do we do to fulfil all those needs and to minimise the risk of reoffending when they go back to the community?’¹³⁹

4.118 The core principles which the Diagrama model is based on can be summarised as:

¹³⁶ Just Reinvest NSW, *Mounty Yarns: Lived Experiences of Aboriginal young people in Mt Druitt*, p. 29, <https://static1.squarespace.com/static/644e27ff8602074e9b8ef945/t/64fe4341bf2ec6376e5d5db8/1694385003181/Mounty+Yarns.pdf> (accessed 14 July 2026).

¹³⁷ See, for example, Interlace Advisory Pty Ltd, *Submission 32*, p. 3; NOFASD Australia, *Submission 56*, p. 18; Justice Reform Initiative, *Submission 59*, [pp. 25–27]; Mission Australia, *Submission 64*, p. 32; Youth Justice Special Interest Group of the SA Allies Network, *Submission 74*, pp. 7–8; Ms Shona Reid, Guardian for Children and Young People, Office of the Guardian for Children and Young People, South Australia, *Proof Committee Hansard*, 2 July 2026, pp. 5–6; Dr Lisa Ewenson, Chancellor’s Research Fellow, Faculty of Law, University of Technology Sydney, *Proof Committee Hansard*, 3 July 2026, pp. 3, 5.

¹³⁸ Mr David McGuire, Private capacity, *Proof Committee Hansard*, 26 June 2026, pp. 3–4.

¹³⁹ Mr David McGuire, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 4.

- Meeting children's human rights and treating them with dignity and respect.¹⁴⁰
- Focusing on relationships and rehabilitation including involving families and children being actively involved in the community, rather than on punishment.¹⁴¹ Children and young people are expected to progress towards 'greater autonomy, responsibility and community reintegration'.¹⁴²
- Providing staffing based on 'more resources where they are needed because the needs are higher'.¹⁴³ This includes psychologists, social workers, psychiatrists with university qualifications.¹⁴⁴
- Consistency in delivery across all locations where Diagrama runs.¹⁴⁵ This ensures children have the same experience at all locations, including if they need to move between places.¹⁴⁶

4.119 The South Australian Guardian for Children and Young People provided additional information in a Special Report about learnings from Diagrama, including observations of:

... environments that were structured but not punitive, therapeutic but not permissive, and relational without losing accountability. I spoke with young people who described feeling understood, supported and challenged. I also observed a workforce who had a deep understanding of the clear and practice framework and why it mattered. In short I observed a system built on relationship, with an unwavering child focus, that allowed the organisation to act with integrity and a high degree of operational confidence.¹⁴⁷

4.120 Dr McGuire noted that young people stay at Diagrama for an average nine to 12 months, with a minimum of six months required to build a good working relationship between staff and young people.¹⁴⁸

¹⁴⁰ Mr David McGuire, Private capacity, *Proof Committee Hansard*, 26 June 2026, pp. 4, 10.

¹⁴¹ Mr David McGuire, Private capacity, *Proof Committee Hansard*, 26 June 2026, pp. 4, 10.

¹⁴² South Australian Guardian for Children and Young People, additional information received 5 August 2026, pp. 9, 13.

¹⁴³ Mr David McGuire, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 7.

¹⁴⁴ Mr David McGuire, *Proof Committee Hansard*, 26 June 2026, p. 7; South Australian Guardian for Children and Young People, additional information received 5 August 2026, p. 9.

¹⁴⁵ Mr David McGuire, Private capacity, *Proof Committee Hansard*, 26 June 2026, pp. 4, 7, 10.

¹⁴⁶ South Australian Guardian for Children and Young People, additional information received 5 August 2026, p. 12.

¹⁴⁷ South Australian Guardian for Children and Young People, additional information received 5 August 2026, p. 4.

¹⁴⁸ Mr David McGuire, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 9.

4.121 In demonstration of the Diagrama program's effectiveness, Spain has seen a decline in children in custody from the Romani community from 85 per cent to two to five per cent, and from 90 per cent of children in custody being held on remand to ten per cent.¹⁴⁹

Justice reinvestment

4.122 Another key aspect of the reforms sought is justice reinvestment, which involves diverting a portion of the funds spent on incarceration to communities where there is a high concentration of young offenders.¹⁵⁰ Communities are then empowered to identify the best ways to use those funds to prevent and reduce contact with the justice system.¹⁵¹

4.123 As described by Just Reinvest NSW:

At its core, justice reinvestment is a preventative approach that seeks to understand and address the underlying drivers of crime, including factors like poverty, family dysfunction, addiction and mental illness... It involves investing in local solutions that strengthen communities and reduce the demand on the criminal justice system, ultimately generating cost-savings that can sustain these investments long-term.¹⁵²

4.124 The Attorney-General's Department explained that justice reinvestment should be 'long-term, place-based and community led' with a particular emphasis on First Nations leaders identifying 'local solutions to local issues':¹⁵³

...justice reinvestment is community led, and the very foundation of that means that there are different solutions in different communities. Some may share some principles and approaches that work, but I think that the real importance of JR [justice reinvestment] is that the community led aspect is absolutely paramount. It's not governments, it's not systems, it's not anyone dictating to communities what the best solutions are. It's communities who know their people, who know their issues, who are telling governments, who are telling institutions, 'This is how we need you to work with us to address youth contact with justice systems in our communities, and we need you to get on board with how we need you to operate.'¹⁵⁴

4.125 In discussing the benefits of justice reinvestment, Social Reinvestment WA stated:

Justice reinvestment approaches that are centred on early intervention and therapeutic support are more cost-effective than crisis and bed-based

¹⁴⁹ Mr David McGuire, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 4.

¹⁵⁰ Mission Australia, *Submission 64*, p. 24.

¹⁵¹ Attorney-General's Department, *Submission 204 (47)*, p. 5.

¹⁵² Just Reinvest NSW, *Submission 30*, p. 2.

¹⁵³ Attorney-General's Department and National Indigenous Australians Agency, *Submission 105*, p. 2.

¹⁵⁴ Ms Cassie Woods, Assistant Secretary, First Nations Justice Branch, Attorney-General's Department, *Committee Hansard*, 3 July 2026, p. 68.

services, such as prisons and emergency department. The added benefit of these types of initiatives is they improve social outcomes in areas broader than justice, such as education and employment, and generate fiscal savings and net benefits.¹⁵⁵

States and territories have a significant role to play in supporting justice reinvestment, as well as service delivery and policy reforms, to address the drivers of incarceration... Engagement with state and territory governments on justice reinvestment continues bilaterally and through appropriate ministerial forums, including [Standing Council of Attorneys-General].¹⁵⁶

National Justice Reinvestment Programs

4.126 National Justice Reinvestment Programs are funded by the Australian Government with additional funding to support justice reinvestment initiatives in the Central Australia region of the Northern Territory.¹⁵⁷

4.127 At the time evidence was provided to the committee, 28 justice reinvestment initiatives were being funded by the Australian Government - 26 through the National program and two through the Central Australia program.¹⁵⁸ This includes 13 initiatives focused on youth justice, accounting for more than 50 per cent of the total investment to date.¹⁵⁹

4.128 In Western Australia, the committee heard there are six funded justice reinvestment sites around the state, with a further seven being developed.¹⁶⁰ Ms Sophie Stewart, Chief Executive Officer of Social Reinvestment WA, highlighted the justice reinvestment program in Derby, WA, based on a Scottish model of 'needs, not deeds'.¹⁶¹ Ms Stewart said:

We have a total lack of third spaces—places to send and support young people who have complex needs and really need extra support, both in the community and as alternatives to prison. We know this has worked in places like Scotland, where their 'needs, not deeds' model has meant that they have small, purpose based facilities for children who the community and community programs haven't been able to support properly but who still

¹⁵⁵ Social Reinvestment WA, *Submission 138* (47), p. 19.

¹⁵⁶ Attorney-General's Department, *Submission 204* (47), p. 6.

¹⁵⁷ Attorney-General's Department, *Submission 204* (47), p. 5.

¹⁵⁸ The National program has \$69 million in funding over 4 years in the 2022–23 Budget and ongoing funding of \$20 million per year from 2026–27. The Central Australia program had an additional \$10 million over 4 years allocated in the 2023–24 Budget. Attorney-General's Department, *Justice Reinvestment*, <https://www.ag.gov.au/legal-system/justice-reinvestment> (accessed 27 July 2026); Attorney-General's Department and National Indigenous Australians Agency, *Submission 105*, p. 2; Attorney-General's Department, *Submission 204* (47), p. 5.

¹⁵⁹ Attorney-General's Department and National Indigenous Australians Agency, *Submission 105*, p. 3.

¹⁶⁰ Social Reinvestment WA, *Submission 42*, pp. 12–13.

¹⁶¹ Ms Sophie Stewart, Chief Executive Officer, Social Reinvestment WA, *Committee Hansard*, 17 March 2026, p. 30.

need that extra support. Because of that, they have been able to release all children from traditional prisons across Scotland.

One of the federal investment in justice reinvestment sites in Derby, run by Emama Nguda, has tried to respond to this. They run a boarding house, which they use. They've got JR [justice reinvestment] funding, but the boarding house is funded by Education. So they are able to help. They are helping more than 40 kids in the Derby community to stay safe, to have a safe place to sleep, live, be fed and go to school while school is on. Unfortunately, their funding obligations allow them to care for young people only during the school term, which means that in school holidays a lot of these young people get released back out, and crime can spike again.¹⁶²

4.129 Another justice reinvestment program in Western Australia is Old Ways New Ways, run by the Aboriginal Legal Service of Western Australia Limited with local Aboriginal not-for-profit organisations.¹⁶³ This program provides Aboriginal young people engaged with the youth justice system with services and support depending on their needs, including case management, mentoring, transport assistance, cultural or education activities.¹⁶⁴ Mr Liam Anthony told the committee about success stories seen in young people who engaged with the programs, including improved health, relationships with family and peers, and engagement with formal education or employment.¹⁶⁵

4.130 In March 2025, on Groote Eylandt off the coast of the Northern Territory, the Anindilyakwa Land Council opened a 32-bed Healing Centre, operated by Drug and Alcohol Services Australia.¹⁶⁶ The Healing Centre offers 'culturally appropriate community-based residential rehabilitation for young men aged 17 to 25' as an alternative to prison in Darwin.¹⁶⁷ The committee heard that supporting ACCOs doing on-country bail with programs like the Healing Centre 'worked really well for the local people' because it is evidence based and

¹⁶² Ms Sophie Stewart, Chief Executive Officer, Social Reinvestment WA, *Committee Hansard*, 17 March 2026, p. 30.

¹⁶³ Aboriginal Legal Service of Western Australia, *Submission 51*, pp. 4, 9.

¹⁶⁴ Aboriginal Legal Service of Western Australia, *Submission 51*, p. 9.

¹⁶⁵ Mr Liam Anthony, Senior Program Manager, Old Ways New Ways, Aboriginal Legal Service of Western Australia, *Committee Hansard*, 17 March 2026, p. 34; Aboriginal Legal Service of Western Australia, *Submission 51*, pp. 11–14.

¹⁶⁶ Justice Reform Initiative, *Submission 59*, [p. 20]; Anindilyakwa Land Council, *6 Local Decision Making Agreements*, <https://anindilyakwa.com.au/future-groote/6-local-decision-making-agreements/> (accessed 14 August 2026).

¹⁶⁷ Justice Reform Initiative, *Submission 59*, [p. 20].

culturally safe.¹⁶⁸ It received \$11 million in funding for four years of operation by the Northern Territory Government.¹⁶⁹

Just Reinvest NSW

4.131 Before the national justice reinvestment program was launched, there were several local justice reinvestment programs running in New South Wales.

4.132 These include programs run by Just Reinvest NSW working with communities in Bourke (Maranguka), Moree, Mount Druitt, Kempsey and the Macleay Valley, and Nowra.¹⁷⁰ These programs are designed to ‘circuit breaker’ issues identified as present in their local community that drive incarceration.¹⁷¹ These are different for each community, and may vary between access to health, education, or basic infrastructure.¹⁷²

4.133 The Maranguka Justice Reinvestment initiative is a collaboration between Just Reinvest NSW, local police, elders and the community of Bourke NSW. It has developed through building trust and partnership between these members, and implementing initiatives to address young people breaching bail, outstanding warrants and a learner driver program.¹⁷³ Maranguka has used data on outcomes provided to the community to develop a strategy, ‘Growing Our Kids Up Safe, Smart and Strong’.¹⁷⁴

4.134 For participants in Maranguka, the program has shown results of a 38 per cent reduction in committing major offences, and 43 per cent reduction in days spent in custody.¹⁷⁵ With an operating cost of \$600 000, Maranguka had demonstrated a gross impact of \$3.1 million.¹⁷⁶

¹⁶⁸ Ms Anna Gill, Principal Legal Officer, North Australian Aboriginal Justice Agency, *Committee Hansard*, 29 April 2026, p. 26; Mr Matthew Connop, Deputy Chief Executive Officer, North Australian Aboriginal Justice Agency, *Committee Hansard*, 29 April 2026, p. 27.

¹⁶⁹ Justice Reform Initiative, *Submission 59*, p. [20].

¹⁷⁰ Just Reinvest NSW, *Communities*, <https://www.justreinvest.org.au/> (accessed 6 August 2026).

¹⁷¹ Mr Ian Brown, Community Data Manager, Just Reinvest NSW, *Committee Hansard*, 10 April 2026, pp. 42–43.

¹⁷² Mr Ian Brown, Community Data Manager, Just Reinvest NSW, *Committee Hansard*, 10 April 2026, p. 42.

¹⁷³ Just Reinvest NSW, Bourke Maranguka, <https://www.justreinvest.org.au/community/bourke-maranguka/> (accessed 14 August 2026).

¹⁷⁴ Just Reinvest NSW, Bourke Maranguka, <https://www.justreinvest.org.au/community/bourke-maranguka/> (accessed 14 August 2026); Australian Association of Social Workers, *Submission 84*, p. 8.

¹⁷⁵ Australian Lawyers Alliance, *Submission 49*, pp. 12–13; Mission Australia, *Submission 64*, p. 24.

¹⁷⁶ Royal Australian College of General Practitioners, *Submission 37*, p. 2; Justice Reform Initiative, *Submission 59*, [p. 21].

- 4.135 In the course of this inquiry, the committee also had the opportunity to conduct a site visit to Mounty Aboriginal Youth & Community Services (MAYCS) in Mount Druitt, NSW. MAYCS is a youth-led, community-controlled organisation which runs programs to create a safer community and advocate for change such as through an OzTag program, learner driver mentors program and youth support.¹⁷⁷
- 4.136 Part of MAYCS' advocacy is Mounty Yarns, a project to gather stories, expertise and knowledge of the impact on Aboriginal young people from lived experience of the youth justice system.¹⁷⁸ Mounty Yarns consists of an official film¹⁷⁹ and corresponding resource 'Mounty Yarns: Lived Experiences of Aboriginal Young People in Mt Druitt' (Mounty Yarns Resource).¹⁸⁰

Examples from the United States of America

- 4.137 The committee heard from Mr Vincent Schiraldi, founder of Youth Correctional Leaders for Justice, about the approach taken in New York City to reduce juvenile crime rates by changing the approach. New York City decided to no longer send children and young people to state custody, which cost around USD\$130 000.¹⁸¹ Instead, not for profit organisations run facilities of around six to ten beds for children offering wrap around support, education and rehabilitation including post-release. This has led to a 53 per cent decline in juvenile crime.¹⁸²
- 4.138 Having multiple, smaller facilities was also part of the 'Close to Home' program which required all facilities to be within the City of New York or a 20-mile radius to improve accessibility for family visitation.¹⁸³ Mr Schiraldi noted that children are overwhelmingly going to return to the home after being in custody, hence the focus on family therapy.¹⁸⁴

¹⁷⁷ Just Reinvest NSW, *Mt Druitt*, <https://www.justreinvest.org.au/community/mt-druitt/> (accessed 14 August 2026).

¹⁷⁸ Koorie Youth Council and Mounty Aboriginal Youth & Community Services, *Submission 83* (47), p. 2.

¹⁷⁹ Just Reinvest NSW, *Mounty Yarns | Official Film*, 23 March 2023, www.youtube.com/watch?v=Bni2BDutOgo&t=212s (accessed 14 July 2026).

¹⁸⁰ Koorie Youth Council and Mounty Aboriginal Youth & Community Services, *Submission 83* (47), p. 2; Just Reinvest NSW, *Mounty Yarns: Lived Experiences of Aboriginal young people in Mt Druitt*, <https://static1.squarespace.com/static/644e27ff8602074e9b8ef945/t/64fe4341bf2ec6376e5d5db8/1694385003181/Mounty+Yarns.pdf> (accessed 14 July 2026).

¹⁸¹ Mr Vincent Schiraldi, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 2.

¹⁸² Mr Vincent Schiraldi, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 2.

¹⁸³ Mr Vincent Schiraldi, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 6.

¹⁸⁴ Mr Vincent Schiraldi, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 6.

4.139 Mr Schiraldi also spoke to the committee about young people's susceptibility to peer influence leading to committing offences, and that grouping young people together with others who are facing the same problems magnifies existing issues.¹⁸⁵ This explains why diversion and programs targeted at meeting needs of children at risk of entering the youth justice system are necessary.

4.140 Ms Matelina Aulava, the Administrator of the Kawaiola Youth and Family Wellness Center, gave evidence about the approach taken to justice reinvestment in Hawaii where there is currently a single 437-acre campus operating where:

There is only one secure facility, but all of the different programs are on there. We have programs for homeless youth, for sex trafficked youth and for vocational youth. We have transitional homes. We have stepdown programs for mental health. It is so critical to make sure that wraparound services are around this youth.¹⁸⁶

4.141 Incarcerating one child for a year used to cost Hawaii around \$1 million,¹⁸⁷ similar to in Australia. Ms Aulava explained that a justice reinvestment approach has been taken to invest in wraparound services and diversion programs, rather than incarceration, particularly for crimes like missing court dates or skipping school.¹⁸⁸

4.142 Ms Aulava clarified that an increased focus on community, particularly engaging elders of Indigenous communities, was crucial to transform the Hawaii Youth Correctional Facility into a healing approach.¹⁸⁹

4.143 The committee heard about the four core principles of the *Juvenile Justice and Delinquency Prevention Act 1974* (USA), which are the basis of federal block funding grants to the states for the youth justice system.¹⁹⁰ Mr Schiraldi explained that if states did not comply with these principles, they would lose a proportion of their federal funding.¹⁹¹

¹⁸⁵ Mr Vincent Schiraldi, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 8.

¹⁸⁶ Ms Matelina Aulava, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 5.

¹⁸⁷ Ms Matelina Aulava, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 5.

¹⁸⁸ Ms Matelina Aulava, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 5.

¹⁸⁹ Ms Matelina Aulava, Private capacity, *Proof Committee Hansard*, 26 June 2026, pp. 11, 13.

¹⁹⁰ The core requirements are: 'keep kids out of adult facilities, keep them separate from adults if they are in adult facilities, stop locking up status offenders and address racial disparities'. Mr Vincent Schiraldi, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 6.

¹⁹¹ Mr Vincent Schiraldi, Private capacity, *Proof Committee Hansard*, 26 June 2026, p. 16.

Chapter 5

Calls for national minimum standards

- 5.1 Throughout the inquiry, the committee received a significant volume of evidence in support of national minimum standards regarding children in conflict with the law in Australia. This chapter considers the evidence regarding the principles that would underpin proposed national standards and implementation as well as specific standards that are recommended for inclusion under a national regime.
- 5.2 Youth justice laws and practices are fragmented across Australian jurisdictions. The point was repeatedly made to the committee that this fragmentation results in significant differences in the treatment of children across states and territories including inconsistent levels of protection, rehabilitation and diversion of young people which is inequitable.¹ The overall impact is explained by the Australian Childhood Foundation:

Accountability mechanisms are fragmented: oversight regimes, complaint processes and access to independent scrutiny differ between states and territories; there is no unified national enforcement mechanism ensuring consistent compliance with children's rights in detention. This fragmentation undermines effective remedies, comparative policy learning and the consistency demanded by Australia's treaty obligations.²

Principles underlying national minimum standards for youth justice

- 5.3 Witnesses to the inquiry identified several underlying principles which they argued should inform the implementation and operation of national minimum standards. These included requirements that national standards be:
- enforceable with ongoing oversight and monitoring;
 - consistent with Australia's obligations and commitments;
 - based in evidence and lived experience; and
 - applied holistically across Australia's youth justice system.

¹ Coalition against the Pontville Youth Justice Facility, *Submission 7*, [p. 3]; Australian Child Rights Taskforce, *Submission 44*, p. 2; Multicultural Youth Advocacy Network, *Submission 45 (47)*, pp. 24–25; Amnesty International, *Submission 89 (47)*, [p. 8].

² Australian Childhood Foundation, *Submission 78*, p. 6.

Enforceability with ongoing oversight and monitoring

- 5.4 The committee was told by many submitters to the inquiry that any minimum standards introduced in youth justice need to be enforceable and therefore subject to ongoing oversight and monitoring.³
- 5.5 The committee was informed that Australia's current minimum standards for youth justice are established in the Australasian Youth Justice Administrators' *Standards for Youth Justice* (the AYJA Standards).⁴ The AYJA Standards are described as having been developed taking into account a number of international obligations and standards.⁵ The Justice Reform Initiative described the AYJA Standards as being 'modelled closely on the United Nations (UN) Rules for the Protection of Juveniles Deprived of their Liberty'.⁶
- 5.6 However, the AYJA Standards are not binding. Save the Children and 54 Reasons, as well as the Australian Human Rights Commission (AHRC) noted that the AYJA Standards are described as 'aspirational' rather than mandatory.⁷
- 5.7 The AHRC explained to the committee that the AYJA Standards include a peer review mechanism, whereby youth justice administrators from other jurisdictions can review alignment to the principles using a checklist. However, while they welcomed this review process, they emphasised that 'participation by jurisdictions remains voluntary, and implementation of recommendations coming out of the review will be at the discretion of the host agency'.⁸
- 5.8 The committee heard from multiple witnesses that the voluntary nature of the AYJA Standards had not been adequate. As the AHRC summarised:
- Given the concerns raised about the rights and wellbeing of children in detention in a large number of reports and inquiries, it is evident that these non-binding Standards have been insufficient to ensure the protection of children.⁹

³ Multicultural Youth Advocacy Network, *Submission 45 (47)*, p. 24; ACCGA, *Submission 45*, p. 5; Australian Network of Councils of Social Service, *Submission 25*, p. 6; National Legal Aid, *Submission 46*, p. 9.

⁴ Australasian Youth Justice Administrators, *National Standards for Youth Justice in Australia 2023*, October 2023; Justice Reform Initiative, *Submission 20 (47)*, p. 5.

⁵ Australasian Youth Justice Administrators, *National Standards for Youth Justice in Australia 2023*, October 2023, p. 20.

⁶ Justice Reform Initiative, *Submission 20 (47)*, p. 5.

⁷ Save the Children and 54 Reasons, *Submission 56 (47)*, p. 12; Australian Human Rights Commission, *Submission 65 (47)*, p. 17; Australasian Youth Justice Administrators, *National Standards for Youth Justice in Australia 2023*, October 2023, p.3.

⁸ Australian Human Rights Commission, *Submission 65 (47)*, p. 17.

⁹ Australian Human Rights Commission, *Submission 65 (47)*, pp. 17–18.

- 5.9 Similarly, Professor Andrew Day expressed the view that state and territory approaches to quality assurance in youth justice, including the AYJA national standards, have ‘failed to improve outcomes for both justice-involved children and young people and the wider community’.¹⁰ Professor Day continued:

They are not consistently applied or audited and a core issue is the absence of any nationally agreed mechanism to assess or assure service quality. Of most concern perhaps, there is currently no way to know if a child leaves a youth justice service in a better or worse position than when they arrived and – indeed – if the efforts of the agency result in any appreciable or observable reduction in risk of further offending.¹¹

- 5.10 The AHRC also told the committee that some states and territories had established their own standards which focused on the treatment of children and young people in detention. However, it noted that ‘these standards are not consistent between jurisdictions, with variability in data collection, public reporting, accessible complaints mechanisms and consequences for improper conduct’.¹²
- 5.11 The Australian Child Rights Taskforce drew attention to the importance of a ‘framework of coordinated governance arrangements’.¹³ Similarly, Orygen highlighted the need for coordination in relation to national minimum standards as well as federal leadership.¹⁴
- 5.12 Save the Children and 54 Reasons suggested that enforcement could be achieved through ‘uniform national law or subordinate legislation and/or intergovernmental agreements between the Australian and State and Territory Governments, as well as strong and independent monitoring and oversight arrangements’.¹⁵
- 5.13 Similarly, the Justice and Equity Centre recommended that the Commonwealth incorporate the UN Convention on the Rights of the Child into Australian law through a National Children’s Act.¹⁶ To this end, several submitters expressed their support for Recommendation 4 of the AHRC’s ‘*Help way earlier!*’ report, which recommended that ‘[t]he Australian Government incorporates the

¹⁰ Professor Andrew Day, *Submission 116*, pp. 1–2.

¹¹ Professor Andrew Day, *Submission 116*, p.2.

¹² Australian Human Rights Commission, *Submission 65 (47)*, p. 18.

¹³ Australian Child Rights Taskforce, *Submission 44*, p. 2.

¹⁴ Orygen, *Submission 10*, p. 2.

¹⁵ Save the Children and 54 Reasons, *Submission 56 (47)*, p. 12.

¹⁶ Justice and Equity Centre, *Submission 66*, p. 8.

Convention on the Rights of the Child into Australian law through a National Children's Act as well as a federal Human Rights Act'.¹⁷

- 5.14 In advocating for the introduction of Commonwealth legislation, the Justice and Equity Centre drew on legal advice, the 'National Child Rights Advice' to confirm that the Commonwealth has the necessary constitutional power to legislate for national minimum standards. It noted in this regard:

The National Child Rights Advice confirms that the Commonwealth Parliament has the constitutional power to legislate to protect children in state and territory criminal legal systems. We consider that national legislation is necessary to remedy the inconsistent and uncoordinated approaches to legal protections of child rights across Australia and protect Australia's children from harmful laws being passed by state and territory governments across the country.¹⁸

- 5.15 It was also suggested that standards might be implemented through changes to the *Crimes Act 1914*. The Law Council of Australia recommended a review of section 20C of the Crimes Act, which allows children to be tried for Commonwealth offences in line with state or territory laws, in order to ensure that 'prosecutions and sentencing of child offenders for Commonwealth prosecutions are in line with Australia's international human rights obligations'.¹⁹
- 5.16 In terms of enforcement, Ms Anne Hollonds AO suggested that not only is a nationally coordinated approach required but that 'funding agreements with the states and territories that can be used as levers for implementation of evidence-based policy and practice reform'.²⁰
- 5.17 Similarly, Professor Day focused on a funding-based approach. In this regard, he drew the committee's attention to accreditation standards in health, disability and children's services which must be met as a requirement to operate and

¹⁷ Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing*, August 2024, pp. 12, 29–31. See, for example Network of Councils of Social Service, *Submission 80 (47)*, pp. 6, 14–15; Anglicare Southern Queensland, *Submission 57*, p. 4; Justice and Equity Centre, *Submission 66*, pp. 5, 8–10; South Australian Council of Social Service, *Submission 104 (47)*, p. 7; knowmore, *Submission 168 (47)*, pp. 7, 12.

¹⁸ Justice and Equity Centre, *Submission 66*, p. 8.

¹⁹ Ms Tania Wolff, President, Law Council of Australia, *Committee Hansard*, 3 July 2026, pp. 5–6; Ms Tania Wolff, President, Law Council of Australia, answers to questions on notice, 3 July 2026 (received 5 August 2026), pp. 2–3. See also, Law Council of Australia, *Submission 112*, p. 4.

²⁰ Ms Anne Hollonds AO, *Committee Hansard*, 3 July 2026, p. 59. The use of policy and funding levers by the Commonwealth was also raised by other submitters including Ms Deborah Tsorbaris, National Children's Commissioner, Australian Human Rights Commission, *Committee Hansard*, 2 July 2026, p. 11.

receive Commonwealth funding. Professor Day suggested that these could form a model for enforcing minimum standards for youth justice.²¹

5.18 The committee also heard evidence that a federal body could be established to provide oversight of the application and adherence to national standards. The National Organisation for Fetal Alcohol Spectrum Disorders (NOFASD) Australia suggested that such a body should have ‘powers to monitor and ensure compliance with national standards across all states and territories, addressing violations promptly’.²²

5.19 In relation to accountability, National Legal Aid argued that the implementation of national standards required adequate oversight and scrutiny as well as improved data and reporting.²³ In regard to oversight, the Australian Child Rights Taskforce drew attention to the importance of monitoring:

Addressing the issues identified by existing monitoring (such as the misuse of solitary confinement, instances of mistreatment and inappropriate practices and lack of attention to health, wellbeing, education and development) will be required with guidance from Australian and international best practice.

...

Skilled monitoring by qualified bodies establishes baseline standards for treatment. There must be ongoing monitoring, measures to ensure effective implementation and penalties for inaction.²⁴

Consistency with Australia’s obligations and commitments

5.20 A large number of submitters emphasised that any minimum standards should be guided by Australia’s obligations under various international agreements to which it is a party.²⁵

5.21 Submitters to the inquiry highlighted relevant treaties and rules which should be reflected in minimum standards included:

- the United Nations Convention on the Rights of the Child (UNCRC);
- the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules);
- the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules);

²¹ Professor Andrew Day, *Submission 23 (47)*, p. 8.

²² National Organisation for Fetal Alcohol Spectrum Disorders Australia, *Submission 27 (47)*, p. 10.

²³ National Legal Aid, *Submission 46*, p. 9.

²⁴ Australian Child Rights Taskforce, *Submission 44*, [p. 4].

²⁵ See, for example United Nations Youth Australia, *Submission 1*, p. 2; Australian Child Rights Taskforce, *Submission 44*, p. 3; Legal Aid Western Australia, *Submission 68*, pp. 3, 11; Victorian Aboriginal Child and Community Agency, *Submission 70*, pp. 25–27; Gilbert and Tobin, *Submission 177*, pp. 51–57.

- the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules);
- the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT); and
- the Declaration on the Rights of Indigenous Peoples.²⁶

5.22 Ms Hollonds AO, former National Children's Commissioner described the UNCRC as a 'practical tool' to guide minimum standards in Australia. Ms Hollonds told the committee that:

I sometimes call it a compass to help us make better decisions. That's what other countries have done. ... Other countries have passed special legislation that incorporates the Convention on the Rights of the Child. It means there is an accountability lever there so that the states and territories can't pass laws that actually make it worse for children.²⁷

5.23 The content of and obligations imposed by these treaties are outlined in Appendix 3 of this report.

Based in evidence and informed by lived experience

5.24 Submitters to the inquiry emphasised that minimum standards should be based in robust evidence and informed by the lived experiences and insights of young people.²⁸ The Queensland Synod of the Uniting Church in Australia told the committee that systems reform needed to be based on 'data and evidence' and embed 'accountability for the rights of children'.²⁹ The Australian Youth Affairs Coalition similarly argued that minimum standards must align 'with both our international obligations and evidence-based best practice'.³⁰

5.25 Submitters also made the point that standards should set clear, measurable metrics for success which allow for ongoing evaluation. The Justice Health Group, for example, argued that standards for healthcare in detention settings should be both measurable and publicly reported. They emphasised to the committee that:

Aspirational and subjective standards are not sufficient to drive quality improvement. Similarly, so-called 'process indicators' that do not require quantification of healthcare inputs or health outcomes are inadequate. Effective standards must define and permit quantification of investments in

²⁶ See, for example Australian Childhood Foundation, *Submission 78*, p. 7; Victorian Aboriginal Child and Community Agency, *Submission 70*, pp. 25–27; Anti-Slavery Australia, *Submission 221 (47)*, pp. 12–16.

²⁷ Ms Anne Hollonds AO, Private capacity, *Committee Hansard*, 10 April 2026, p. 5.

²⁸ Australian Children's Commissioners, Guardians and Advocates, *Submission 45*, p. 2.

²⁹ Uniting Church in Australia, Queensland Synod, *Submission 54 (47)*, p. 26.

³⁰ Australian Youth Affairs Coalition, *Submission 156 (47)*, pp. 7–8. See also Australian Psychological Society, *Submission 69 (47)*, p. 3.

detention healthcare (e.g., expenditure, [full time equivalent] healthcare staff), and health outcomes for children in and released from detention.³¹

- 5.26 The committee also heard that this evidence base needs to take into account the lived experience of children and communities. Multicultural Youth Advocacy Network made the point that reform to the youth justice system should be underpinned by up-to-date evidence that:

Examines the lived experience of multicultural young people, families and communities in the youth justice system to better understand drivers of multicultural youth offending in our community and the long-term trend in overrepresentation of different cohorts of multicultural youth in the justice system.³²

- 5.27 Similarly, many submitters such as the Victorian Aboriginal Child and Community Agency as well as the Wiyi Yani u Thangani Institute for First Nations Gender Justice argued for the need of Aboriginal communities and organisations to play a key role in policy development and program implementation.³³
- 5.28 The point was also made to the committee by Mission Australia that a lived experience workforce should also be embedded into the youth justice sector.³⁴ Interlace Advisory similarly recommended that youth leadership and lived experience be embedded in the youth justice system by providing ‘clear avenues and support’ for young people with lived experience to join the youth justice workforce.³⁵

Holistic approach to youth justice

- 5.29 Multiple witnesses told the committee that any standards should not only cover custodial settings but apply holistically and consistently across each stage of the justice system.
- 5.30 In this regard, the Multicultural Youth Advocacy Network recommended that standards should cover ‘the spectrum of young people’s contact with the justice system from contact with police, a stronger youth diversion strategy, entering and exiting the justice system and post-release supports’.³⁶ It also argued the

³¹ Justice Health Group, *Submission 114 (47)*, [p. 5].

³² Multicultural Youth Advocacy Network, *Submission 45 (47)*, pp. 24–25.

³³ Victorian Aboriginal Child and Community Agency, *Submission 70*, p. 26; Wiyi Yani u Thangani Institute for First Nations Gender Justice, *Submission 62*, p. 6. See also, Youth Empowered Towards Independence, *Submission 93*, p. 1.

³⁴ Mission Australia, *Submission 64*, p. 33.

³⁵ Interlace Advisory, *Submission 32*, p. 3.

³⁶ Multicultural Youth Advocacy Network, *Submission 45 (47)*, p. 24.

point that enforceable national standards when applied across the country would create a more equitable and effective system.³⁷

- 5.31 Ms Eva Lazzaro, Policy and Advocacy Lead of Smart Justice for Young People (SJYP), agreed that national standards ‘need to span across prevention, early intervention, a justice response and a community reintegration response’.³⁸ Ms Anoushka Jeronimus, Co-convenor of SJYP, explained their reasoning for standards with a broader focus than detention:

... if we only focus on making their treatment in detention and the justice response rights compliant, we are missing the opportunity and not actually having a shared approach to helping children and young people across Australia—every child—to thrive in life. Then we will continue to rely on the criminal justice system to solve all of the ills of the systems that come before it and after it.³⁹

- 5.32 Submitters also made the point that youth justice standards should be coordinated with existing standards and guidance for other relevant systems, such as out-of-home care and mental health.⁴⁰ Angela Sdrinis Legal argues that this alignment would:

... ensure consistent treatment and better outcomes for children who have experienced trauma, preventing them from falling through the cracks and ending up in the justice system in the first place.⁴¹

Specific national standards

- 5.33 The committee heard a range of suggestions for inclusion under a national standards framework. As a case in point, UNICEF Australia outlined a range of specific requirements that could be included such as:

access to education, health care and legal assistance in justice settings; well-trained, culturally safe, trauma informed workforces; the prohibition of harmful practices, such as solitary confinement and spit hoods; a minimum age of criminal responsibility of at least 14; the use of detention as a last resort; and robust data collection, monitoring and accountability mechanisms.⁴²

³⁷ Multicultural Youth Advocacy Network, *Submission 45 (47)*, p. 24.

³⁸ Ms Eva Lazzaro, Policy and Advocacy Lead, Smart Justice for Young People, *Committee Hansard*, 16 March 2026, p. 39.

³⁹ Ms Anoushka Jeronimus, Co-convenor, Smart Justice for Young People, *Committee Hansard*, 16 March 2026, p. 40.

⁴⁰ See, for example Centre for Excellence in Therapeutic Care, *Submission 59 (47)*, pp. 2, 8, 11; Angela Sdrinis Legal, *Submission 223 (47)*, pp. 24–25.

⁴¹ Angela Sdrinis Legal, *Submission 223 (47)*, pp. 24–25.

⁴² Ms Louisa Yasukawa, Advocacy and Policy Manager, UNICEF Australia, *Committee Hansard*, 3 July 2026, p. 32.

5.34 While some submitters like UNICEF Australia proposed a range of national standards, the most prominent recommendations received by the committee focused on the following five key areas:

- minimum age of criminal responsibility;
- detention as a last resort and for the least amount of time;
- prohibition of harmful practices;
- access to health, education and other supports;
- connection to community and culture; and
- minimum training for staff.

Minimum age of criminal responsibility

5.35 Overwhelmingly, witnesses to the inquiry argued that the minimum age of criminal responsibility (MACR) should be raised to 14 years across all Australian jurisdictions without delay.⁴³

5.36 Currently, most Australian states and territories set a MACR of 10 years old, with the exception of Victoria, which sets it at 12, and the Australian Capital Territory (ACT) which sets it at 14. The MACR for federal crimes is also 10 years.⁴⁴ By contrast, the UN Committee on the Rights of the Child recommends a MACR of 14. In this regard, the Australian and New Zealand Children's Commissioners, Guardians and Advocates (ANZCCGA) drew the committee's attention to General Comment 24 from the Committee on the Rights of the Child which indicates that the standard should be 14 years of age.⁴⁵

5.37 The United Nations Committee on the Rights of the Child explained the rationale for setting the MACR at 14 years:

Documented evidence in the fields of child development and neuroscience indicates that maturity and the capacity for abstract reasoning is still evolving in children aged 12 to 13 years due to the fact that their frontal cortex is still developing. Therefore, they are unlikely to understand the impact of their actions or to comprehend criminal proceedings.⁴⁶

5.38 Other witnesses provided further evidence in support of this position. The Justice and Equity Centre (JEC) told the committee that setting the age under 14

⁴³ Royal Australian and New Zealand College of Psychiatrists, *Submission 5*, [p. 1]; Anglicare Australia, *Submission 15*, [p. 5]; Raise the Age NSW, *Submission 28* (47); Justice and Equity Centre, *Submission 66*, p. 6; Australian Medical Association, *Submission 94*, p. 2.

⁴⁴ Australian Institute of Family Studies, *The minimum age of criminal responsibility in Australia*, 3 July 2025, <https://aifs.gov.au/resources/resource-sheets/minimum-age-criminal-responsibility-australia> (accessed 31 August 2026).

⁴⁵ Australian and New Zealand Children's Commissioners, Guardians and Advocates, *Submission 45*, p. 3; United Nations Committee on the Rights of the Child, *General comment No. 24 (2019) on children's rights in the child justice system*, September 2019, p. 6.

⁴⁶ United Nations Committee on the Rights of the Child, *General comment No. 24 (2019) on children's rights in the child justice system*, September 2019, p. 6.

‘does not reflect current evidence on child development’.⁴⁷ Peak medical groups who made submissions to the inquiry also supported raising the age to 14, including the Royal Australian College of General Practitioners, the Royal Australasian College of Physicians, the Australian Medical Association, the Royal Australian and New Zealand College of Psychiatrists, and the Australian Indigenous Doctors’ Association.⁴⁸

- 5.39 Ms Sophie Stewart, Chief Executive Officer of Social Reinvestment Western Australia (WA), concurred that scientific and medical consensus ‘overwhelmingly ... tells us that still-developing brains of children are not yet cognitively capable, so they cannot be held criminally responsible’. Ms Stewart highlighted how this was at odds with the age at which children were considered mature in other legal areas:

Here [in WA], you can't get a job until you're 13 and you can't have social media or begin learning to drive until 16. You can't vote until 18. But at just 10 years old you can be arrested, tried and put on trial.⁴⁹

- 5.40 It was also pointed out to the committee that many children in the youth justice system have experienced trauma or neurodevelopmental disabilities. Dr Sophie Dunn, a paediatrician in the Northern Territory (NT), emphasised that while all children are ‘psychologically and cognitively less mature than adults’, this is ‘greatly impaired by neurodisability and trauma’. Dr Dunn explained that:

[w]hat this translates to is that these children's emotional regulation, cognitive reasoning and impulse control is more representative of a much younger child than their actual chronological age.

Lowering the minimum age of criminal responsibility to 10 years means that some of these children will now have the cognitive and emotional skills of a four-to-five-year-old, for example.⁵⁰

- 5.41 Mr Luke Twyford, Principal Commissioner of the Queensland Family and Child Commission, provided the committee with further detail on the social and psychological principles which underpin the ineffectiveness of criminal punishment of children. Mr Twyford told the committee that behavioural learning in children had been demonstrated to occur ‘through immediate, consistent reinforcement and that delayed or unpredictable punishment does not meaningfully shape behaviour in children’. Mr Twyford summarised that:

⁴⁷ Justice and Equity Centre, *Submission 66*, p. 3.

⁴⁸ Royal Australian College of General Practitioners, *Submission 12 (47)*, p. 6; Royal Australasian College of Physicians, *Submission 50 (47)*, pp. 6–7; Australian Medical Association, *Submission 55 (47)*, p. 11; Royal Australian and New Zealand College of Psychiatrists, *Submission 72 (47)*, p. 7; Australian Indigenous Doctors’ Association, *Submission 180 (47)*, pp. 8–9.

⁴⁹ Ms Sophie Stewart, Chief Executive Officer, Social Reinvestment Western Australia, *Committee Hansard*, 17 March 2026, pp. 28–29.

⁵⁰ Dr Sophie Dunn, Private capacity, *Committee Hansard*, 29 April 2026, p. 1.

For consequences to be effective, they must be timely, predictable, proportionate, and connected to a child's lived context. ... These conditions are fundamentally incompatible with punitive youth justice systems that rely on control, containment, and delayed legal outcomes.⁵¹

5.42 Submitters to the inquiry made clear that as the criminal justice system does not constructively shape the behaviour of children under 14, subjecting children to criminal penalties is ultimately detrimental to community safety. The JEC told the committee that '[n]ot only does engaging children aged 10-13 in the criminal justice system not act as a deterrent, it actually increases the likelihood of future offending'.⁵²

5.43 Mr Twyford concurred, arguing that current circumstances in Queensland have reflected the unsuitability of punitive criminal approaches to youth justice:

High rates of remand, repeated involvement in the justice system, and the escalation from youth detention into adult corrections demonstrate that current consequences do not create behavioural change or community safety. In many cases, they produce the opposite effect—pushing children further away from the support structures that would help them develop the skills, confidence, and stability needed to stop offending.⁵³

5.44 Mr Devin Bowles, Chief Executive Officer of the ACT Council of Social Service, told the committee that experience in the ACT has backed in this assertion in practice. Mr Bowles told the committee that, following its increase of the MACR to 14, the ACT is seeing:

... that people aged 10 to 14 who are being diverted from the youth justice system are engaging well with therapeutic supports, that those therapeutic supports are reducing the risk of behaviours which can be considered criminal and that police engagement with those children appears to be reducing and changing in nature.⁵⁴

5.45 Mr Bowles went on to observe that direct comparisons could be made between children of similar backgrounds and needs but different ages, meaning that one had been too old to benefit from the MACR changes. In these cases, Mr Bowles explained that early evidence indicated that the children were 'having really different lives and engagement with the criminal justice system'.⁵⁵

⁵¹ Queensland Family and Child Commission, *Submission 14*, p. 9.

⁵² Justice and Equity Centre, *Submission 66*, p. 3.

⁵³ Queensland Family and Child Commission, *Submission 14*, pp. 9–10.

⁵⁴ Mr Devin Bowles, Chief Executive Officer, ACT Council of Social Services, *Committee Hansard*, 3 July 2026, p. 46.

⁵⁵ Mr Devin Bowles, Chief Executive Officer, ACT Council of Social Services, *Committee Hansard*, 3 July 2026, p. 46.

Detention as a last resort for the least amount of time

5.46 Detaining children only as a last resort, and only for the least amount of time, is a key principle in the UNCRC, which states that:

The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.⁵⁶

5.47 A large number of submitters supported this principle being enshrined as an enforceable national minimum standard for youth justice in Australia.⁵⁷

5.48 The Australian Centre for Health Law Research told the committee that the principle of detention as a last resort was already legislated in many Australian jurisdictions. However, it noted that the high proportion of children being incarcerated for non-violent property offences indicates that ‘these provisions are not sufficiently definitive about the circumstances warranting incarceration’.⁵⁸

5.49 Other witnesses warned that this principle was being wound back in some jurisdictions. Ms Catherine Liddle, Chief Executive Officer of SNAICC – National Voice for our Children (SNAICC) noted that since the commencement of the inquiry in the 47th Parliament, a number of ‘tough-on-crime’ legislative changes have been implemented which have included the removal of detention as a last resort.⁵⁹ The committee was also told that this principle had been removed in the NT and Queensland.⁶⁰

5.50 Witnesses also drew the committee’s attention to the changes to bail laws leading to increasing numbers of children being detained on remand. Mr Nick Espie, Associate Director of Client Services at Legal Aid NT, told the committee that ‘oppressive’ changes to bail laws had seen ‘kids even younger or that have

⁵⁶ *Convention on the Rights of the Child*, New York, 20 September 1989, entry into force 16 January 1991, [1991] ATS 4, Part I, Article 37(b).

⁵⁷ See, for example Australian Centre for Health Law Research, *Submission 17 (47)*, [pp. 1–2]; New South Wales Council for Civil Liberties, *Submission 86 (47)*, pp. 4, 11–13; SNAICC, *Submission 173 (47)*, [pp. 21–22]; Law Council of Australia, *Submission 195 (47)*, p. 33; Anti-Slavery Australia, *Submission 221 (47)*, pp. 18–21.

⁵⁸ Australian Centre for Health Law Research, *Submission 17 (47)*, [p. 2].

⁵⁹ Ms Catherine Liddle, Chief Executive Officer, SNAICC – National Voice for our Children, *Committee Hansard*, 16 March 2026, p. 15.

⁶⁰ Ms Shahleena Musk, Children’s Commissioner, Office of the Children’s Commissioner Northern Territory, *Committee Hansard*, 28 April 2026, p. 1; Mr Geoffrey Radford, Chief Executive Officer, Northern Territory Mental Health Coalition, *Committee Hansard*, 28 April 2026, p. 25; Ms Tania Wolff, President, Law Council of Australia, *Committee Hansard*, 3 July 2026, p. 5.

been in less trouble getting arrested earlier and remanded in custody earlier rather than being able to remain on bail'.⁶¹

- 5.51 The Australian Centre for Health Law Research told the committee that, in practice, implementing this principle would require the 'expansion of non-custodial sentencing options in Australia'.⁶² Examples of non-custodial alternatives have been outlined in Chapter 4.

Prohibition of harmful practices

- 5.52 Many witnesses argued that the use of solitary confinement, strip searches, the use of restraints and spit hoods, and detention with adults were harmful practices and should be prohibited under a national regime.⁶³ The harms of these practices are discussed in depth in Chapter 3 of this report.

- 5.53 Common Grace called attention to the fact that the use of solitary confinement on children is prohibited by international law.⁶⁴ This includes explicit prohibitions in the Mandela Rules and the Havana Rules.⁶⁵

- 5.54 The Australian Medical Association outlined the negative impacts which solitary confinement has on children. It noted that these included:

... psychological effects (anxiety, depression, hallucination, paranoia and suicidal tendencies), cognitive decline (memory problems, difficulty concentrating, confusion) and physical health issues (sleep disturbances, headaches, heart palpitations and the worsening of pre-existing health conditions).⁶⁶

- 5.55 The committee heard similar evidence regarding the use of restraints and spit hoods. Ms Satara Uthayakumaran, the 2025 Australian Youth Representative to the UN, told the committee that:

By strapping spit hoods to the faces of terrified, distressed children and subjecting them to cruel, inhuman and degrading treatment, Australia is in active, undeniable breach of international law. We are explicitly violating article 37 of the UN [CRC], the UN convention against torture, the UN Declaration on the Rights of Indigenous Peoples, the International Covenant

⁶¹ Mr Nick Espie, Associate Director, Client Services, Legal Aid Northern Territory, *Committee Hansard*, 29 April 2026, p. 33.

⁶² Australian Centre for Health Law Research, *Submission 17 (47)*, [p. 2].

⁶³ Youth Empowered Towards Independence, *Submission 93*, p. 1.

⁶⁴ Common Grace, *Submission 34 (47)*, [p. 6].

⁶⁵ *United Nations Standard Minimum Rules for the Treatment of Prisoners*, General Assembly resolution 70/175, 17 December 2015, rule 45; *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, General Assembly resolution 45/113, 14 December 1990, rule 67.

⁶⁶ Australian Medical Association, *Submission 55 (47)*, p. 5.

on Civil and Political Rights, and the Convention on the Rights of Persons with Disabilities.⁶⁷

- 5.56 A large number of submitters advocated for the outright prohibition of solitary confinement, spit hoods and other harmful practices through minimum standards, in line with Australia's obligations.⁶⁸ The Multicultural Youth Advocacy Network (MYAN) summarised that a prohibition on solitary confinement 'aligns with a humane and progressive approach to juvenile justice, focusing on rehabilitation and reintegration rather than punishment'.⁶⁹
- 5.57 The committee also heard of the need to prevent children from being incarcerated alongside adults. Article 37(c) of the UNCRC requires that 'every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so'.⁷⁰ Australia maintains a formal reservation to Article 37(c), stating that it is accepted:
- only to the extent that such imprisonment is considered by the responsible authorities to be feasible and consistent with the obligation that children be able to maintain contact with their families, having regard to the geography and demography of Australia.⁷¹
- 5.58 Submissions to the inquiry were critical of this position. SNAICC noted to the committee that Article 37(c) already provides an exemption where requiring separation between children and adults would not be in the best interest of the child. SNAICC told the committee that children were often being held in adult facilities 'for reasons other than the child's best interests', such as children in Queensland being regularly held in watchhouse facilities designed for short-term adult detention due to a lack of space in youth facilities.⁷²

⁶⁷ Ms Satara Uthayakumaran, 2025 Australian Youth Representative to the United Nations, United Nations Youth Australia, *Committee Hansard*, 3 July 2026, p. 8.

⁶⁸ See, for example Human Rights Law Centre, *Submission 75*, [pp. 1–2]; Royal Australian and New Zealand College of Psychiatrists, *Submission 72* (47); Human Rights Law Centre and Change the Record, *Submission 82* (47), pp. 5–6, 15–16, 18–19; Community Restorative Centre, *Submission 130* (47), pp. 14–15; Jumbunna Institute for Indigenous Education and Research, *Submission 181* (47), pp. 23–25; National Legal Aid, *Submission 172*, pp. 4, 11.

⁶⁹ Multicultural Youth Advocacy Network, *Submission 45* (47), p. 25.

⁷⁰ *Convention on the Rights of the Child*, New York, 20 September 1989, entry into force 16 January 1991, [1991] ATS 4, Part I, Article 37(c).

⁷¹ United Nations Treaty Collection, *Convention on the Rights of the Child*, 10 August 2026, https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&clang=en (accessed 11 August 2026). See also Appendix 3 of this report.

⁷² SNAICC – National Voice for Our Children, *Submission 173* (47), [pp. 27–28].

- 5.59 Numerous submissions called on the Australian Government to withdraw its reservation to Article 37(c) and incorporate the separation of children and adults in detention setting into minimum national standards.⁷³

Implementation of the Optional Protocol to the Convention against Torture

- 5.60 Other submitters highlighted Australia's obligations under the Optional Protocol to the Convention against Torture (OPCAT), which was ratified in 2017.⁷⁴ Under OPCAT, some Australian jurisdictions have nominated National Preventative Mechanisms (NPMs) to carry out independent monitoring of places of detention, including the Commonwealth, the ACT, the NT, South Australia, Tasmania and WA.⁷⁵
- 5.61 However, a number of submitters highlighted to the committee that implementation of OPCAT has not been consistent across Australian jurisdictions. There is no NPM in Victoria or New South Wales, and while Queensland established an Inspector of Detention Services it is not nominated as an NPM.⁷⁶ Additionally, legislative frameworks and monitoring arrangements in some jurisdictions that do have NPMs are not yet complete.⁷⁷ The Law Council of Australia submitted that 'while various jurisdictions ... have made some progress towards implementation, the overall picture is that implementation has been sporadic, uneven and insufficient'.⁷⁸
- 5.62 The committee heard that where NPMs have been implemented, they have helped identify and made recommendations to remedy breaches of the rights of detained children. For example, the committee heard from the ACT NPM about its inspection of Bimberi Youth Justice Centre in Canberra (Bimberi), which

⁷³ See, for example Mission Australia, *Submission 64*, p. 17; Justice and Equity Centre, *Submission 66*, p. 6; Australian Association of Social Workers, *Submission 84*, pp. 3, 8–9; Law Council of Australia, *Submission 112*, pp. 4, 25; Professor Andrew Day, *Submission 23 (47)*, p. 7; Coalition of Peaks, *Submission 158 (47)*, [pp. 2–3]; SNAICC – National Voice for Our Children, *Submission 173 (47)*, [pp. 27–28].

⁷⁴ *Optional Protocol for the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, New York, 18 December 2002, entry into force 20 January 2018, [2018] ATS 5. See, for example Human Rights Law Centre, *Submission 75*, [pp. 2–4]; South Australian Council of Social Service, *Submission 104 (47)*, pp. 19–20; Australian National Preventative Mechanism, *Submission 109 (47)*, pp. 3–5, 10–12; Law Council of Australia, *Submission 195 (47)*, pp. 35–38.

⁷⁵ Australian National Preventative Mechanism, *OPCAT 20th Anniversary Joint Statement*, 22 June 2026, [pp. 1–2].

⁷⁶ Australian National Preventative Mechanism, *Submission 109 (47)*, p. 10; Mr Ian Anderson, Commonwealth and ACT Ombudsman, *Committee Hansard*, 3 July 2026, p. 54.

⁷⁷ See, for example Shona Reid, Guardian for Children and Young People (South Australia), *Submission 207 (47)*, p. 14; Australian and New Zealand Children's Commissioners, Guardians and Advocates, *Submission 45*, p. 5.

⁷⁸ Law Council of Australia, *Submission 195 (47)*, p. 37.

observed children being prevented from accessing the school at Bimberi.⁷⁹ As a result of this May 2025 inspection at Bimberi, the ACT NPM ‘made six recommendations to increase transparency and ensure the rights and wellbeing of young people are upheld’.⁸⁰

- 5.63 The Centre for Excellence in Therapeutic Care argued that the implementation of OPCAT by the Australian Government could ‘bring oversight, rigour and monitoring to ensure that rights of people who are being detained are being respected and they are not held in conditions that breach their rights’.⁸¹

Access to health, education and other supports

- 5.64 The committee heard of the need for minimum standards to guarantee access to public services, such as health and education, where children are held in detention as a last resort.⁸²
- 5.65 Dr Niroshini Kennedy, Fellow and President of the Paediatrics and Child Health Division at the Royal Australasian College of Physicians, stressed to the committee that detention should only occur in ‘purpose-designed, trauma-informed and culturally safe environments that provide access to health care, education and developmental supports’.⁸³
- 5.66 The Royal Australian College of General Practitioners (RACGP) told the committee that ‘[w]ithout national minimum standards, health, and wellbeing outcomes for young people in the youth justice system remain highly variable and often inadequate’.⁸⁴
- 5.67 As a basic principle, the RACGP argued that health care services in youth justice system should be the responsibility of health ministers and their departments, rather than corrective services.⁸⁵ The committee received similar evidence from

⁷⁹ Dr Penelope Mathew, President and Commissioner, Human Rights Commission for the Australian Capital Territory, Australian Capital Territory National Preventative Mechanism, *Committee Hansard*, 3 July 2026, p. 52.

⁸⁰ ACT National Prevention Mechanism, *Submission 6*, pp. 1–2.

⁸¹ Centre for Excellence in Therapeutic Care, Australian Childhood Foundation, *Submission 59 (47)*, pp. 8–9.

⁸² See, for example UNICEF, *Submission 26*, p. 6; Praxis Youth, *Submission 109*, p. 19; Australian Medical Association, *Submission 55*, pp. 7–8; Australian Childhood Foundation, *Submission 78*, pp. 7–8; UNICEF, *Submission 83 (47)*, pp. 10–11; Aboriginal Legal Service of Western Australia Limited, *Submission 179 (47)*, p. 49; Ms Shona Reid, Guardian for Children and Young People (SA), *Submission 207 (47)*, p. 31;

⁸³ Dr Niroshini Kennedy, Fellow and President, Paediatrics and Child Health Division, Royal Australasian College of Physicians, *Committee Hansard*, 3 July 2026, p. 24.

⁸⁴ Royal Australian College of General Practitioners, *Submission 37*, p. 6.

⁸⁵ Royal Australian College of General Practitioners, *Submission 37*, p. 6.

the Royal Australian and New Zealand College of Psychiatrists, who argued that funding for health services 'should not originate from corrections departments, as their conflicting priorities often hinder effective service delivery'. They noted health services should be 'health-led, adequately funded, and inclusive of Indigenous staff and diverse genders'.⁸⁶

- 5.68 The RACGP also argued that access to specialist mental health services in youth justice facilities is 'often inadequate', despite children with neurodevelopmental disorders being overrepresented in the system. They told the committee that this lack of care could constitute 'non-compliance with the right to health for incarcerated young people'. As such, they recommended that:

Enforceable national minimum standards should include mandatory screening for neurodevelopmental disorders like ADHD upon entry into the youth justice system, as well as ongoing access to specialist care and support services.⁸⁷

- 5.69 The committee also heard that minimum standards should ensure the provision of support continues after a child has left detention. Junction Australia told the committee that children who have left detention are often at higher risk of experiencing maltreatment, and that young people in care have 'consistently expressed their frustrations with the lack of support after leaving detention'.⁸⁸ They recommended that minimum standards should 'mandate trauma-informed care, access to stable housing, and educational or vocational pathways to prevent reoffending'.⁸⁹

Connection to community and culture

- 5.70 Submitters emphasised children's need for continued connection to community and culture while in detention. Dr Lisa Ewenson of the University of New South Wales stated in this regard:

Children and young people who are imprisoned within youth justice detention centres must be provided with a nurturing, trauma-informed, therapeutic, educational, safe and culturally responsive environment that does not further harm or traumatise them (UN CRoC 1989, arts 18, 30 & 40; UN DRIP 2007; CAT, 1984; Beijing Rules 1985, r 19 & 26; CRPD, 2006, art 15; Havana Rules 1990, r 12, 28, 32, 33, 38).⁹⁰

⁸⁶ Royal Australian and New Zealand College of Psychiatrists, *Submission 72 (47)*, p. 8.

⁸⁷ Royal Australian College of General Practitioners, *Submission 12 (47)*, p. 5. See also Anglicare Southern Queensland, *Submission 57*, p. 4.

⁸⁸ Junction Australia, *Submission 47 (47)*, p. 4.

⁸⁹ Junction Australia, *Submission 47 (47)*, p. 5.

⁹⁰ Dr Lisa Ewenson, University of NSW, *Submission 67 (47)*, p. 5.

- 5.71 This was highlighted as particularly important for Aboriginal and Torres Strait Islander children, who are disproportionately represented in detention.⁹¹ The Australian Childhood Foundation recommended that minimum standards include '[c]ultural safety requirements and First Nations co-design, including mechanisms for community-led diversion and care'.⁹² Interlace Advisory concurred, recommending that national standards should 'privilege what young people say helps them most', including the 'continuity of relationships, [and] cultural safety'.⁹³
- 5.72 Several submitters raised the need for minimum standards to be co-designed with First Nations people and organisations. The National Lived Experience Commission recommended that 'First Nations communities, families and young people be involved as genuine partners — not merely consulted — in the design and governance of youth justice responses in their communities'.⁹⁴
- 5.73 Access to family was also raised as an area of ongoing concern. UN Youth Australia noted that children were often held with little or no family contact.⁹⁵ Sisters Inside recommended that minimum standards guarantee access to culture and family, alongside education, health and legal support.⁹⁶

Minimum staff training

- 5.74 The committee also heard recommendations for minimum standards to incorporate training requirements for staff working in the youth justice system, including in detention facilities and watchhouses.⁹⁷
- 5.75 The Queensland Family and Child Commission highlighted that stronger training requirements had been a recommendation of previous inquiries, telling the committee that:

Much of the inquiries across the past 10 years into youth justice have highlighted how crucial workforce training and development is in influencing outcomes for young people in youth justice settings, with quality of care greatly dependent on staff competency, trauma and

⁹¹ Coalition against the Pontville Youth Justice Facility, *Submission 7*, [p.2].

⁹² Australian Childhood Foundation, *Submission 78*, p. 8.

⁹³ Interlace Advisory, *Submission 32*, p. 5.

⁹⁴ National Lived Experience Commission, *Submission 125*, p. 3

⁹⁵ United Nations Youth Australia, *Submission 1*, p. 4.

⁹⁶ Sisters Inside, *Submission 61*, [p. 9].

⁹⁷ See, for example Anglicare Southern Queensland, *Submission 57*, p. 4; Royal Australian College of General Practitioners, *Submission 12*, p. 9; Multicultural Youth Advocacy Network, *Submission 45* (47), p. 26; Uniting Church in Australia, Queensland Synod, *Submission 54* (47), p. 26; UNICEF Australia, *Submission 83* (47), p. 4

culturally informed practice and system wide understanding of the individual age of child development.⁹⁸

5.76 Minimum training requirements were also a recommendation of the AHRC's *'Help way earlier!'* report.⁹⁹

5.77 Submitters suggested that this training should cover elements such as:

- Human rights principles under Australia's obligations;
- Trauma-informed care;
- Culturally sensitive practices; and
- Working with children with neurodevelopmental disabilities.¹⁰⁰

⁹⁸ Queensland Family and Child Commission, *Submission 14*, p. 28.

⁹⁹ Australian Human Rights Commission, *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing*, August 2024, p. 13.

¹⁰⁰ National Organisation for Fetal Alcohol Spectrum Disorders, *Submission 27 (47)*, p. 11; Youth off the Streets, *Submission 31 (47)*, p. 8; Dr Fiona Robards & Professor Elizabeth Elliott, University of Sydney, *Submission 52 (47)*, p. 3; Uniting Church in Australia, Queensland Synod, *Submission 54 (47)*, p. 26.

Chapter 6

Committee view and recommendations

- 6.1 Every year, over \$1.1 billion of public funds is spent on the youth justice system in Australia.¹ The committee was told that the system is not only expensive but that it damages children, breaks up families, fails to address youth offending and undermines community safety.²
- 6.2 Evidence to the committee outlined in Chapter 2 of this report highlighted that there are high rates of cognitive disability, trauma and mental health concerns amongst children in detention. The committee was told that children from poor and socioeconomically disadvantaged backgrounds as well as children with disabilities are over-represented in Australia's youth justice system.
- 6.3 The committee was informed that the first time that a child comes into conflict with the law or appears to be at risk of involvement with legal processes, is often at school.³ The point was made to the committee that early intervention was required to support children under these circumstances to ensure they have the resources and supports they need to stay in school.
- 6.4 Chapter 3 of this report outlined the evidence regarding the impact of the youth justice system on children. The committee was informed that the incarceration of children causes further trauma and disadvantage by disrupting education while also damaging employment prospects and community relationships, thereby creating a cycle of disadvantage, trauma and recidivism.
- 6.5 In terms of public safety, evidence revealed that as the detention of children often leads to higher rates of reoffending, a punitive approach to youth justice undermines rather than contributes to community safety. As detaining a single child costs the Australian taxpayer an estimated \$1 million annually, it was argued that this expenditure generates a negative return on public safety.
- 6.6 For these reasons, the committee received compelling evidence of the need for change to the youth justice system. Drawing on previous inquiries and reports which have come to the same conclusion, as well as first-hand accounts of the

¹ As indicated previously, the costs per young person subject to detention-based supervision nationally was \$3,635 in 2024–25. This compares to a cost of \$424 per young person subject to a community-based supervision order nationally (except for the Northern Territory). Productivity Commission, *Report on Government Services 2026*, Part F, Section 17: Released on 29 January 2026.

² Australian Lawyers Alliance, *Submission 49*; Life without Barriers, *Submission 95*, p. 4; Tasmanian Aboriginal Centre, *Submission 117*, [p. 1].

³ As noted by Traction, chronic absenteeism and repeated disciplinary exclusion are strong predictors of late police and court contact. Traction, *Submission 119*, p. 2. See also, Dr Samara Hand and Dr Archie Thomas, *Submission 80*, [pp. 1-2].

impact of detention on children, it was made clear to the committee that reform is required.

- 6.7 In Chapter 3 of this report, the committee considered Australia's international obligations and commitments against the realities for children in conflict with the law. In identifying gaps and articulating the ways in which the incarceration of children is detrimental to their development and to community safety, the committee recognises the necessity for policy review.
- 6.8 This chapter sets out the committee's views and recommendations to bring about policy change and reform to Australia's youth justice system as well as a different approach to children in conflict with the law.

National standards and consistency

- 6.9 As detailed in Chapter 5 of this report, the committee received a significant volume of evidence in support of national minimum standards in relation to youth justice with many submitters calling for the immediate implementation of such standards. They argued in favour of the enforcement of standards that not only meet Australia's international obligations but are also demonstrated to work. As a starting point, many advocated for raising the age of criminal responsibility to 14 years as a nationally enforceable standard.
- 6.10 Furthermore, as many submitters highlighted that incarceration of children does not provide for community safety, they argued that detention should be used as a measure of last resort and for the least possible period of time.
- 6.11 The committee was also told that where children are to be incarcerated, certain conditions should be met given the evidence of harm to physical and mental health that can result from any period of detention. Key amongst them is the principle that when used as a last resort, the incarceration of children should never take place in an adult facility such as an adult watchhouse. Furthermore, submitters including health experts also made clear that children in detention should not be subject to isolation, segregation, separation or seclusion.
- 6.12 The use of restraints on children was also a significant concern of many submitters. They told the committee that the use of restraints on children in detention, including spit hoods, should be banned.
- 6.13 Other submitters highlighted the importance for children to have access to education, social and health services provided by the respective education, social services and public health departments, including disability services. The point was also made that children should be able to maintain meaningful and regular contact with family and community while in detention and provided with appropriate educational and employment pathways upon release.
- 6.14 The committee accepts the evidence in relation to national standards and takes the view that the Attorney-General should take responsibility for identifying the policy and legislative changes required to ensure national consistency in relation

to standards regarding youth justice in Australia. The Attorney-General's Department would be responsible for providing the strategic direction and identifying the practical steps required to implement national standards and reforms in relation to children in conflict with the law across the country.

- 6.15 In undertaking this work, the Attorney-General should draw on evidence regarding enforceable national minimum standards to this and other inquiries, as well as Australia's international obligations and commitments, in relation to children in conflict with the law.

Recommendation 1

- 6.16 The committee recommends that the Attorney-General work with state and territory counterparts to take the necessary steps to introduce national minimum standards in relation to youth justice in Australia.**

Commonwealth, state and territory coordination of justice reinvestment

- 6.17 In Chapter 4 of the report, the committee reviewed a range of evidence-based, community-centred, diversionary approaches which focus on the rehabilitation and resocialisation of children and young people. These cost-effective methods may be targeted at early intervention to prevent children coming into conflict with the law. Other diversionary programs serve as alternatives to incarceration, including offering rehabilitation for children's alcohol and other drug use.
- 6.18 These programs hold young people to account in a meaningful way for any harm they have caused and are proven to break the cycle of recidivism in ways that detention does not. Investment in these programs thereby contributes to community safety outcomes.
- 6.19 The committee recognises that measures should be taken to ensure that children at risk are given appropriate support before they come into conflict with the law. For this purpose, funding should be directed to community-based early intervention programs and culturally appropriate therapeutic pathways. These pathways should serve as an appropriate alternative for children by providing access to trauma-informed and culturally safe responses which meet their needs. The committee recognises that if a child's needs are met at this early stage, they are less likely to offend and therefore come into conflict with the justice system.
- 6.20 The committee takes the view that investment in community-based prevention methods and programs will only ensure that the needs of the child are met through the provision of health, social and cultural support, but will also provide greater community safety outcomes.
- 6.21 Furthermore, investment in prevention including therapeutic pathways, should be complemented by diversion programs which respond to the needs of children within the community. In this regard, the committee accepts the evidence that community-based diversion programs are more effective and less

costly than criminal justice responses to reducing offending and improving public safety.

- 6.22 With a focus on rehabilitation, rather than punishment, such diversionary and early intervention programs receiving funding should concentrate resources on education, training and counselling.

Preventive and early intervention measures with schools at the centre

- 6.23 The committee heard that there are currently significant gaps in identifying and diagnosing disability and obtaining health support for children before, during or after they come into conflict with the law.
- 6.24 The committee was persuaded by the evidence that preventative measures are required to enable diagnosis of disabilities and health challenges as early as possible in a child's life. This ensures that children would have the maximum opportunity to obtain any supports that may be required to facilitate their full participation in the classroom and local community. At the same time, children in need should be able to access meals at school to ensure they are receiving the necessary nutrition required for their development and growth.
- 6.25 To this end, the committee was told that schools can serve as central community hubs where children can obtain such services.⁴ However, schools will likely require further resourcing to effectively action this. The committee takes the view that the Australian Government should consider ways to provide schools with the resources they require to serve as community hubs for children, including to make health assessments and relevant social services provided by accredited health professionals available to students.
- 6.26 The committee heard that schools would benefit from being equipped with case-management staff, including accredited health professionals such as psychologists and social workers, to identify at-risk students and facilitate access to appropriate health care and support.

National Child and Community Safety Taskforce

- 6.27 The committee recognises that the differences in both the standards and treatment of children in conflict with the law across states and territories requires address. As the current approach to youth justice is 'fragmented and inconsistent', evidence to the committee highlighted the importance of national consistency and coordination to address these differences.⁵ The committee recognises therefore that a nationally consistent approach to children in conflict with the law, rather than a piecemeal approach to addressing different aspects of state and territory systems, is required.

⁴ Australian Association of Social Workers, *Submission 84*, p.4.

⁵ Australian Lawyers Alliance, *Submission 49*, p. 10.

- 6.28 The committee was told that national coordination was also necessary to ensure better delivery of services to children by all levels of government. To this end, the committee was informed of the need for a whole-of-government and multidisciplinary approach driven by relevant education, health, social and community-based agencies and services including disability services.
- 6.29 To meet these requirements, the committee takes the view that a joint intergovernmental task force should be established which brings together Commonwealth, state and territory departments and agencies. The proposed task force would be responsible to drive a nationally consistent and coordinated approach to child and community safety.
- 6.30 Under the auspices of the Attorney-General, the taskforce would bring together relevant Commonwealth, state and territory ministers and their departments to support an integrated approach to Australia's youth justice system.
- 6.31 The taskforce should work in collaboration with the National Commission for Aboriginal and Torres Strait Islander Children and Young People, respective child commissioners, and consult with peak organisations, youth advisory groups and community groups, as well as international experts with practical experience in developing and implementing diversionary measures and alternatives to incarceration.

Recommendation 2

- 6.32 **The committee recommends that the Attorney-General, in cooperation with state and territory counterparts, establish a cross-portfolio National Child and Community Safety Taskforce comprising Commonwealth, state and territory child justice and policing bodies as well as education, social services, health services including disability services, legal services and employment departments and agencies to coordinate national reform to Australia's youth justice system.**

A community safety education campaign

- 6.33 As detailed in Chapter 1, media reporting on what is often described as a crisis in youth crime is fuelling public fear of Australia's youth and driving moral panic.
- 6.34 To challenge this false narrative and provide a fact-based contribution to the public discourse, the committee recommends that the Australian Government design and develop an education campaign. The campaign should draw on actual crime data and statistical evidence to counter sensational media coverage on youth crime and the false narrative that the country is in the grip of a youth crime wave.
- 6.35 The education campaign would also provide 'smart on crime' rather than 'tough on crime' messages. To this end, it would provide evidence-based information

on the benefits of alternatives to incarceration for community safety and wellbeing.

Recommendation 3

- 6.36 The committee recommends that the Australian Government undertake an education campaign focused on children and young people in conflict with the law which provides evidence-based information on youth crime, as well as highlighting the benefits of alternatives to the incarceration of children to community safety and wellbeing.**

Factors contributing to youth incarceration

- 6.37 Evidence to the committee highlighted that the factors that lead to youth incarceration are multifaceted and complex. They require greater consideration and specific inquiry to be undertaken by a committee with portfolio responsibility for social services.
- 6.38 The committee recognises it would be more appropriate for these matters to be considered by the Senate Community Affairs References committee which has portfolio responsibility for health, disability and social services.

Recommendation 4

- 6.39 The committee recommends that the Senate Community Affairs References Committee undertake an inquiry into the factors that contribute to youth incarceration in Australia including access to health, education, disability, community, social and legal services.**

Senator Leah Blyth

Chair

Liberal Senator for South Australia

Labor Senators' Additional Comments

Introduction

- 1.1 Labor Senators thank the organisations and individuals who contributed to this inquiry, and particularly the young people with lived experience who shared their stories with the committee. Over nine public hearings, the committee heard extensive evidence on the state of Australia's youth justice system.
- 1.2 The evidence received by the Committee consistently highlighted that the many factors driving youth offending can be identified and addressed through engagement and targeted support services.
- 1.3 Labor Senators do not dispute the evidence in the Chair's report. Chapters 1 to 5 of the report fairly represent the evidence given to the committee about the risk factors for children becoming involved in the youth justice system, the conditions children experience within it and the diversionary pathways and early interventions that could work to address this issue.
- 1.4 Labor Senators, however, note that Chapter 6 only contains four recommendations covering national minimum standards, an intergovernmental taskforce, a public education campaign and a recommendation that the Senate Community Affairs References Committee undertake a further inquiry into the factors that contribute to youth incarceration.
- 1.5 These recommendations do not address the breadth of concern raised by the evidence before the committee. Disappointingly, the Chair's report does not identify any specific recommendations targeted at addressing the needs of First Nations children, despite the disproportionate number of First Nations young people in the youth justice system. This is why these additional comments include a further eight recommendations.

The Commonwealth's role in a state-run system

- 1.6 Youth justice is a state and territory responsibility. As Social Reinvestment WA noted, the provision and funding of youth justice services are the responsibility of state and territory governments who individually set policy, legislation and system management'. However, the Commonwealth could have a role in supporting efforts to improve youth justice outcomes.
- 1.7 As the Attorney-General's Department and National Indigenous Australians Agency¹ noted in their submission, youth justice is an urgent priority for the Joint Council on Closing the Gap, co-chaired by the Minister for Indigenous Australians.

¹ Attorney-General's Department and National Indigenous Australians Agency, *Submission 105*, p. 1.

- 1.8 The Commonwealth already funds the National Justice Reinvestment Program, 13 of whose 28 sites are youth-focused, representing an investment of \$27.19 million of the \$51.28 million committed to date, and an ongoing commitment of \$20 million per annum.
- 1.9 Additionally, the Commonwealth funds the National Access to Justice Partnership 2025-2030. This includes an investment of \$3.9 billion, and a significant uplift of \$326.1 million for Aboriginal and Torres Strait Islander Legal Services. It also includes, for the first time, a Custody Notification Service (CNS) in every jurisdiction which provides 'an independent and culturally safe check on wellbeing and may include the provision of legal assistance to Aboriginal and Torres Strait Islander people entering and in police custody. This is the first time CNS in every jurisdiction has been funded by the Commonwealth and reflects the ongoing implementation of recommendations from the Royal Commission into Aboriginal Deaths in Custody, helping to improve safety and accountability within the justice system.
- 1.10 The Commonwealth has also established the National Commission for Aboriginal and Torres Strait Islander Children and Young People as an executive agency.
- 1.11 Labor Senators acknowledge that the Commonwealth is already engaged in efforts to improve youth justice outcomes through a range of investments, partnerships and policy initiatives.
- 1.12 Nevertheless, primary responsibility for the youth justice system rests with state and territory governments. For that reason, while these recommendations are directed to the Commonwealth, their successful implementation will depend on states and territories to work collaboratively and consider complementary action within their own jurisdictions.

The family violence, child protection and youth justice pipeline

- 1.13 The Committee received a substantial body of evidence that exposure to family violence is one of the most common experiences of children who later enter the youth justice system, and that intervention and support can sometimes only be available once a child has used violence themselves.
- 1.14 First Nations Advocates Against Family Violence described what it termed the 'Family Violence, Child Protection to Youth Justice Pipeline' where exposure to family violence drives child protection intervention, which in turn drives youth justice involvement.²
- 1.15 As Tangentyere Council noted, drawing on its specialist domestic violence service in Alice Springs, that 'it is not uncommon for children who are

² First Nations Advocates Against Family Violence, *Submission 55*, p. 4.

commonly incarcerated for their violence to be victim survivors of domestic, family and/or sexual violence themselves'.³

- 1.16 First Nations Advocates Against Family Violence also noted the 'critical but often overlooked role that exposure to domestic, family and sexual violence' (DFSV) plays in driving the over-representation and over-incarceration of Aboriginal and Torres Strait Islander children and young people'.⁴
- 1.17 The Australian Association of Social Workers reported that its members 'stated that the levels of exposure and experiences of DFSV are endemic across the youth justice space, and there is very little supports provided to children as victim-survivors', and concluded that family violence 'is not an adjacent issue but a core driver of youth justice involvement requiring dedicated, trauma-informed responses'.⁵ Traction cited research finding that half of children aged 10 to 13 with police contact had prior intervention orders, mostly as victim-survivors of family violence.⁶
- 1.18 Mr Kelvin Yen, a young consultant with the CREATE Foundation who entered residential care at 12 and youth justice at 17, described the pattern to the committee in his own terms:

Many of the young people I met came from families where violence had been present for generations. This wasn't because they were bad families but because no-one had ever interrupted the pattern. Like my family, a family experiencing domestic violence draws on police resources, then housing crisis support, mental health services, then child protection, and eventually youth justice. Each intervention addresses a symptom, but none breaks the cycle. It didn't break the cycle for me.⁷

- 1.19 Ms Claire Marshall, Chief Executive Officer of Emerge Women and Children's Support Network, a specialist family violence service in Victoria, told the committee in her opening statement that Emerge's early intervention models 'were created because of the pipeline between (the family violence) system and the youth justice system', and that 'in children as young as five, we are seeing behaviours that the evidence tells us marks a kid as at high risk of ending up in the justice system'.⁸ Emerge submitted that one of the most significant predictors of a child using violence is having been exposed to adults who use violence, that children make up one in three people present at family violence incidents in

³ Tangentyere Council, *Submission 79*, p. 2.

⁴ First Nations Advocates Against Family Violence, *Submission 55*, p. 4.

⁵ Australian Association of Social Workers, *Submission 84*, p. 7.

⁶ Traction, *Submission 119*, p. 7.

⁷ Mr Kevin Yen, Youth Consultant, CREATE Foundation, *Committee Hansard*, 3 July 2026, p. 40.

⁸ Ms Claire Marshall, Chief Executive Officer, Emerge Women and Children's Support Network, *Committee Hansard*, 3 July 2026, p. 39.

Victoria, and that aggressive behaviour in children aged 5 to 12 is under-reported because of inadequate screening, parental shame and fear of child protection or police intervention.⁹

- 1.20 Ms Marshall identified two critical gaps in the specialist family violence sector. Firstly, a lack of recognition of children as victim-survivors in their own right and secondly, evidence-based support to address the impact of trauma on children.¹⁰ She explained that interventions exist for children aged 0 to 5 and for adolescents already known to the justice system, but there is a gap, where almost nothing exists for primary school aged children whose behaviour is escalating.¹¹ Ms Marshall further noted that:

The model is designed around the family unit, often with a safe caregiver adult at the head. Across a lot of the system, the child is considered as a data point rather than a person. The model and the funding are built around an understanding of one family unit rather than the individuals within it. Within this system design and this funding model, the child is often lost, and programs and services don't respond to their individual needs, which can be different to their mum's and their sibling's.¹²

- 1.21 Emerge's Back on Track program works with children aged 5 to 12 over a school semester, together with a safe caregiver and often siblings, with the child's school involved because 'school is a protective factor for these children'.¹³ Ms Marshall told the Committee that in the pilot year, independently evaluated by the RMIT Centre for Innovative Justice, every participating child either significantly de-escalated or ceased unsafe behaviour and attended school, and safe caregivers reported 'safer homes, improved attachment, improved parenting confidence and, critically, hope for a better future'.¹⁴ Emerge submitted that the program is 'ready-to-scale' and identified avoided costs across the justice, health, housing, child protection and education systems.¹⁵
- 1.22 Ms Marshall acknowledged that while 'a lot of the levers for youth justice are at the state level' the National Plan to End Violence against Women and Children

⁹ Emerge Women and Children's Support Network, *Submission 118*, pp. 2-5.

¹⁰ Ms Marshall, Emerge Women and Children's Support Network, *Committee Hansard*, 3 July 2026, p. 40.

¹¹ Emerge Women and Children's Support Network, *Submission 118*, p. 5.

¹² Ms Marshall, Emerge Women and Children's Support Network, *Committee Hansard*, 3 July 2026, p. 41.

¹³ Ms Marshall, Emerge Women and Children's Support Network, *Committee Hansard*, 3 July 2026, p. 41.

¹⁴ Ms Marshall, Emerge Women and Children's Support Network, *Committee Hansard*, 3 July 2026, p. 41.

¹⁵ Emerge Women and Children's Support Network, *Submission 118*, p. 5.

provides a 'concrete mechanism for addressing the cycles of violence and the justice pipeline for vulnerable kids at the federal level'.¹⁶

- 1.23 Labor Senators draw a few conclusions from this evidence. First, exposure to family violence is a core driver of youth justice involvement. Second, the point at which a child's use of violence becomes visible is typically primary school, and the service system has no funded, evidence-based response at that point.
- 1.24 Importantly, the National Plan to End Violence against Women and Children 2022-2032 already recognises children as victim-survivors in their own capacity. This is why Labor Senators suggest implementation of any actions to redress the 'family violence to youth justice' pipeline is through the action plans under the four national plans listed below, to each of which every state and territory is a party. This uses an existing Commonwealth-State mechanism rather than creating a new one.
- 1.25 Consistent with Priority Reform Two of the National Agreement on Closing the Gap, First Nations peaks should also be genuine partners in the development and implementation of these action plans, and direct funding to Aboriginal and Torres Strait Islander community-controlled organisations where the sector supports such an approach.

Recommendation 1

- 1.26 **Labor Senators recommend that the Australian Government prioritise therapeutic early intervention programs for children and young people who use violence in the home after being exposed to family violence, and who are at risk of entering the youth justice system.**

This should be considered within the context of the development of action plans under:

- the National Plan to End Violence against Women and Children;
- the National Strategy to Prevent and Respond to Child Sexual Abuse;
- Safe and Supported: the National Framework for Protecting Australia's Children; and
- Our Ways, Strong Ways, Our Voices: National Aboriginal and Torres Strait Islander Plan to End Family, Domestic and Sexual Violence.

Work on this recommendation should be progressed in conjunction with state and territory government, who are partners to the listed National Plans.

Consistent with Priority Reform Two of the National Agreement on Closing the Gap, First Nations peaks should be genuine partners in the development and implementation of these action plans, and direct funding to Aboriginal

¹⁶ Ms Marshall, Emerge Women and Children's Support Network, *Committee Hansard*, 3 July 2026, p. 39.

and Torres Strait Islander community-controlled organisations where the sector supports such an approach.

Health

Identifying needs for kids earlier

- 1.27 Ms Anne Hollonds AO, former National Children's Commissioner, told the committee that the system must 'lean in earlier to support these kids, to identify their problems much earlier and get them the help that they need'.¹⁷
- 1.28 The committee heard that the health system has several points at which it could do this, and that children who later enter detention are being missed at each of them. Dr Niroshini Kennedy, President of the Paediatrics and Child Health Division of the Royal Australasian College of Physicians, told the committee that paediatricians see children 'far too late',¹⁸ typically once they have contact with the justice system, are excluded from school or their care placement has broken down, and that most of these children 'have undiagnosed health and neurodevelopmental conditions' and 'have missed out on treatment and early intervention'.
- 1.29 The most direct opportunity is with children entering out-of-home care, because of how closely that system is associated with youth justice. Associate Professor Susan Baidawi submitted that 65 per cent of children under youth justice supervision in 2022–23 had contact with the child protection system in the preceding decade, rising to a staggering 94 per cent for children first supervised at age 10. A mechanism to assess these children already exists. The Commonwealth's National Clinical Assessment Framework for Children and Young People (NCAFCYP) in Out-of-Home Care, developed in 2011, provides for a GP screening assessment within weeks of a child entering care and paediatric, mental health and speech pathology assessment within three months. The committee heard that the framework 'still stands up very well', but that 'only one per cent of children in Australia are currently getting compliant health assessments'.¹⁹
- 1.30 The opportunity to help earlier is broader than just children in out of home care. Ms Kate Bundrock of Victoria Legal Aid described co-design work in Mildura responding to reports being made to child protection while a mother is still pregnant, aimed at 'trying to address needs at that point rather than that child being taken from the mother'. Dr Jacqueline McGowan-Jones, Western

¹⁷ Ms Anne Hollonds AO, private capacity, *Committee Hansard*, 10 April 2026, p. 4.

¹⁸ Mr Niroshini Kennedy, Fellow and President, Paediatrics and Child Health Division, Royal Australasian College of Physicians, *Committee Hansard*, 3 July 2026, p. 26.

¹⁹ Mr Kennedy, Paediatrics and Child Health Division, Royal Australasian College of Physicians, *Committee Hansard*, 3 July 2026, p. 26.

Australia's Commissioner for Children and Young People, tabled data showing 'a huge decrease in the number of children having their two-year-old health check', including children in out-of-home care, and told the committee that the response to a mother who does not bring her children to health checks should be to ask what support she needs, rather than waiting until the problem becomes a school attendance or child protection matter. Associate Professor Baidawi's research likewise recommends "accessible, culturally safe assessments and supports for children with complex needs related to disability and mental health, delivered via community health and school settings'.

- 1.31 Labor Senators suggest that identification of risk should lead to an offer of support rather than a response from child protection. Given the evidence about the pathway from child protection to youth justice, an assessment that identifies risk, whether prenatally, in early childhood or on entry to care, should connect families to voluntary support first.
- 1.32 Thriving Kids was raised in evidence as the support such a pathway could lead to. The RACGP, a member of the Thriving Kids advisory group, submitted that a whole-of-system, trauma-informed approach is needed for children at risk of child protection or youth justice contact. RACGP cited Ms Catherine Liddle, Chief Executive Officer of SNAICC, who told the Committee that Aboriginal and Torres Strait Islander children 'too often enter our school systems with undetected or misidentified developmental challenges', and that the reform is an opportunity for those children to be 'for the first time, disproportionately helped by a reform like this one'.²⁰
- 1.33 The check-in points described in evidence sit across both levels of government. Child and family health services, including early childhood health checks, are largely delivered by states and territories, and the out-of-home care system is a state responsibility. The Commonwealth funds the clinical framework for children in care, funds Thriving Kids jointly with the states, and sets the referral pathways that connect an assessment to support.
- 1.34 This is why Labor Senators recommend that those pathways be designed deliberately, so that the points at which the system already sees a child become points at which it acts. Early childhood health assessments, could provide such a pathway for earlier intervention, as could changes to the NCAFCYP or Thriving Kids. Labor Senators urge further consideration of this recommendation.

²⁰ Royal Australian College of General Practitioners, *Submission 37*, p. 7, citing Ms Catherine Liddle, Chair SNAICC National Voice for our Children.

Recommendation 2

- 1.35 Labor Senators recommend that the Australian Government explore how universal early childhood health assessments could include an early intervention pathway, so that where risk factors are identified, children and families are referred to appropriate support earlier. This could include referral to appropriate supports such as Thriving Kids.**

Health supports and neurodevelopmental assessments

- 1.36 Throughout the inquiry, the committee heard that Fetal Alcohol Spectrum Disorder (FASD) and other neurodevelopmental impairments are common among children in the youth justice system, are rarely diagnosed before a child is detained, and are frequently mistaken for defiance rather than disability. Witnesses described children with neurodevelopmental disability as more susceptible to peer coercion, more likely to confess during police interviews, and more likely to have behaviours arising from their condition treated as misconduct.²¹
- 1.37 The extent of the problem, where it has been measured, is stark. NOFASD Australia submitted that research in Western Australia found 36 per cent of detained young people had FASD, with 89 per cent of the cohort experiencing at least one severe neurodevelopmental impairment.²² Social Reinvestment WA and the NPY Women's Council each submitted, drawing on the same 2018 Banksia Hill study, that approximately 90 per cent of young people held at the Banksia Hill centre had a neurodevelopmental disability, including FASD, and that most had not been previously identified.²³
- 1.38 NOFASD Australia submitted that nationally, 48 per cent of justice-involved young people have a neurodevelopmental disability, and that in New South Wales almost half of all detained young people have impaired intellectual functioning, including significant receptive language difficulties.²⁴
- 1.39 This impairment is concentrated among children already over-represented in detention, including First Nations children and children who have been in residential out-of-home care. Social Reinvestment WA cited research linking hearing impairment in early childhood to youth offending among Aboriginal children in remote Northern Territory communities, and noted a 2015 study finding that 12 of every 100 children in Fitzroy Crossing, Western Australia, has

²¹ NOFASD Australia, *Submission 56*, p. 6.

²² NOFASD Australia, *Submission 56*, p. 5.

²³ Social Reinvestment WA, *Submission 42*, Attachment 1, p. 36; NPY Women's Council, *Submission 102*, p.3.

²⁴ NOFASD Australia, *Submission 56*, p. 6.

Fetal Alcohol Syndrome, a rate on par with the highest recorded globally.²⁵ NOFASD Australia submitted that Western Australia records the highest known FASD prevalence in youth detention globally.²⁶

- 1.40 Ms Louise Gray of NOFASD told the committee that among young people in detention ‘the very conservative estimate is one-third of the population’.²⁷ Mr Adam Valvasori told the Committee that in relation to identification of issues ‘it’s just so staggering that these conditions are being picked up at such a late stage. How many different systems have they fallen through, from paediatric to health and to school, for it to be picked up at such a late stage?’²⁸
- 1.41 The committee heard detailed evidence in Darwin about what happens when there is no assessment capacity in a region with very high rates of youth incarceration. Dr Catherine Boyd and Dr Sophie Dunn, paediatricians appearing on behalf of more than 50 current and former Northern Territory paediatricians, told the committee that assessments for children in detention are generally only requested by courts, ‘often after years of missed opportunity’ ...and lengthy periods on remand, by which time behaviours have become entrenched.²⁹
- 1.42 The North Australian Aboriginal Justice Agency (NAAJA) described the practical consequence. In the Top End, lawyers seeking to have a young person’s disability recognised must rely on court-ordered section 67 reports, which can take up to 12 months. Due to this, NAAJA noted that lawyers are sometimes reluctant to request section 67 reports because the wait ‘may prolong the time a young people spends in detention, meaning young people may enter and exit the system without assessment or support’.³⁰
- 1.43 Mr Liam Anthony of the Aboriginal Legal Service of Western Australia told the committee that where a court does not fund a neuropsychological assessment ‘it’s thousands and thousands of dollars’ and that ‘a lot of the young people we work with are undiagnosed’.³¹
- 1.44 One model was prescribed as a working model that, where replicable and appropriate, can help identify FASD or other neurodevelopmental impairment. Dr Boyd told the committee that the Central Australian Aboriginal Congress has

²⁵ Social Reinvestment WA, *Submission 42*, Attachment 1, pp. 47-48.

²⁶ NOFASD Australia, *Submission 56*, p. 3, citing Aboriginal Health Council of WA, 2024.

²⁷ Ms Louise Gray, Specialist Advisor, NOFASD Australia, *Committee Hansard*, 17 March 2026, p. 11.

²⁸ Mr Adam Valvasori, Advocacy Lead, Australian Research Alliance for Children and Youth, *Committee Hansard*, 3 July 2026, p. 20.

²⁹ Dr Sophie Dunn, private capacity, *Committee Hansard*, 29 April 2026, p. 2.

³⁰ North Australian Aboriginal Justice Agency, *Submission 108*, p. 6.

³¹ Mr Liam Anthony, Senior Program Manager, Old Ways, New Ways, Aboriginal Legal Service of Western Australia, *Committee Hansard*, 17 March 2026, p. 39.

established a multidisciplinary Child and Youth Assessment and Therapeutic Service (including three full-time equivalent neuropsychologists) that assess children, provide therapy to the same children. The program has been extended to eight remote communities. Eventually they hope this program will cover all Central Australia's remote communities.

- 1.45 Dr Boyd was clear that the paediatric component is 10 to 20 per cent of a FASD assessment and that most of the assessment 'really rests on the multidisciplinary team' assessing the neurodevelopmental domains 'in a culturally appropriate setting where there is real knowledge of where that child and their family have come from'.³² Associate Professor Raewyn Mutch, a paediatrician at Perth Children's Hospital, told the Committee that screening tools have been adapted for Aboriginal health services, that nurse-equivalent staff and community Elders can be trained to apply them reliably, and that 'those kinds of barriers need to be broken down so that the ACCHOs who can do best for families have those skills trained for them, and, if there aren't paediatricians or there aren't speech and language pathologists, we need to fund that or we need to find workarounds'.³³
- 1.46 The Commonwealth already funds Aboriginal Community Controlled Health Organisations directly, and funds paediatric and child health services through Medicare and through agreements with the states and territories. However, building assessment capacity of the kind described above also depends on state and territory health systems, which supply the clinical workforce, and on state child protection and youth justice agencies, which make referrals.
- 1.47 Labor Senators consider that the priority should be to identify the regions of greatest need and to build that capacity there, in partnership with the states and territories concerned. Because an assessment may then lead to children or young people accessing the NDIS or Thriving Kids, this recommendation should also be considered in the context of Recommendation 2.

Recommendation 3

- 1.48 Labor Senators recommend that the Australian Government explore how child health and paediatric services, as well as Aboriginal Community Controlled Health Organisations, could establish multidisciplinary neurodevelopmental and FASD assessment teams in regions with high rates of youth incarceration.**

³² Dr Catherine Boyd, private capacity, *Committee Hansard*, 29 April 2026, p. 7.

³³ Associate Professor Raewyn Mutch, Associate, Kids Research Institute of Australia, *Committee Hansard*, 17 March 2026, p. 24.

Community-controlled care in custody

- 1.49 Aboriginal and Torres Strait Islander children remain profoundly over-represented in youth detention. The Attorney-General's Department and NIAA advised the committee that on an average day around 460 Aboriginal and Torres Strait Islander children are in detention in Australia, and that 83 per cent of First Nations young people in detention are unsentenced.³⁴
- 1.50 Ms Catherine Liddle of SNAICC told the committee that First Nations children are 5.7 per cent of the 10- to 17-year-old population and 63 per cent of children in detention.³⁵ In the Northern Territory, NAAJA told the committee, 95 per cent of young people in detention were Aboriginal, at a cost of nearly \$1.3 million per child per year.³⁶
- 1.51 It follows that any alternative to detention must be designed with, and led by, the Aboriginal community-controlled sector if it is to reach the children who are being detained. Mr Chad Stewart, Chief Executive Officer of the Council of Aboriginal Services Western Australia, told the committee that 'Aboriginal community controlled solutions aren't optional they're overdue', that Aboriginal culture is a protective factor, and that the recent engagement of the community-controlled sector with Youth Justice in Western Australia has coincided with declining rates of Aboriginal youth detention in that state.³⁷
- 1.52 Where health care has been delivered by the community-controlled sector into custodial settings, witnesses told the committee it worked. Dr Hayley Passmore pointed to Danila Dilba Health Service delivering the medical clinic at Don Dale: the model 'was not perfect, but it did mean kids had access to culturally safe health care' and wraparound support at the point of transition back to community, and she suggested that 'nationally that is something we could really look at'.³⁸ Dr Stuart Kinner gave evidence that Winnunga Nimmityjah's parallel service in the ACT has produced positive outcomes despite some bureaucratic limitations. The optimal model, he said, would be 'a sharing of power and co-design of a genuinely therapeutic environment'.³⁹

³⁴ Attorney-General's Department and National Indigenous Australians Agency, *Submission 105*, pp. 2-3.

³⁵ Ms Catherine Liddle, Chief Executive Officer, SNAICC – National Voice for our Children, *Committee Hansard*, 16 March 2026, p. 15.

³⁶ Mr Matthew Connop, Deputy Chief Executive Officer, North Australian Aboriginal Justice Agency, *Committee Hansard*, 29 April 2026, p. 20.

³⁷ Mr Chad Stewart, Chief Executive Officer, Council of Aboriginal Services Western Australia, *Committee Hansard*, 17 March 2026, p. 12.

³⁸ Dr Hayley Passmore, private capacity, *Committee Hansard*, 17 March 2026, p. 22.

³⁹ Dr Stuart Kinner, Head, Justice Health Group, *Committee Hansard*, 17 March 2026, p. 15.

- 1.53 Ms Amanda Collins-Clinch of the Aboriginal Health Council of Western Australia put the sector's position directly stating that to partner with ACCHOs is 'to develop and design on-country alternatives', and fund the sector to deliver into custodial settings, 'because our sector isn't funded for this'.⁴⁰ The RACGP submitted that 'Aboriginal and Torres Strait Islander led approaches work for Aboriginal and Torres Strait Islander people' and that strengthening the ACCHO sector is central to a health-first approach, one it estimates delivers a positive economic impact five times greater than operational cost.⁴¹
- 1.54 The South Australian Guardian for Children and Young People's report on the Diagrama model in Spain sets out what makes a therapeutic alternative viable. It would include continuity across the care and justice boundary and longer-term funding that allows workforce investment.
- 1.55 The committee heard evidence that there is already some work underway, noting that the Minister for Health and Ageing is working with states and territories and the Community Controlled sector on a \$450 million joint commitment to First Nations health reform, including Aboriginal community controlled health services in custodial settings.⁴² The Standing Council of Attorneys-General has also agreed that each jurisdiction will work with health ministers on addressing recommendations from the National Review of First Nations Health Care in Prisons.⁴³
- 1.56 Labor Senators consider this process is the vehicle through which a pilot can be designed and commissioned so that there is more culturally safe support for First Nations kids in the youth justice system.

Recommendation 4

- 1.57 Labor Senators recommend that the Australian Government work with states and territories, and the Aboriginal Community Controlled Health Sector, to trial sector-led health care in place of youth detention.**

Funding First Nations community-controlled organisations

- 1.58 The Australian Government is already the principal funder of prevention and diversion programs for First Nations young people. The Attorney-General's Department and NIAA advised the committee that through the Indigenous

⁴⁰ Ms Amanda Collins-Clinch, Acting Chief Executive Officer, Aboriginal Health Council of Western Australia, *Committee Hansard*, 17 March 2026, p. 16.

⁴¹ Royal Australian College of General Practitioners, *Further points*, p. 1; Royal Australian College of General Practitioners, *A health first approach to support young people at risk of contact with the justice system*, additional information provided to the committee.

⁴² Senator Dorina Cox, Member, *Committee Hansard*, 17 March 2026, p. 13.

⁴³ Senator Cox, referring to the Standing Council of Attorneys-General communique of 27 February 2026, *Committee Hansard*, 17 March 2026, p. 7.

Advancement Strategy the Government has allocated approximately \$52.7 million in 2025–26 for prevention and diversion activities for young people, including \$17.2 million for youth support and diversion, which delivered intensive case management to more than 12,200 First Nations young people in 2024–25, \$5.5 million for youth through-care, which supported 150 young people to transition from detention back to their communities and \$30 million for community safety patrols, which conducted approximately 227,035 hours of patrols across 90 communities.⁴⁴

- 1.59 In the Northern Territory, the Remote Aboriginal Investment Partnership Agreement will invest \$842.6 million over six years, with governance shared with Aboriginal Peak Organisations NT, and the Better Safer Future for Central Australia Plan has funded Oonchiumpa Consultancy and Services to deliver a culturally led diversion program for up to 50 at-risk Aboriginal young people.⁴⁵
- 1.60 The evidence before the committee suggests that the issue is not whether the Commonwealth invests in these services, but whether funding arrangements are structured to support the organisations best placed to deliver them. Witnesses consistently noted that short-term funding creates uncertainty for the organisations best placed to deliver it.
- 1.61 NAAJA submitted that Aboriginal-led programs in the Northern Territory are ‘often funded on a short-term basis or engaged only at the delivery or procurement stage rather than in program design and decision-making’.⁴⁶ Deadly Connections submitted that procurement frameworks ‘must prioritise long-term impact, continuity of care, and community leadership over short-term, competitive funding models that undermine effectiveness and sustainability’, and that where an ACCO is not available, funding to non-Aboriginal providers should be conditional on a genuine partnership with one.⁴⁷
- 1.62 The Australian Association of Social Workers called for ‘predictable, long-term contracts’ and funding ‘at a level that meets community need’ for ACCOs.⁴⁸
- 1.63 Yourtown, a mainstream provider, made the same recommendation of long-term contracts for community-controlled organisations ‘to ensure stability, trust, and continuity of services’.⁴⁹

⁴⁴ Attorney-General’s Department and National Indigenous Australians Agency, *Submission 105*, pp. 4-5.

⁴⁵ Attorney-General’s Department and National Indigenous Australians Agency, *Submission 105*, p. 5.

⁴⁶ North Australian Aboriginal Justice Agency, *Submission 108*, p. 10.

⁴⁷ Deadly Connections, *Submission 100*, p. 5.

⁴⁸ Australian Association of Social Workers, *Submission 84*, p. 7.

⁴⁹ Yourtown, *Submission 17*, p. 11.

- 1.64 Notably, Priority Reform Two of the National Agreement on Closing the Gap commits all governments to building the community-controlled sector, including through increasing the share of funding delivered through it. That commitment should be visible in how the Commonwealth commissions prevention, diversion and through-care services for First Nations children with a majority share to community-controlled organisations, on longer funding terms.
- 1.65 Labor Senators believe that funding in this way, consistent with the evidence set out above, would strengthen the sector best placed to deliver earlier and more effective support to First Nations children and their families, helping to reduce the rate at which First Nations children enter the youth justice system and contributing to the achievement of Target 11 of the National Agreement.

Recommendation 5

- 1.66 Labor Senators recommend that the Australian Government direct a majority share of Commonwealth prevention, diversion and through-care funding for First Nations children to Aboriginal community-controlled organisations, on longer funding terms consistent with Priority Reform Two of the National Agreement on Closing the Gap.**

Programs that stop when school stops

- 1.67 Another concern raised in evidence, and one Labor Senators suggest could be readily addressed, is that programs intended to support children at risk of justice involvement are sometimes inadvertently structured to stop precisely when that risk is highest.
- 1.68 Ms Sophie Stewart, Chief Executive Officer of Social Reinvestment WA, told the committee about Emama Nguda in Derby, a Commonwealth-funded justice reinvestment site whose boarding house supports more than 40 children to have a safe place to sleep, be fed and attend school. Because of how the Boarding House is funded, ‘their funding obligations allow them to care for young people only during the school term, which means that in school holidays a lot of these young people get released back out, and crime can spike again’. She described this as one of ‘so many disconnects in the system that is supposed to support these young people, even when people are trying to do the best thing’.⁵⁰
- 1.69 Under the Better Safer Future for Central Australia Plan, funded by NIAA, \$3.2 million for school holiday activities supported 1,461 activities with more than 50,000 attendances over the 2024-25 summer holidays.⁵¹ The NPY Women’s Council gave evidence that ‘without youth program, the children will be lost,

⁵⁰ Ms Sophie Stewart, Chief Executive Officer, Social Reinvestment WA, *Committee Hansard*, 17 March 2026, p. 30.

⁵¹ Attorney-General’s Department and National Indigenous Australians Agency, *Submission 105*, p. 5.

more break ins more smash ins, and no strong role models.’⁵² Yourtown submitted that after-school and holiday initiatives create ‘safe spaces during high-risk periods outside regular school hours’.⁵³ Mr Yen, a young consultant with lived experience, from the CREATE Foundation, told the committee that a young person he met in detention said ‘there’s nothing to do but crime for fun’, which he described as reflecting ‘community deficit, boredom, disconnect and a lack of structured opportunities’.⁵⁴

- 1.70 Where the Commonwealth funds a program for children at risk of justice involvement, it should give further consideration to funding year-long problems particularly in regions of high-need and support.

Recommendation 6

- 1.71 Labor Senators recommend that Commonwealth funding ensure diversion, community-based and youth engagement programs operate year-round, including during school holidays and other periods when children are not typically engaged in programs.**

Bail accommodation, after-hours support and watch houses

- 1.72 A further concern raised throughout the inquiry, which Labor Senators consider warrants attention, is the extent to which children are being held in detention despite not having been sentenced, often for very short periods because they do not have anywhere safe to go.
- 1.73 The Attorney-General’s Department advised the committee that 80 per cent of young people in detention are unsentenced, rising to 83 per cent for Aboriginal and Torres Strait Islander young people.⁵⁵ Evidence from Youth Justice NSW shows how much of that churn is very short. Ms Kelly-Anne Stewart, Executive Director of Youth Justice NSW, told the committee that around 3,500 young people pass through New South Wales custody each year and that 60 per cent of them are held for less than 24 hours.⁵⁶ Ms Jodie Scott of Youth Justice NSW described the typical pattern whereby police refuse bail, the young person is admitted to a youth justice centre overnight, and a court grants bail the next day.⁵⁷

⁵² NPY Women’s Council, *Submission 102*, p. 5.

⁵³ Yourtown, *Submission 17*, p. 6.

⁵⁴ Mr Kelvin Yen, Young Consultant, CREATE Foundation, *Committee Hansard*, 3 July 2026, p. 40.

⁵⁵ Attorney-General’s Department and National Indigenous Australians Agency, *Submission 105*, p. 2.

⁵⁶ Ms Kelly-Anne Stewart, Executive Director, Youth Justice NSW, Department of Communities and Justice, *Committee Hansard*, 10 April 2026, p. 54.

⁵⁷ Ms Jodie Scott, Acting Director, Policy and Practice, Youth Justice NSW, Department of Communities and Justice, *Committee Hansard*, 10 April 2026, p. 59.

- 1.74 That overnight admission can be a distressing event for young people. Ms Kelly-Anne Stewart described the admission process, including a search, a change of clothing and a risk assessment, and told the committee that children are remanded because there is no safe place for them to go. She noted that ‘there is a lack of accommodation across the state that is suitable and safe for young people. It is an ongoing struggle across the state, in particular, in regional areas.’⁵⁸ The Victorian Aboriginal Legal Service (VALS) submitted that ‘one of the key reasons that Aboriginal people cannot access bail is because of a lack of stable accommodation’ and called for investment in culturally safe residential bail accommodation and after-hours bail courts for children.⁵⁹
- 1.75 The Northern Territory example is worse. NAAJA described a young person from a remote community remanded for ten days on low-level alleged offending because no responsible adult could be found, and bail accommodation could not accept them because of capacity constraints.⁶⁰ In December 2025, the only Aboriginal-led supported bail accommodation in Darwin lost its contract, with the Northern Territory Government taking over operations, raising ‘concerns the facility could be effectively use as an overflow detention facility’. NAAJA also noted this was contradictory to the recommendations of the Standing Council of Attorneys-General Bail and Remand Working Group, which endorsed ATSILS-led bail support.⁶¹ Mr Nick Espie of Legal Aid NT told the committee that successive bail changes mean children are ‘getting arrested earlier and remanded in custody earlier’, frequently serve more time on remand than any sentence would have imposed, and are then released ‘with no further penalty, but ... (also) no further assistance’.⁶²
- 1.76 The Justice Reform Initiative pointed to the Bail Assistance Line in New South Wales, which places children aged 12 to 17 in crisis accommodation for up to 28 days with support to transition to longer-term accommodation. A 2021 evaluation by the NSW Bureau of Crime Statistics and Research found children placed through the service were 10.5 per cent less likely to be in any form of custody within six months than children who could not be placed due to lack of services.⁶³ The Australian Association of Social Workers pointed to the Townsville Aboriginal and Islander Health Service’s bail support service, a holistic, culturally grounded response which aims to increase the number of young people bailed rather than remanded and reduce the risk factors that lead

⁵⁸ Ms Kelly-Anne Stewart, Youth Justice NSW, *Committee Hansard*, 10 April 2026, p. 60.

⁵⁹ Victorian Aboriginal Legal Service, *Submission 85*, Attachment 2, p. 5, 16.

⁶⁰ North Australian Aboriginal Justice Agency, *Submission 108*, p. 5.

⁶¹ North Australian Aboriginal Justice Agency, *Submission 108*, pp. 6-7.

⁶² Mr Nick Espie, Legal Aid Northern Territory, *Committee Hansard*, 29 April 2026, p. 33.

⁶³ Justice Reform Initiative, *Submission 59*, p. 14.

to non-compliance with conditions.⁶⁴ Mr Chad Stewart told the committee that bail decisions ‘are the decisions made by the police in those early days’ and that ‘a safe place to bail is really important’ and that the more ACCOs are engaged ‘at the front end in terms of bail decisions, the more chance we have of reducing the remand rates’.⁶⁵

- 1.77 On watch houses, the Youth Advocacy Centre (YAC), drawing on the Children’s Court of Queensland Annual Report, submitted that in 2024–25 there were 6,815 admissions of children to adult watch houses in Queensland. Of those, 287 children spent five to seven days in a watch house, 216 spent eight to 14 days, and 59 spent 15 days or more.⁶⁶ YAC described conditions including periods of around 23 hours in a cell, no access to fresh air or natural light, and exposure to adult prisoners.⁶⁷ National Legal Aid submitted that the number of children under 14 held overnight in Queensland watch houses rose by 50 per cent in a single year, despite the Supreme Court finding the practice unlawful.⁶⁸ The NPY Women’s Council submitted that almost 400 children and young people were held in Northern Territory police watch houses in the six months to March 2025, in facilities the NT Ombudsman described as ‘unacceptably poor’.⁶⁹
- 1.78 It is worth noting these figures are available in Queensland only because the Children’s Court publishes them in its annual report. When asked, Ms Bronwen Kippen of QCOSS told the committee how the sector obtains the data. Ms Kippen said ‘that particular data comes from the children’s court annual report. It comes from court interactions.’⁷⁰ The NAAJA submission relied on media investigation and the NT Ombudsman’s own-motion report for the equivalent Territory figures.⁷¹ No jurisdiction publishes this data routinely as a matter of government reporting. Labor Senators consider that a state that holds children in adult watch houses should publish how many children are held there and for how long. This is a transparency measure entirely within the control of state and territory governments.

⁶⁴ Australian Association of Social Workers, *Submission 84*, p. 10.

⁶⁵ Mr Chad Stewart, Council of Aboriginal Services Western Australia, *Committee Hansard*, 17 March 2026, p. 13.

⁶⁶ Youth Advocacy Centre, *Submission 81*, p. 4.

⁶⁷ Youth Advocacy Centre, *Submission 81*, p. 9.

⁶⁸ National Legal Aid, *Submission 46*, p. 4.

⁶⁹ NPY Women’s Council, *Submission 102*, p. 3.

⁷⁰ Ms Bronwen Kippen, Queensland Council of Social Service, *Committee Hansard*, 3 July 2026, p. 48.

⁷¹ North Australian Aboriginal Justice Agency, *Submission 108*, p. 3, note 6.

Recommendation 7

- 1.79 Labor Senators recommend that the Australian Government work with state and territory governments to fund supported bail accommodation, after-hours bail support and legal assistance at the point of custody and that the number and duration of children held in adult watch houses be publicly reported by state and territory governments.**

Addressing school suspension and exclusion

- 1.80 Another data gap that exists is no nationally consistent measure of who is being excluded from school, or for how long.
- 1.81 Dr Samara Hand and Dr Archie Thomas submitted that patterns of school exclusion ‘map closely onto patterns of youth detention and later adult imprisonment’.⁷² In NSW government schools in 2024, around one in ten secondary students and one in fifty primary students were suspended, with suspensions of children in Kindergarten to Year 2 more than quadrupling between 2023 and 2024.⁷³ In the same year, Aboriginal students and students with disability were each about 2.5 to 3 times more likely to be suspended than their peers.⁷⁴ A NSW survey of young people in custody also found that 93.8 per cent of youth in custody had been suspended at least once, 78.1 per cent three or more times, and 55.6 per cent had been expelled.⁷⁵
- 1.82 This is consistent with other evidence. Traction submitted that ‘chronic absenteeism and repeated disciplinary exclusion are strong predictors of later police and court contact’, and that school disciplinary responses ‘can act as accelerators along the pathway to youth justice involvement’.⁷⁶ SHINE for Kids reported that among children with a parent in prison, around 30 per cent of school-aged children had been suspended or expelled and around half were regularly absent from school.⁷⁷
- 1.83 Dr McGowan-Jones told the committee that suspensions and exclusions in primary school have ‘gone through the roof in Western Australia and other jurisdictions’, and that the system is intervening ‘at the wrong end of the

⁷² Dr Samara Hand and Dr Archie Thomas, *Submission 80*, p. 1.

⁷³ Dr Samara Hand and Dr Archie Thomas, *Submission 80*, p. 1, citing NSW Department of Education, *2024 Suspensions and expulsions*.

⁷⁴ Dr Samara Hand and Dr Archie Thomas, *Submission 80*, p. 2.

⁷⁵ Dr Samara Hand and Dr Archie Thomas, *Submission 80*, p. 2, citing NSW Government, *2015 Young People in Custody Health Survey*.

⁷⁶ Traction, *Submission 119*, p. 2, 9.

⁷⁷ SHINE for Kids, *Submission 21*, p. 3.

problem’.⁷⁸ Yourtown submitted that suspension and expulsion, sometimes at very young ages, disproportionately affect Aboriginal and Torres Strait Islander children and children with disability, and that inconsistent identification of at-risk students and ‘poor data sharing between schools and agencies’ are among the contributing factors.⁷⁹ Ms Marshall told the committee that children whose behaviour reflects exposure to family violence ‘are the children that are far more likely to be suspended or expelled from school’.⁸⁰

- 1.84 Ms Peta MacGillivray told the committee that in Walgett ‘the school excludes young people who are pathologised as having bad behaviour through suspension and expulsion, and the police are used as an enforcement strategy to respond to complaints about young people being out and about at night-time’.⁸¹ Mr Benjamin Pook of Yourtown told the Committee that its consultation with more than 4,500 young people found that disengagement from education ‘really led to a connection and direction towards involvement in the youth justice sector’, and that young people asked for help earlier in staying connected to education.⁸²
- 1.85 Dr Hand and Dr Thomas recommended nationally consistent, publicly reported data on suspensions and exclusions, disaggregated by Indigeneity, disability, out-of-home care status and region, and longitudinal research linking that data to youth justice outcomes.⁸³
- 1.86 The Australian Child Rights Taskforce submitted that existing national strategies ‘lack sustained and coordinated monitoring’ and that what is needed is an integrated framework that aligns the data governments already collect with the outcomes those strategies are meant to achieve.⁸⁴
- 1.87 School discipline is a matter for state and territory education departments, and Labor Senators do not propose that the Commonwealth regulate it. Labor Senators note that New South Wales publishes suspension and expulsion data, disaggregated in a way that allows the overrepresentation of First Nations students, students with disability and students in out-of-home care to be seen

⁷⁸ Dr Jacqueline McGowan-Jones, Commissioner for Children and Young People, Western Australia, *Committee Hansard*, 2 July 2026, p. 8.

⁷⁹ Yourtown, *Submission 17*, pp. 5-6.

⁸⁰ Ms Claire Marshall, Emerge Women and Children’s Support Network, *Committee Hansard*, 3 July 2026, p. 40.

⁸¹ Ms Peta MacGillivray, Yuwaya Ngarra-li, University of New South Wales, *Committee Hansard*, 10 April 2026, p. 50.

⁸² Mr Benjamin Pook, Advocacy and Government Relations Manager, Yourtown, *Committee Hansard*, 3 July 2026, p. 33.

⁸³ Dr Samara Hand and Dr Archie Thomas, *Submission 80*, p. 4.

⁸⁴ Australian Child Rights Taskforce, *Submission 44*, p. 5.

and tracked.⁸⁵ Labor Senators are not aware of any reason this could not be done nationally by all states and territories, to understand the extent of the issues.

- 1.88 The Measurement Framework for Schooling in Australia is currently under review. That review, which the Australian Government participates in through the Education Ministers Meeting, is a mechanism to pursue nationally consistent reporting.

Recommendation 8

- 1.89 Labor Senators recommend that through the Review of the Measurement Framework for Schooling in Australia, the Australian Government advocate national data collection and reporting on suspension and exclusion, based on the approach taken by New South Wales.**

Conclusion

- 1.90 The evidence before this inquiry demonstrates challenges which cannot be addressed by the Commonwealth acting alone. Rather, it demonstrates that many children who ultimately encounter the youth justice system were already known to other systems (health, education and child protection) before they came to the attention of police. The evidence also makes clear that opportunities for earlier intervention and support were too often missed.
- 1.91 Addressing these challenges will require sustained cooperation across all levels of government. While many of the recommendations in this report fall within state and territory responsibilities, Labor Senators suggest that the recommendations could be progressed through existing Commonwealth-state and territory forums, partnerships and other appropriate reform mechanisms.
- 1.92 Labor Senators extend their sincere thanks to all those who contributed to the inquiry, particularly the young people who so generously shared their experiences, both publicly and confidentially. Their evidence provided a powerful reminder that children and young people need access to support and intervention earlier, stability and opportunity well before they become involved with the youth justice system.
- 1.93 The recommendations in this report are offered in that spirit. Their purpose is not to respond to youth offending only after it occurs, but to strengthen the systems that support children and families earlier, when intervention is most effective. Labor Senators hope these recommendations contribute to fewer young people entering the youth justice system, and that more are given the support that every child needs to thrive.

⁸⁵ NSW Department of Education, 2024 suspensions and expulsions, cited in Dr Samara Hand and Dr Archie Thomas, *Submission 80*, p. 1, note iv.

Senator Jana Stewart
Deputy Chair
Labor Senator for Victoria

Senator Dorinda Cox
Member
Labor Senator for Western Australia

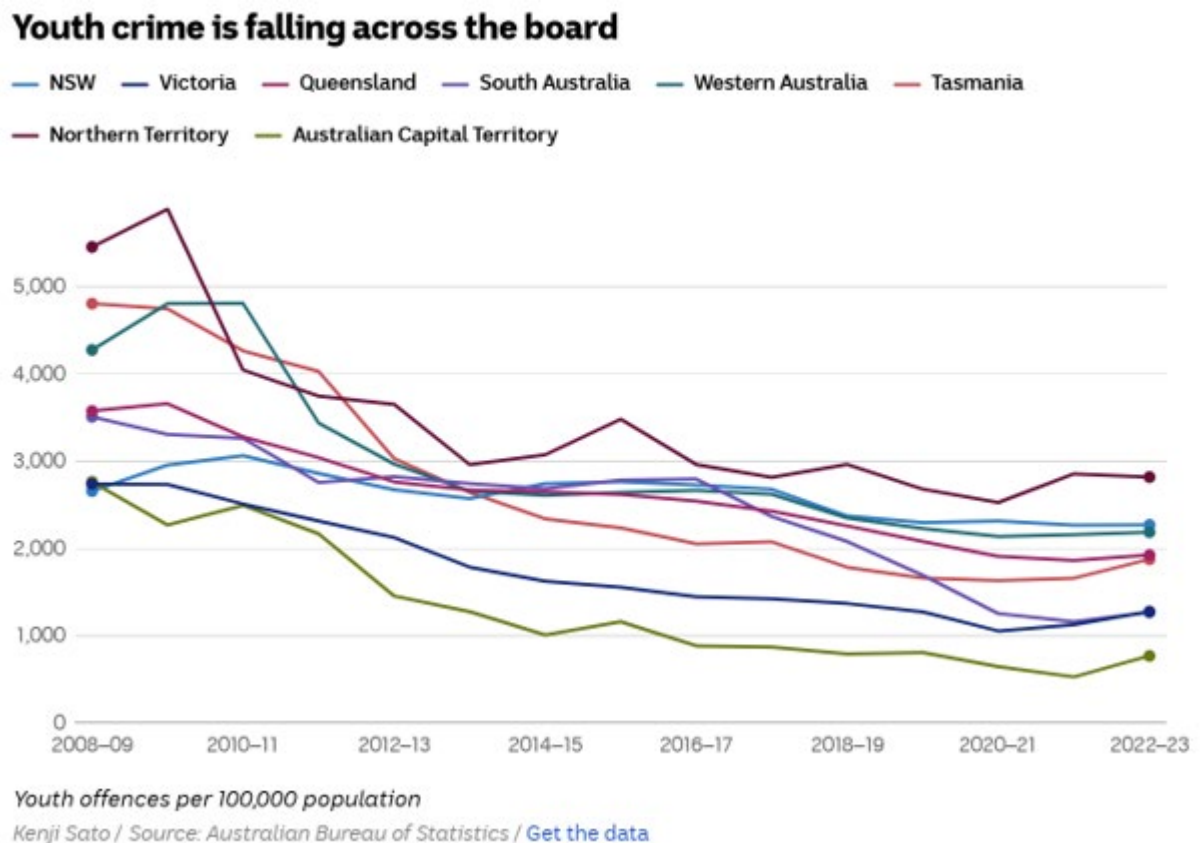
Additional Comments from Senator Shoebridge and Senator McLachlan

- 1.1 This inquiry picked up a task the last Parliament didn't finish. The Senate first referred Australia's youth justice and incarceration system to this committee in September 2024. When the 47th Parliament was prorogued for the election, before it could complete its work, the Senate referred the matter again in October 2025. As a result we carried forward every submission and piece of evidence already gathered so that witnesses didn't have to start again.
- 1.2 The terms of reference were deliberately broad: the outcomes of youth incarceration across every state and territory, the over-incarceration of First Nations children, compliance with the human rights of children in detention, Australia's international obligations, and the case for enforceable national minimum standards.
- 1.3 The Senate also required the committee to hear directly from young people with lived experience of the system and to seek out evidence of alternatives to incarceration that actually work. This was a powerful and important direction and one the committee benefited from.
- 1.4 The evidence the committee received was extensive from across the country and from those in the system, with lived experience of the system and those helping and advocating for them.
- 1.5 Former National Children's Commissioner Anne Hollands told the committee she had witnessed conditions during her own "Help Way Earlier" inquiry that she could not unsee the images and evidence from that work, including children in psychological distress being restrained in watch houses.
- 1.6 In the Northern Territory, no government department or official fronted the committee at all, despite children there being incarcerated at rates that dwarf the rest of the country, and with a degree of casual and systemic brutality that is genuinely shocking.
- 1.7 Submission after submission, from criminologists, human rights bodies, communities and frontline services told the same story about punitive laws created as result of political and media pressure rather than evidence. These laws are making communities less safe, and mean children's prisons in this country are locking up children who are overwhelmingly poor, First Nations, and living with disability or trauma in a system that was never built to respond to and in fact exacerbates these characteristics.
- 1.8 The continued overrepresentation of First Nations and disabled children in Australian prisons is a disgrace and one the Government has no current plans to address despite the obvious harms it causes. The lack of any meaningful

national response to the youth justice crisis that is washing across the country is disturbing. At best there are a handful of pilot programs under the banner of “justice reinvestment” and a national agreement on closing the gap that is repeatedly breached by states and territories.

- 1.9 It is worth repeating and highlighting the actual data this committee obtained on the prevalence and trends of offending by young people.

Figure 1 – Youth crime rates in Australian states and territories



Kenji Sato, 'Criminologists debunk claims of "youth crime crisis" as data shows dramatic declines, ABC News, 13 October 2024 (accessed 18 August 2026).

- 1.10 The data is clear, and it is in stark conflict with the hyped media reporting about young people and crime. Youth offending fell significantly in each Australian state and territory between 2008 and 2022-23.
- 1.11 Media reporting would have people believe there is an explosion of offending by young people in recent years. The data tells the opposite story. Between 2023–24 and 2024–25, the number of offenders aged between 10 and 17 proceeded against by police fell by 5 per cent, a decline recorded in every state and territory jurisdiction.
- 1.12 This is not to dismiss the impact of offending on victims of crime. These impacts are real, and they can be frightening and violent. Politicians should be very focused on policies and legal reforms that actually reduce offending and keep communities safe.

- 1.13 We also know that the children targeted by the criminal justice system, and then ground through the youth justice system, overwhelmingly carry systemic disadvantage. They are poorer. They disproportionately come from marginalised and disempowered communities, First Nations communities most of all. Many live with neurodisability and neurodevelopmental disorders. The current system targets children and young people who already have incredibly tough lives, and punishes them for it.
- 1.14 The systems operating in states and territories across the country cannot genuinely be described as youth "justice" systems. Looked at honestly, they deliver anything but justice.

The evidence to this committee was clear that the state makes a terrible substitute for a parent

- 1.15 The good news is that this committee received a wealth of evidence, backed by decades of studies, reports and lived experience, about what works: what puts young people's lives back on track, what reduces offending, and what keeps everyone safe. The bulk of that evidence is summarised in the main committee report, and we thank the Chair and the secretariat for compiling it so thoroughly.
- 1.16 The four recommendations in the Chair's report requiring: national minimum standards, a National Child and Community Safety Taskforce, evidence-based community education and active review of services by the Community Affairs Committee are all valuable. The national minimum standards and Taskforce together would produce real protections for young people and real community safety advances for everyone.
- 1.17 What is missing from the majority report is the remainder of the positive, evidence-based recommendations urged on this committee by a powerful chorus of stakeholders and witnesses. Those recommendations follow.

Raise the age

- 1.18 Raising the age creates greater community safety, greater individual justice and implements our international obligations. The Chair's report accurately and fairly details all the evidence the committee received in support of raising the age of criminal responsibility to 14 years in paragraphs 5.35 to 5.45 and the evidence was unanimous and compelling.

Recommendation 1

- 1.19 **The Commonwealth should rely on the external affairs power, consistent with international legal obligations, to mandate a minimum age of criminal responsibility of 14 years for all Australian jurisdictions.**

Recommendation 2

- 1.20 The Commonwealth should work with state and territory governments to implement the minimum age of criminal responsibility of 14, including by partnering to fund and provide non-custodial alternatives, with an implementation date no later than 31 December 2027.**

Community-based programs and diversion

- 1.21 The committee reviewed a range of evidence-based, community-centred diversionary approaches focused on the rehabilitation and resocialisation of the child. These cost-effective approaches target prevention, early intervention and community-based support. They offer an alternative to incarceration that can hold young people meaningfully accountable for harm they have caused, while breaking the cycle of recidivism and contributing to community safety.
- 1.22 To facilitate investment in these community-based diversion programs, the Attorney-General's Department should consider ways that public funds currently spent on detaining children could instead be diverted to community-based initiatives that demonstrate value for money.
- 1.23 The committee heard that while this may require an initial investment including in building skills and organisational capacity in communities,, the social impact of diversionary and early intervention programs, through reduced recidivism and reduced offending by children and young people, will produce savings over time.

Recommendation 3

- 1.24 The Attorney-General, in collaboration with state and territory counterparts, should significantly expand the National Justice Reinvestment Program and explore other opportunities to invest in early intervention and diversionary programs that prevent young people from entering the youth justice system.**

Recommendation 4

- 1.25 The Commonwealth should prioritise immediate funding to build skills and organisational strength in First Nations communities to delivery justice reinvestment programs across the country.**

Recommendation 5

- 1.26 Funding should be prioritised not to states and territories but directory to community-controlled and First Nations-controlled organisation, on a long term, secure basis.**

Funding levers

- 1.27 Much of the practical implementation of youth justice standards will fall to state and territory justice systems. Commonwealth funding is therefore an important

lever available to the Australian Government to guide the implementation and ongoing operation of reform.

- 1.28 Witnesses pointed out to the committee that requirements for operators to meet minimum standards as a condition of Commonwealth funding already exist for some health, disability and children's services.
- 1.29 To encourage states and territories to implement reforms arising from this work, the Attorney-General should work with Commonwealth counterparts to consider performance-tied funding, such as national agreements and other financial mechanisms, that tie funding for states, territories and service operators to the youth justice reform agenda.
- 1.30 The Federal Government cannot continue to fund failure and abuse.

Recommendation 6

- 1.31 The Attorney-General should tie Commonwealth funding to states, territories and service operators to progress on the youth justice reform agenda.**

Nationwide data collection

- 1.32 The committee was told of significant gaps and inconsistencies in data gathering on children in conflict with the law. The committee notes evidence from the Australian Human Rights Commission that current state and territory standards, where they exist, vary in their data collection and public reporting requirements.
- 1.33 This evidence highlighted the importance of closing these gaps to ensure that nationally consistent data on children in conflict with the law is collected and made publicly available.
- 1.34 The committee holds the view that this data set should provide the evidence base needed to support greater investment in non-custodial measures, and to demonstrate the socio-economic benefits of prevention, diversion and other community-based initiatives. Ongoing data collection and reporting is also needed to inform the development of minimum standards and to monitor their implementation and effectiveness.
- 1.35 The national data set should be disaggregated by age, sex, disability, geographic location, ethnic origin and socioeconomic background, including data disaggregated at the local level to support service design and delivery.

Recommendation 7

- 1.36 The Attorney-General should work with state and territory counterparts to establish adequate data and reporting requirements to inform investment in non-custodial measures, and the development and ongoing operation of national minimum standards.**

Senator David Shoebridge
Member
Greens Senator for NSW

Senator Andrew McLachlan CSC
Member
Liberal Senator for SA

Senator Lidia Thorpe's Additional Comments

- 1.1 My additional comments to the committee's report largely draw on the additional comments I made to the inquiry into Australia's Youth Justice and Incarceration System in February 2025. Unfortunately, committee members were not given sufficient time to meaningfully review this draft report. Sadly, my additional comments from February 2025 remain as relevant as ever.
- 1.2 This Inquiry has only reaffirmed what First Peoples, Elders, communities, advocates, childrens' commissioners and international bodies have been saying for decades.
 - (a) The criminalisation and detention of children in Australia is a crime scene and a human rights catastrophe that disproportionately impacts First Nations children. Detention centres are sites of systemic child abuse, operating in direct violation of this country's domestic and international human rights obligations and all morality, with evidence of neglect, excessive force, trauma, sexual, psychological and physical abuse inflicted on children as young as ten.
 - (b) Tough-on-crime policies do not function to keep communities safe. The overwhelming evidence confirms that locking children up does not make our community safer and seriously harms the children concerned, particularly First Nations children. These policies do not reduce crime, but instead entrench cycles of trauma, poverty, and incarceration—fueling over-policing and mass incarceration.
 - (c) The lack of compliance with human rights obligations means that vulnerable children are criminalised for the conditions created by colonial violence, poverty, and state neglect. In breach of human rights obligations children are denied access to housing, education, healthcare, and family support.
 - (d) First Nations child removals, policing, and incarceration are the continuation of colonialism. From the early missions and reserves governments institutions have always been about controlling, punishing, and removing First Nations children from their families and Country, funnelling them from child protection into prisons.
 - (e) The Federal Government is complicit in the state-sanctioned torture and abuse of children in detention, permitting ongoing violations nationally with zero accountability despite having the legislative power to enforce national human rights compliance. It hides behind performative agreements, inquiries and empty reports, while refusing to take meaningful action to stop the systemic criminalisation, brutalisation, and deaths of First Nations children.

- 1.3 We must actually address the conditions and causes of criminalisation, move away from carceral responses, and adopt a non-violent approach to keeping communities safe.¹ Many submissions have emphasised the need to invest in programs and solutions that are First Nations controlled and operated, culturally safe, therapeutic, trauma informed and targeted to address root causes.
- 1.4 Immediate and urgent action is required. Right now, children as young as ten are suffering needlessly — caught in a system that prioritises politics and punishment against all best evidence, in direct contravention of children's best interests, human rights, and lives. Immediate and urgent action is needed to protect those at risk of criminalisation and those already in detention. Their lives must come before political agendas. Decades ago the *Bringing Them Home* Report and the *Royal Commission into Aboriginal Deaths in Custody* (RCIADIC) made it clear—federal intervention and leadership were urgent then, the *Help Way Earlier* report shows they are non-negotiable now.

The criminalisation and detention of children in Australia is a crime scene

- 1.5 Children's detention centres are not sites of rehabilitation; they are sites of systemic child abuse, operating in breach of all morality and internationally protected human rights obligations.² As noted in the committee's report, many of those who gave evidence to this inquiry commented that there are 'serious and systemic breaches'³ of Australia's international obligations in youth detention facilities across the country.
- 1.6 As such, nationally, children's detention centres operate as sites of state-sanctioned institutional child abuse with federal, state, and territory governments—along with their agencies and institutions—as its perpetrators.
- 1.7 The state often inflicts its most severe violence in residential care settings and prisons, where it is, in fact, the child's guardian.⁴ Children are not safe in these places.⁵ No child should be in prison, and governments are not responsible legal guardians, and are not fit to care for or discipline children.

¹ Institute for Collaborate Race Research, *Submission 185*, p. 2.

² Sisters Inside and National Network of Incarcerated and Formerly Incarcerated Women & Girls, *Submission 128*, p. 3, 22. See also: Professor George Newhouse, Principal Solicitor and Chief Executive Officer, NJP, *Committee Hansard*, 3 February 2025, p. 54; UN, *Digital Library*, 'Concluding observations on the 6th periodic report of Australia: Committee against Torture', 5 December 2022, paragraph 31.

³ Australian Lawyers Alliance, *Submission 49*, p. 9.

⁴ Institute for Collaborate Race Research, *Submission 185*, p. 2.

⁵ Dr James Beaufils, Senior Research Fellow, Jumbunna, *Committee Hansard*, 3 February 2025, p. 55.

- 1.8 While the conditions of children in detention are partially laid out in the committee's report, the true horrors and severity of neglect, abuse, excessive force, and harm experienced by children as young as ten are sanitised, disappeared, and hidden. This report does not even touch on the two First Nations children who committed suicide in detention in 2024, one of whom was 14 years old.⁶
- 1.9 As pointed out by Australian Institute of Health and Welfare, much of the data around conditions and harm are not even recorded,⁷ and the independent bodies mandated under OPCAT to prevent torture and inhumane treatment are being denied access to places of detention, blocking them from even witnessing the abuses they are meant to prevent.⁸

“Tough-on-crime” policies do not function to keep communities safe.

- 1.10 Overwhelmingly, submissions stated that the best evidence shows that removing kids from communities, locking them up, and punishing and abusing them does not lead to positive outcomes. It does not make communities safer; it only creates more harm.⁹ ‘Tough on crime’ is not a solution—it is populist racist political rhetoric that locks communities and children into an endless cycle of trauma, harm, offending, conflict, and incarceration.¹⁰
- 1.11 Children's detention centres are not sites of rehabilitation. The North Australian Aboriginal Justice Agency (NAAJA) highlighted that connection to family, community, culture, language and Country are all crucial to the rehabilitation of Aboriginal young people.¹¹ The outcomes and impacts of youth incarceration are well researched and it is clear that institutionalising children during their formative years is a key driver of lifelong criminalisation.¹²

⁶ Mostafa Rachwani, ‘Indigenous teenager dies at WA’s Banksia Hill youth detention centre’, *The Guardian*, 30 August 2024, <https://www.theguardian.com/australia-news/article/2024/aug/30/banksia-hill-youth-detention-centre-death-indigenous-teen-ntwnfb> (accessed 17 September 2026).

⁷ AIHW, *National data on the health of justice-involved young people: A feasibility study*, p. vii, www.aihw.gov.au/getmedia/4d24014b-dc78-4948-a9c4-6a80a91a3134/aihw-juv-

⁸ Optional Protocol to the Convention Against Torture (OPCAT), article 1; Australian Human Rights Commission (AHRC), *Submission 65*, p. 18.

⁹ Justice Action, *Submission 148*, p. 6. See also: AMA, *Submission 55*, p. 4; AYAC, *Submission 156*, pp. 3–4.

¹⁰ Sisters Inside and National Network of Incarcerated and Formerly Incarcerated Women & Girls, *Submission 128*.

¹¹ NAAJA, *Submission 108*, p. 4.

¹² Law Council of Australia, *Submission 195*, p. 7; AIHW, *Young people returning to sentenced youth justice supervision, 2021–22, 2023*, p. 6.

- 1.12 Upon release, children are not provided access to the basic needs that they were seeking before their criminalisation.¹³ The state does not protect vulnerable children before, during, or after incarceration; it only polices and punishes them. Indeed the very systems that claim to offer care and solutions — child protection, the legal system, law enforcement—are the very mechanisms that perpetuate their ongoing suffering and oppression.
- 1.13 Incarceration only perpetuates harm—we must dismantle the systems that police, remove, and imprison children and replace them with community-led models of care, support, and accountability. Justice Reinvestment must be implemented in its true form, redirecting funding from prisons and policing into community-based prevention, diversion, and long-term solutions including housing, education, healthcare, and wraparound support services.¹⁴
- 1.14 When a child is hurting or acting out, our Lore teaches us collective care and guidance. It teaches us to treat the wound, to wrap the community around those who are struggling. We as communities and as a nation should be able to teach our children about care, kinship and accountability without resorting to institutions which literally facilitate child abuse and create lifelong trauma.¹⁵
- 1.15 Reformist recommendations that t create ‘more appropriate’ prisons for children do nothing to change the fundamental violence of the system. We must adopt a non-violent approach to keeping communities safe.

Abuse of Human Rights Obligations, Criminalisation of Dispossession, and Poverty

- 1.16 International legal frameworks oblige Australia to ensure that children are provided with essential services, this includes ensuring every child has access to healthcare, education, and an adequate standard of living, including food and housing.¹⁶ Australia systematically violates these obligations by criminalising children instead of fulfilling these obligations. First Nations children and families are the primary victims of this state neglect, and of criminalisation, and

¹³ Ms Zoë Robinson, Advocate for Children and Young People (NSW), *Submission 139*, p. 3; AHRC, *Submission 65*, p. 12.

¹⁴ Institute for Collaborative Race Research, *Submission 18*, p. 6.

¹⁵ Sisters Inside and the National Network of Incarcerated and Formerly Incarcerated Women & Girls, *Submission 128*, p. 2. See also: Justice Reform Initiative, *Submission 20*, p. 22; NAPCAN, *Submission 66*, [p. 3].

¹⁶ *International Covenant on Economic, Social and Cultural Rights*, adopted 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976); *International Covenant on Civil and Political Rights*, adopted 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976); *International Convention on the Elimination of All Forms of Racial Discrimination*, adopted 21 December 1965, 660 UNTS 195 (entered into force 4 January 1969); *Convention on the Rights of the Child*, adopted 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 24.

are massively overrepresented in every single metric in every single jurisdiction.¹⁷

- 1.17 First Nations children themselves consistently say that their criminalisation is linked with a lack of support for their basic needs: before being locked up, many needed a safe place to call home, enough food, inclusive education, health supports and access to family and community.¹⁸
- 1.18 In her 2017 visit to Australia, UN Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, observed that First Nations children are "essentially being punished for being poor," with incarceration exacerbating cycles of violence, poverty, and crime. She highlighted that the significant factors leading to the criminalisation and incarceration of First Nations people can be traced to land dispossession, genocide, disruption of kinship systems, and other impacts of colonisation.¹⁹
- 1.19 This isn't about a lack of funds—it's a political choice where governments would rather spend \$3,320.46 a day locking up one child – than ensuring they have access to safe, ongoing food and housing.²⁰ In Queensland, the state government deployed police helicopters and police street checks during the school holidays specifically in low socioeconomic, First Nations and migrant communities.²¹
- 1.20 The *"Help Way Earlier!"* report from the Australian Human Rights Commission highlights that children need support long before they come into contact with the justice system, emphasizing early intervention, access to basic needs, and community-led solutions to break cycles of harm and criminalisation. The report emphasises that children need access to safe housing, education, healthcare, culturally appropriate support, and strong connections to family and community long before they come into contact with the justice system. It calls for early intervention and investment in community-led solutions to prevent criminalisation and break cycles of harm.

¹⁷ Australian Human Rights Commission (AHRC), *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (the *Help way earlier!* report), 2024, p. 8; NJP and Jumbunna, *Submission 51*, p. 3; Sisters Inside and National Network of Incarcerated and Formerly Incarcerated Women & Girls, *Submission 128*, pp. 4–5.

¹⁸ Institute for Collaborative Race Research, *Submission 185*, p. 2; Koorie Youth Council, *Ngaga-dji*, 2018; CCYP, *Our Youth Our Way*, 2021; QFCC, *Yarning for Change*, 2022.

¹⁹ United Nations Special Rapporteur on the Rights of Indigenous Peoples, *End of Mission Statement*, OHCHR (3 April 2017).

²⁰ Ms Nerita Waight, Deputy Chair, National Aboriginal and Torres Strait Islander Legal Services, *Committee Hansard*, 3 February 2025, p. 71.

²¹ Sisters Inside and National Network of Incarcerated and Formerly Incarcerated Women & Girls, *Submission 128*, p. 2.

- 1.21 Of the 339 recommendations of the Royal Commission into Aboriginal Deaths in Custody nearly 40 per cent addressed the root causes of criminalisation—land rights, housing, education, health, children's programs, employment, and self-determination. These were not symbolic gestures; they were a roadmap for justice. The only reason they haven't been implemented is political choice.

First Nations child removals, policing, and incarceration are the continuation of colonialism

- 1.22 Aboriginal and Torres Strait Islander children's rights have been in crisis since colonisation, when we were dispossessed of our land and our cultural ways of growing up and nurturing our children, which we had done successfully for more than 65,000 years.²²
- 1.23 As laid out in Chapter 2, First Nations children are over-criminalised and overrepresented in every jurisdiction, making up 57% of all children in detention and up to 91% in the Northern Territory. Despite being only a small fraction of the population, they are 28 times more likely to be imprisoned. For First Nations children aged 10-13, the overrepresentation is even more extreme.²³
- 1.24 Carceral systems have always been used to impose and maintain colonial control over Indigenous people on this continent. From missions, reserves and Chief Protectors, child removal systems, prisons and police; 'there is no justice in the violence of policing, courts and prisons that have seen no convictions for 516 deaths in custody, that blame Black women for their own disappearances and lock up children away from their communities and Country'.²⁴
- 1.25 This isn't a broken system—it's a system doing exactly what it was originally built to do. From invasion to now, the colonial governments have brutalised, criminalized and controlled First Nations communities in order to get access to their land.²⁵ Child removals, policing, and mass incarceration were never failures—they were the plan. The Bringing Them Home report identified child removals as genocide, yet there has been no reckoning, no truth telling, no change.
- 1.26 First Nations children are still being forcibly removed from their families at escalating rates, and as of 2023, nearly 22,330 Aboriginal and Torres Strait Islander children were in out-of-home care across Australia. The Yoorrook

²² Parliamentary Joint Committee of Human Rights review into Australian Human Rights Framework; Ms Rachel Atkinson, Board Member, SNAICC National Voice for Our Children, *Committee Hansard*, 25 August 2023, p. 33.

²³ AIHW, *Youth Justice in Australia 2024: Key Statistics on Children in Detention*, June Quarter, 2024.

²⁴ Institute for Collaborative Race Research, *Submission 185*, p. 1.

²⁵ Institute for Collaborative Race Research, *Submission 185*, p. 1.

Justice Commission was Victoria's first formal truth-telling body, established in May 2021 to investigate historical and ongoing injustices experienced by First Peoples since colonization. It heard of the established process of identifying expectant mothers for the potential removal of their child once born. In effect, this means the First Nations children community can be in a pipeline to the justice system before being born.²⁶

- 1.27 The state's refusal to confront its own racism ensures the cycle continues: First Nations children are scapegoated — used by politicians to consolidate power and by the media to generate profit. They are vilified, dehumanised, and weaponised to justify more police, more prisons, and more violence and more dispossession.
- 1.28 If the government cannot reckon with its own role as the abuser, and address its paternalistic, white supremacist attitudes, then it will continue to be complicit in these crimes.

The Federal Government is complicit in the state-sanctioned torture and abuse of children in detention, permitting ongoing violations nationally with zero accountability despite having the legislative power to enforce human rights compliance.

- 1.29 The Federal Government's continued inaction in the face of well documented and indisputable evidence of human rights breaches of vulnerable children across the nation abuse makes it complicit. The ongoing delays, inquiries, and political deflections do nothing but uphold the very conditions of harm that First Nations communities have resisted for generations. Consecutive Australian Governments have not just failed to act, but are actively making the situation worse.
- 1.30 The Federal Government — responsible for national human rights compliance — is overseeing a legal system that permits the ongoing, nationwide physical and sexual abuse with zero accountability.²⁷ More so, the federal government has the power to act — it can legislate national minimum standards under the external affairs power (Section 51(xxix) of the Australian Constitution), enforce human rights compliance, and intervene to stop these abuses.²⁸ State violence against

²⁶ Yoorrook Justice Commission, *Yoorrook for Justice Report*, 2023, p. 4, <https://yoorrookforjustice.org.au/wp-content/uploads/2023/08/Yoorrook-for-justice-report.pdf>

²⁷ *National Agreement*, July 2020, paragraph 58.

²⁸ Mr Greg McIntyre SC, Member, National Human Rights and Indigenous Legal Issues Committees, Law Council of Australia, *Committee Hansard*, 3 February 2025, p. 61; Dr Adam Fletcher, Senior Policy Lawyer, Law Council of Australia, *Committee Hansard*, 3 February 2025, p. 62.

Indigenous children is also defined by what the state fails to do when children themselves are victims of crime.²⁹

- 1.31 The government's consistent refusal to implement the recommendations of inquiries, commissioners, international committees, allows the government to feign due diligence while evading real accountability. All the while perpetuating systemic abuse against children with impunity, compounding their trauma, institutionalization, and, in many cases, leading to their deaths.³⁰
- 1.32 Countless inquiries and monitoring functions of the youth justice system consistently outline the trauma the system inflicts on children, compounding the harm many have already endured.³¹ Reports also demonstrate regular breaches of facilities' own guidelines as well as state standards, human rights, cultural rights and other obligations.³² The thousands of pages and hundreds of recommendations in the over 21 key inquiries and reviews conducted into this issue since 2016 alone makes this clear...Australia's youth justice system continues to be plagued by political manoeuvring and opportunism while children continue to suffer.³³ In this context, Recommendation 4 of this committee's inquiry that the Senate Community Affairs References Committee undertake an inquiry into the factors that contribute to youth incarceration in Australia is especially galling. Multiple inquiries over decades have provided ample evidence and advice to enable governments to act. It is well past time for the recommendations of previous inquiries to be implemented.
- 1.33 Citing failed frameworks isn't accountability; it's a smokescreen for inaction.³⁴ On the topic of Justice Reinvestment discussed in the inquiry's report, despite all the rhetoric, not a single cent has actually been redirected from police, prisons, or surveillance into communities—justice reinvestment initiatives as they stand, are just another hollow promise, crippled by the same racism, paternalism, and bureaucratic inertia as every other so-called reform.
- 1.34 Additionally, the federal government has done nothing to ensure the public is informed of the best evidence when it comes to children's incarceration, and has

²⁹ Koorie Youth Council, *Ngaga-dji*, 2018, p.46; CCYP, *Our Youth Our Way*, 2021, pp.190-191.

³⁰ Institute for Collaborative Race Research, *Submission 185*, p. 5.

³¹ See for example, Royal Commission into the Protection and Detention of Children in the Northern Territory, *Final Report*, 2017; Amnesty International, *Hands held high*, 2016 Sydney: Australian Human Rights Commission; CCYP, *The same four walls*, 2017; Koorie Youth Council, *Ngaga-dji*, 2018, p.46; CCYP, *Our Youth Our Way*, 2021.

³² Institute for Collaborative Race Research, *Submission 185*, p. 4.

³³ NATSILS, *Submission 202*, p. 4. See also: Institute for Collaborative Race Research, *Submission 185*, pp. 4–5, which argued that the persistent refusal to act suggests that these monitoring and oversight mechanisms are performative only.

³⁴ AGD, *Submission 204*, [p. 5].

not challenged the racist dog-whistling that fuels public hysteria.³⁵ I see direct links to the white vigilante gangs in North Queensland who have been emboldened by the racist touch on crime rhetoric, and have stalked, intimidated, and even restrained Aboriginal children with dog collars—acts met with silence from police, government, and media. This indifference is deeply troubling given the government has yet to respond to the National Anti-Racism Framework that it asked the Australian Human Rights Commission to deliver, which it did in November 2024.

- 1.35 Decades ago the *Bringing Them Home* Report and the *Royal Commission into Aboriginal Deaths in Custody* (RCIADIC) and now the *Help Way Earlier* report have made it clear—federal intervention and leadership were urgent then, and they are non-negotiable now.
- 1.36 We must act urgently to address the conditions of criminalisation and adopt a non-violent approach to keeping communities safe.³⁶ We must urgently abolish the detention of children nationwide and redirect the funds spent on their incarceration to meet their immediate needs in community, including community-led housing, education, healthcare, and culturally safe support services that address the root causes of criminalisation.
- 1.37 Governments must move beyond carceral frameworks and focus on how the Australian government can fulfil its obligations to self-determination and sovereignty for First Nations peoples. This requires a fundamental shift away from punitive responses and towards community-led, non-violent solutions that address the root causes of criminalisation—poverty, housing insecurity, exclusion from education, racial discrimination, and systemic neglect. Instead of reinforcing systems that police, surveil, and incarcerate children, the inquiry must centre the leadership of Aboriginal and Torres Strait Islander communities in shaping youth justice policies that prioritise culturally grounded care, healing, and community-driven interventions. Aboriginal and Torres Strait Islander communities are best placed to provide a holistic approach to addressing the needs of children and strengthening First Nations children’s identity through culture and connection.
- 1.38 Australia must comply with international human rights obligations, including the United Nations *Declaration on the Rights of Indigenous Peoples* (UNDRIP), which recognises the right of self-determination of First Nations peoples to design and control justice systems that align with their cultural, social, and legal traditions. The focus must be on dismantling colonial institutions of punishment and supporting sovereign, self-determined approaches to safety and justice that genuinely keep First Nations children out of harm’s way.

³⁵ Ms Nerita Waight, Deputy Chair, NATSILS, *Committee Hansard*, 3 February 2025, p. 75.

³⁶ Institute for Collaborative Race Research, *Submission 185*, p. 2.

- 1.39 To refuse to act so is to admit that the government's relationship with human rights and First Nations rights obligations is purely performative, and that First Nations children, and indeed all vulnerable children targeted by these systems, are being sacrificed for political convenience.³⁷

Recommendations

- 1.40 The Federal Government must take immediate and decisive action to end the systemic harm inflicted on First Nations children by state violence, incarceration, and forced removals. These recommendations are immediate starting points, and I will provide further recommendations in the final report.

Recommendation 1

- 1.41 In considering the development of national minimum standards in relation to youth justice in this country (recommendation 1 of this report), the federal government must consider all available legislative and policy levers including:

- **A national ban on all forms of torture and mistreatment:** prohibition of solitary confinement, strip searches, spit hoods, restraint chairs, chemical restraints, and excessive force against children in all jurisdictions.
- **Ending the detention of children in adult facilities:** Immediately remove all children from watchhouses, police custody and adult prisons and ensure they are never held in adult detention under any circumstances, as has been achieved in Aotearoa.
- **Reforming Bail and Remand Laws:** Establish national, evidence-based, child-centred frameworks that prioritise rehabilitation, diversion, and early intervention over detention to break the cycle of criminalisation.
- **Ensuring ongoing access to safe, adequate and culturally appropriate healthcare and education to all children in contact with the criminal legal system.**
- **Raising the age of legal responsibility in line with international standards, or at least at a minimum of 14 years of age.**
- **Ending the violent and degrading strip searches of children by police and prison authorities nationwide.**

Recommendation 2

- 1.42 In establishing and coordinating a taskforce to undertake national reform to Australia's youth justice system (recommendation 2 of this report), the federal government must prioritise the allocation of funding to First Nations Community-Controlled Organisations frontline services in communities, to support at risk children by:

³⁷ Institute for Collaborative Race Research, *Submission 185*, pp. 4-5.

- Providing safe housing and crisis accommodation.
- Ensuring access to food, clothing, healthcare, and culturally appropriate support.
- Supporting family reunification and trauma-informed care to break the cycle of criminalisation.
- Diverting resources away from policing and detention and instead investing in First Nations-led solutions, including housing, healthcare, education, family reunification, and culturally safe support services and programs.
- Allocating needs-based and sustained funding increases for ATSILS to deliver culturally safe, holistic legal services and wraparound supports for First Nations children and young people, and to partner with governments to transform youth justice in line with the Closing the Gap priority reforms and to meet Socio-Economic Target 11.

Recommendation 3

- 1.43** Immediately halt all plans for the construction or expansion of children's prisons across Australia and work in genuine partnership with communities to develop non-carceral, community-led solutions that provide culturally safe, trauma-informed support for children and families.

Recommendation 4

- 1.44** The Federal Government must publicly reject racist and punitive “tough on crime” narratives that drive harmful policies targeting children and hold state and territory governments accountable for enacting policies that go against best evidence, disproportionately criminalise First Nations children and escalate their incarceration.

Recommendation 5

- 1.45** Immediately commence a process for the full implementation of:

- The Bringing Them Home Report;
- The Royal Commission into Aboriginal Deaths in Custody (RCIADIC);
- Help Way Earlier Report; and
- The National Anti-Racism Framework.

Recommendation 6

- 1.46** Establish a mechanism to provide national oversight and monitoring of the implementation of the reports referred to above (Recommendation 5) in all jurisdictions.

This includes ending the harmful practices in children's detention by implementing enforceable national minimum standards and supporting

trauma-informed, culturally safe, community-based alternatives to detention, with a focus on early intervention and diversion strategies, and justice reinvestment approaches that are self-determined and address the root causes of criminalisation.

Minimum standards must be developed in partnership with Aboriginal and Torres Strait Islander people, and in line with this country's international human rights obligations under the Convention on the Rights of the Child; the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of Persons with Disabilities, and other international treaties Australia has ratified that have bearing on the treatment of children in the criminal legal system.

Recommendation 7

- 1.47 The federal government must take immediate steps to enact a National Human Rights Act that includes nationally enforceable protections for children's human rights with national oversight and enforcement mechanisms.

Recommendation 8

- 1.48 The committee's recommendation for a taskforce to coordinate national reform to Australia's youth justice system must focus on non-violent community led solutions and move beyond carceral frameworks and focus on how the Australian government can fulfil its obligations to self-determination and sovereignty for First Nations peoples.

Senator Lidia Thorpe

Member

Independent Senator for Victoria

Appendix 1

Submissions and additional information

- 1 United Nations Youth Australia
- 2 Multicultural Youth Advocacy Network Australia
- 3 PeakCare
- 4 Alcohol and Drug Foundation
- 5 Royal Australian and New Zealand College of Psychiatrists
- 6 ACT National Preventive Mechanism
- 7 Coalition against the Pontville Youth Justice Facility
 - Attachment 1
- 8 Australia's National Research Organisation for Women's Safety
- 9 Ms Juliet Vrakas
- 10 Orygen
- 11 Australian Institute of Health and Welfare
- 12 Office of the Inspector of Custodial Services (WA)
- 13 Youthlaw
- 14 Queensland Family and Child Commission
- 15 Anglicare Australia
- 16 NT Council of Social Service
- 17 yourtown
- 18 Australian Human Rights Commission
- 19 International Commission of Jurists (Australian Section)
- 20 Alternative First Responders
- 21 SHINE for Kids
- 22 Macarthur Legal Centre
- 23 National Commission for Aboriginal and Torres Strait Islander Children and Young People
- 24 Federation of Community Legal Centres
- 25 Network of Councils of Social Service
- 26 UNICEF Australia
- 27 Australian Research Alliance for Children and Young People
- 28 Knowmore
- 29 Ms Ellie Bedells
- 30 Just Reinvest NSW
- 31 SNAICC
- 32 Interlace Advisory Pty Ltd
- 33 Fams
- 34 Healing Foundation
- 35 Ms Anne Hollonds
- 36 Common Grace

- 37 Royal Australian College of General Practitioners
- 38 Australian Education Union
- 39 Office of the Queensland Aboriginal and Torres Strait Islander Children's Commissioner
 - Attachment 1
 - Attachment 2
 - Attachment 3
- 40 Trans Justice Sydney
- 41 Community Justice Coalition and Justice Action
- 42 Social Reinvestment WA
 - Attachment 1
- 43 South Australia Council of Social Service
- 44 Australian Child Rights Taskforce
- 45 Australian Children's Commissioners, Guardians, and Advocates
- 46 National Legal Aid
- 47 Victoria Legal Aid
- 48 Each
- 49 Australian Lawyers Alliance
- 50 Law Society Northern Territory and Criminal Lawyers Association of the Northern Territory
- 51 Aboriginal Legal Service of Western Australia
- 52 Ubuntu Impact Consulting
- 53 Australian Services Union
- 54 Ms Susan Ditter
- 55 First Nations Advocates Against Family Violence
- 56 NOFASD Australia
- 57 Anglicare Southern Queensland
- 58 Name Withheld
- 59 Justice Reform Initiative
- 60 Griffith Criminology Institute, Griffith University
- 61 Sisters Inside and the National Network of Incarcerated and Formerly Incarcerated Women and Girls
- 62 Wiyi Yani u Thangani Institute for First Nations Gender Justice
- 63 Save the Children and 54 reasons
 - Attachment 1
 - Attachment 2
 - Attachment 3
 - Attachment 4
- 64 Mission Australia
- 65 ACT Human Rights Commission
- 66 Justice and Equity Centre
 - Attachment 1

-
- 67 Change the Record
 - 68 Legal Aid WA
 - 69 NAPCAN
 - 70 Victorian Aboriginal Child and Community Agency
 - 71 Lowitja Institute
 - 72 Ferdinand Neligan
 - 73 Associate Professor Susan Baidawi
 - 74 Youth Justice Special Interest Group of the SA Allies Network
 - 75 Human Rights Law Centre
 - 76 CONIX Enterprise Pty Ltd and ConFit Pathways
 - 77 PCYC Queensland
 - 78 Australian Childhood Foundation
 - 79 Tangentyere Council
 - 80 Dr Samara Hand and Dr Archie Thomas
 - 81 Youth Advocacy Centre
 - 82 Ms Susan Herbert
 - 83 Mounty Aboriginal Youth & Community Services and Koorie Youth Council
 - 84 Australian Association of Social Workers
 - 85 Victorian Aboriginal Legal Service & Koorie Youth Council
 - 85.1 Supplementary to submission 85
 - Attachment 1
 - Attachment 2
 - Attachment 3
 - 86 YSAS Youth Support and Advocacy Service
 - 87 Queensland Council of Social Service (QCOSS)
 - 88 Office of the Guardian for Children and Young People (SA)
 - 89 Commissioner for Children and Young People (Tasmania)
 - 90 Queensland Network of Alcohol and other Drug Agencies (QNADA)
 - 91 Griffith University Disrupting Violence Beacon
 - 92 The Centre for Excellence in Child & Family Welfare
 - 93 Youth Empowered Towards Independence (YETI)
 - 94 Australian Medical Association
 - 95 Life Without Barriers
 - 96 ACT Aboriginal and Torres Strait Islander Children & Young People
Commissioner's Office
 - 97 Australian Association for Restorative Justice
 - Attachment 1
 - 98 Professor Fiona Stanley, Professor Carol Bower, Professor Patricia Dudgeon,
Dr Jocelyn Jones, Dr Hannah McGlade, Dr Sharynne Hamilton and Dr Hayley
Passmore
 - Attachment 1
 - Attachment 2

- 99 Wirringa Baiya Aboriginal Women's Legal Centre
- 100 Deadly Connections
- 101 Dr Arthur Chesterfield-Evans
- 102 NPY Women's Council
- 103 Aboriginal Legal Rights Movement
- 104 Legal Aid Northern Territory
- 105 AGD and NIAA
- 106 Community Legal Centres Australia
- 107 Jesuit Social Services
- 108 North Australian Aboriginal Justice Agency
- 109 Praxis Youth
- 110 Australian Federal Police
- 111 Minister for Children and Youth, the Hon Jo Palmer MLC (Tasmania)
- 112 Law Council of Australia
- 113 Confidential
- 114 Confidential
- 115 Ms Sherie Lethbridge
- 116 Professor Andrew Day
 - Attachment 1
 - Attachment 2
 - Attachment 3
 - Attachment 4
- 117 Tasmanian Aboriginal Centre
- 118 Emerge Women and Children's Support Network
 - Attachment 1
- 119 Traction
- 120 National Aboriginal and Torres Strait Islander Legal Services (NATSILS)
 - Attachment 1
 - Attachment 2
 - Attachment 3
- 121 Aboriginal and Torres Strait Islander Legal service (ATSILS)
 - Attachment 1
- 122 Aboriginal Legal Service (NSW/ACT) Limited
- 123 Queensland Indigenous Family Violence Legal Service
- 124 Name Withheld
- 125 National Lived Experience Commission
- 126 Durra Larrakia Daraniki Inc
- 127 Johnathan Thurston Academy
 - Attachment 1
 - Attachment 2
 - Attachment 3
 - Attachment 4

- Attachment 5
- Attachment 6
- Attachment 7
- Attachment 8
- Attachment 9
- Attachment 10
- Attachment 11

128 Ms Andrea Davidson PSM

Additional Information

- 1 Dr Lisa Ewenson - Australian Journal of Human Rights (2024) - Lived experiences of youth justice detention in Australia: reframing the institution in a decarcerated state.
- 2 Dr Lisa Ewenson - Chapter 9 - Child Incarceration: Children's Rights, Racialized Media Narratives and Youth (in)Justices in Australia
- 3 Dr Lisa Ewenson and Dr Bronwyn Naylor - Australian Journal of Human Rights (2021) - Protecting human rights in youth detention: listening to the voices of children and young people in detention
- 4 Australian Child Rights Taskforce - Opportunities for Australian Federal Government Leadership
- 5 Ms Deb Tsorbaris, National Children's Commissioner - Australia's Universal Periodic Review (UPR) in relation to child justice
- 6 The Royal Australian College of General Practitioners - A health first approach to support young people at risk of contact with the justice system
- 7 The Royal Australian College of General Practitioners - Further points
- 8 Ms Shona Reid, Guardian for Children and Young People (SA) – Special Report: learning from Diagrama
- 9 Royal Australasian College of Physicians – supplementary submission to Submission 50 of the 47th Parliament
- 10 Dr Lisa Ewenson – Chapter 7 – Contemporary Youth Detention Experiences in New South Wales – Youth Crime, Youth Justice and Children's Courts in NSW Journal, 2023

Answers to Questions on Notice

- 1 Life Without Barriers - answers to questions on notice, 17 March 2026 (received 31 March 2026)
- 2 Save the Children and 54 Reasons - answers to questions on notice, 17 March 2026 (received 31 March 2026)
- 3 Social Reinvestment WA - answers to questions on notice, 17 March 2026 (received 2 April 2026)
- 4 Yung Prodigy - answers to written questions on notice, 10 April 2026 (received 1 May 2026)

- 5 NSW Ombudsman - answers to written questions on notice, 10 April 2026 (received 1 May 2026)
- 6 Just Reinvest NSW - answers to written questions on notice, 10 April 2026 (received 1 May 2026)
- 7 Justice and Equity Centre - answers to written questions on notice, 10 April 2026 (received 4 May 2026)
- 8 Raise the Age NSW - answers to written questions on notice, 10 April 2026 (received 4 May 2026)
- 9 National Indigenous Australians Agency - answer to question on notice, 3 July 2026 (received 7 August 2026)
- 10 Law Council of Australia - answer to question on notice, 3 July 2026 (received 5 August 2026)
- 11 Yourtown - answers to questions on notice, 3 July 2026 (received 5 August 2026)
- 12 Mrs Jodie Griffiths-Cook, Public Advocate and Children and Young People Commissioner (ACT), 3 July 2026 (received 10 August 2026)
- 13 Amnesty International Australia - answer to question on notice, 3 July 2026 (received 14 August 2026)
- 14 National Aboriginal and Torres Strait Islander Legal Services – answer to question on notice, 11 August 2026 (received 20 August 2026)

Tabled Documents

- 1 Reserve Magistrate Jennifer Bowles, Amended Opening Statement, tabled at a Public Hearing in Melbourne on 16 March 2026
- 2 Reserve Magistrate Jennifer Bowles, 'Criteria for the Court to make a Youth Therapeutic Order', tabled at a Public Hearing in Melbourne on 16 March 2026
- 3 Reserve Magistrate Jennifer Bowles, 'Updated List of Members of the WCBD Steering Committee', tabled at a Public Hearing in Melbourne on 16 March 2026
- 4 Reserve Magistrate Jennifer Bowles, 'Support for the What Can Be Done Model Youth Therapeutic Orders', tabled at a Public Hearing in Melbourne on 16 March 2026
- 5 Reserve Magistrate Jennifer Bowles, 'DFFH Applications for Emergency Care Warrants and Quotes from young people', tabled at a Public Hearing in Melbourne on 16 March 2026
- 6 Smart Justice for Young People, 'What is over representation information sheet', tabled at a Public Hearing in Melbourne on 16 March 2026
- 7 Dr Stuart Kinner, Justice Health Group, Opening Statement, tabled at a public hearing in Perth on 17 March 2026
- 8 National Children's Commissioner, Ms Deb Tsorbaris, Opening Statement, tabled at a public hearing in Canberra on 2 July 2026
- 9 Disability Discrimination Commissioner, Ms Rosemary Kayess, Opening Statement, tabled at a public hearing in Canberra on 2 July 2026

- 10 National Commissioner for Aboriginal and Torres Strait Islander Children and Young People, Ms Sue-Anne Hunter, Opening Statement, tabled at a public hearing in Canberra on 2 July 2026
- 11 Reserve Magistrate Jennifer Bowles, Opening statement, tabled at Public Hearing in Canberra on 3 July 2026
- 12 National Indigenous Australians Agency, Opening statement, tabled at Public Hearing in Canberra on 3 July 2026.

Appendix 2

Public hearings and witnesses

Monday 16 March 2026

Mantra on Russell
222 Russell Street
Melbourne

Youthlaw

Westjustice

Victoria Legal Aid

Victorian Aboriginal Legal Service

Federation of Community Legal Centres

SNAICC - National Voice for our Children

Victorian Aboriginal Child and Community Agency

Mr Abraham Kuol, Private capacity

Centre for Multicultural Youth (CMY)

Multicultural Youth Advocacy Network Australia

Jesuit Social Services

Smart Justice for Young People

Alcohol and Drug Foundation

YSAS Youth Support and Advocacy Service

Odyssey

Ms Jennifer Bowles, Private capacity

Australian Association for Restorative Justice

Tuesday 17 March 2026

Doubletree Hilton Northbridge
100 James Street
Northbridge

Perth

WA Commissioner for Children and Young People

- Dr Jacqueline McGowan-Jones, Commissioner

Office of the Inspector of Custodial Services (WA)

- Mr Eamon Ryan, Inspector of Custodial Services
- Ms Jane Higgins, Deputy Inspector of Custodial Services

Aboriginal Health Council of Western Australia

- Mrs Klaudia Shenton, Principal Policy and Strategy Manager
- Ms Amanda Collins-Clinch, Executive Manager - Office of the CEO

NOFASD Australia (via teleconference)

- Ms Sophie Harrington, CEO
- Ms Louise Gray, Specialist Advisor

Justice Health Group

- Dr Stuart Kinner, Head

Council of Aboriginal Services Western Australia

- Mr Chad Steward, CEO

The Kids Research Institute Australia

Dr Hayley Passmore, Dr Raewyn Mutch, Dr Sharynne Hamilton (via teleconference), and Associate Professor Glenn Pearson

Aboriginal Legal Service of Western Australia

- Ms Lexi Lachal, Senior Managing Lawyer of the Civil Law and Human Rights Unit
- Mr Roy Blurton, Acting Manager of the ALS Youth Engagement Program

Social Reinvestment WA

- Ms Sophie Stewart, CEO
- Mr Ronald Bin Swani, Advocacy Lead

Hello Initiative

- Ms Ashleigh Dickson, CEO

Life Without Barriers

- Ms Suellen Lembke, Manager Program Advancement and Implementation MST and YAP

Save the Children and 54 reasons

- Ms Amanda Hunt, Director WA

Foundation for Indigenous Sustainable Health (FISH)

- Mr Mark Anderson, CEO
- Ms Liza Fraser-Gooda, Co-Chair

Friday 10 April 2026

Mantra Parramatta
1 Valentine Avenue
Parramatta

Ms Anne Hollonds, Private capacity

Change the Record

- Ms Jade Lane, Chief Executive Officer
- Ms Jessica Johnston, Policy Lead

Raise the Age

- Mr Johnathon Hunyor, Board Representative

Justice and Equity Centre

- Mr Johnathon Hunyor, Chief Executive Officer

Community Restorative Centre

- Ms Marisa Moliterno, Manager Advocacy; Research and Policy Unit
- Mr Damien Tina-Corbridge, Senior Youth Transition Worker - Pathways Home

NSW Ombudsman

- Mr Paul Miller, NSW Ombudsman
- Ms Kate Anderson, Senior Deputy Ombudsman

Number 8 prison project

- Mrs Diana Wong-Curuenavuli, CEO and Founder

Yung prodigy

- Ms Maia Ihemeje, Founding Director
- Ms Lilli Barto, Programs Coordinator

Justice Reform Initiative

- Dr Mindy Sotiri, Executive Director

Just Reinvest NSW

- Mr Geoffrey Scott, Chief Executive Officer
- Mr Ian Brown, Community Data Manager

Yuwaya Ngarra-li partnership UNSW

- Ms Peta MacGillivray, Senior Research Fellow

Youth Justice NSW

- Ms Kelly-Anne Stewart, Executive Director
- Ms Candice Neilson, Director, Strategy and Engagement
- Ms Jodie Scott

Tuesday 28 April 2026

Peninsula Room

Level 1

Hilton Garden Inn

Darwin City

Office of the Children's Commissioner NT

- Ms Shahleena Musk, Children's Commissioner NT

Larrakia Nation Aboriginal Corporation

Uncle Eric Fejo, Larrakia Nation Elder

NT Council of Social Service

- Ms Sally Sievers AO, Chief Executive Officer

Association of Alcohol and Other Drug Agencies NT

- Ms Stephanie Holmes, Executive Officer
- Dr Jenny Summerville

NT Mental Health Coalition

- Mr Geoff Radford, Chief Executive Officer

Hoops 4 Health

- Mr Timmy Duggan OAM, Chief Executive Officer
- Mr Matt Nason, General Manager

First Nations Advocates Against Family Violence (via teleconference)

- Ms Kerry Staines, Chief Executive Officer
- Ms Melissa Clarke, Strategic Director

Waltja Tjutangku Palyapayi Aboriginal Corporation (via teleconference)

- Mrs Amanda Clarke, Chief Executive Officer
- Ms Anna Cavanagh, Program support worker

Wednesday 29 April 2026

Peninsula Room

Level 1

Hilton Garden Inn

Darwin City

Northern Territory Paediatricians

- Dr Sophie Dunn, Paediatrician
- Dr Catherine Boyd, Paediatrician

ARDS Aboriginal Corporation

- Ms Georgia Hagias, Manager, Law & Justice Programs
- Ms Sylvia Nulpinditj, Manager and Dispute Resolution Facilitator
- Ms Maminydjama Maymuru, Dispute Resolution Facilitator

North Australian Aboriginal Justice Agency (NAAJA)

- Mr Matthew Connop, Deputy CEO
- Ms Jennifer Ripton, Practice Lead, Youth Service, NAAJA Througcare
- Ms Anna Gill, Principal Legal Officer
- Ms Sandy Leonard, Managing Youth Lawyer
- Ms Matilda Hunt, Criminal Youth Lawyer, Darwin

Legal Aid Northern Territory

- Mr Nick Espie, Associate Director of Client Services

Grassroots Action Palmerston Aboriginal Corporation (GAPAC)

- Ms Serena Dalton, CEO/Lead Youth Mentor
- Mrs Kat Lee, General Manager

Justice not Jails

- Mr Stephen Enciso, Member
- Ms Deb Katona, Member
- Ms Donna Hunter, Member

Friday 26 June 2026

Michael Crouch Room

State Library of NSW

1 Shakespeare PL

Sydney

Panel: International youth justice experts

- Ms Karyn McCluskey, Chief Executive of Community Justice Scotland
- Dr David McGuire, Chief Executive of Diagrama (Spain/UK)
- Mr Vincent Schiraldi, co-author of the 'The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model' (USA)
- Ms Matelina Aulava, Administrator Kawailoa (Hawaii)

Thursday 2 July 2026
Committee Room 2S3
Australian Parliament House
and via videoconference
Canberra

Queensland Family and Child Commission, Principal Commissioner

- Mr Luke Twyford (via videoconference)

Guardian for Children and Young People (SA)

- Ms Shona Reid (via videoconference)

Commissioner for Children and Young People (SA)

- Dr Kylie Heneker (via videoconference)

Commissioner for Aboriginal children and young people (SA)

- Mr Dale Agius (via videoconference)

Commissioner for Children and Young People (WA)

- Dr Jacqueline McGowan-Jones (via videoconference)

ACT Public Advocate and Children and Young People Commissioner

- Ms Jodie Griffiths-Cook (via videoconference)

ACT Aboriginal and Torres Strait Islander Children & Young People Commissioner

- Ms Barbara Causon PSM (via videoconference)

Advocate for Children and Young People (NSW)

- Ms Katherine McKernan (via videoconference)

Principal Commissioner for Children and Young People (VIC)

- Ms Tracy Beaton (via videoconference)

National Children's Commissioner

- Ms Deb Tsorbaris (via videoconference)

Disability Discrimination Commissioner

- Ms Rosemary Kayess (via videoconference)

National Commissioner for Aboriginal and Torres Strait Islander Children and Young People

- Ms Sue-Anne Hunter (via videoconference)

Friday 3 July 2026

Committee Room 2S3

Australian Parliament House

and via videoconference

Canberra

Law Council of Australia

- Tania Wolff, President (via videoconference)
- Adam Fletcher, Senior Policy Lawyer (via videoconference)

International Commission of Jurists (Australian Section)

- Greg McIntyre SC (via videoconference)

Dr Lisa Ewenson (via videoconference), Private capacity

Human Rights Law Centre

- Sohini Mehta, Senior Lawyer, First Nations Justice (via videoconference)

Amnesty International Australia

- Uncle Rodney Dillon, Cultural Advisor

United Nations Youth Australia

- Satara Uthayakumaran, UN Youth Delegate

Australian Child Rights Taskforce

- James McDougall, Co-Chair (via videoconference)
- Dr Stuart Kinner, Taskforce member (via videoconference)

Australian Research Alliance for Children and Young People

- Adam Valvasori, Advocacy Lead (via videoconference)

Australian Indigenous Doctors Association

- Dr Peter Malouf, Chief Executive Officer

Royal Australasian College of Physicians

- Dr Niroshini Kennedy, President of the Paediatrics and Child Health Division of the Royal Australasian College of Physicians (RACP), RACP Fellow (via videoconference)
- Dr Jacqueline Fleetwood, member of the Aboriginal and Torres Strait Islander Committee of the RACP, RACP Fellow (via videoconference)

Royal Australian College of General Practitioners

- Dr Tim Jones, RACGP Children and Young Person's Specific Interest Group (via videoconference)
- Dr Kirsty Jennings, Deputy Chair - RACGP Aboriginal and Torres Strait Islander Health Faculty

The Salvation Army

- Jennifer Kirkaldy, General Manager Policy and Advocacy
- Stefanie Jandl, National Youth Services Specialist

yourtown

- Jo Allen Keeling, Chief Service and Impact Officer (via videoconference)
- Benjamin Pook, Advocacy and Government Relations Manager (via videoconference)
- Dean Brunker, Aboriginal & Torres Strait Initiatives Manager (via videoconference)

UNICEF Australia

- Louisa Yasukawa, Advocacy and Policy Manager (via videoconference)

Queensland Aboriginal and Torres Strait Islander Child Protection Peak

- Phillip Brooks, Chief Executive Officer

Create Foundation

- Imogen Edeson, Chief Executive Officer (via videoconference)
- Mr Kelvin Yen, Young Consultant

Emerge Women and Children's Support Network

- Claire Marshall, Chief Executive Officer

PeakCare

- Kelly Jebb, Chief Executive Officer

Queensland Council of Social Service (QCOSS)

- Bronwen Kippen, Executive Director Research and Policy

ACT Council of Social Service

- Dr Devin Bowles, Chief Executive Officer

ACT National Preventive Mechanism

- Rebecca Minty, Inspector
- Dr Penelope Mathew, President and Human Rights Commissioner
- Iain Anderson, Commonwealth and ACT Ombudsman

*Anne Hollonds AO, Private capacity**Reserve Magistrate Jennifer Bowles, Private capacity**Attorney-General's Department*

- Chris Collett, Acting Deputy Secretary, Justice and Communities Group
- Cassie Woods, Assistant Secretary, First Nations Justice Branch, First Nations and Justice Policy Division

- Kieran O'Brien, A/g Assistant Secretary, Human Rights Branch
- Luke Brown, Assistant Secretary for the International Cooperation Unit & Commonwealth Parole Taskforce

National Indigenous Australians Agency

- Josh Smith, Deputy Chief Executive Officer - Policy and programs
- Ali Jenkins, Group Manager - Social Policy
- Priya Powell, Branch Manager - Families and Safety

Tuesday 11 August 2026

Committee Room 2S3

Australian Parliament House

and via videoconference

Canberra

National Aboriginal and Torres Strait Islander Legal Services (NATSILS)

- Mr Nick Espie, General Manager
- Ms Jenny Lovric, Principal Advisor (via videoconference)

Appendix 3

International framework

- 1.1 This Appendix discusses various international conventions and agreements which Australia is a signatory to and which impose obligations, or provide guidance, relating to young people and children in incarceration. This section is meant to be read in conjunction with the discussion in Chapter 3 about the experiences of young people at every stage of the justice system in Australia.
- 1.2 This Appendix includes a brief overview of the relevant international covenants or agreements and then sections of those covenants or agreements that are relevant to children in the youth justice system. Where relevant, some commentary from submitters is included, such as when Australia has ratified an agreement but with reservations.

International covenants and obligations

The United Nations Convention on the Rights of the Child

- 1.3 The United Nations Convention on the Rights of the Child (UNCRC) sets out the human rights for people under the age of 18 years. According to the Australian Human Rights Commission (AHRC), the UNCRC is underpinned by four key principles, which are:
 - the right to non-discrimination;
 - the best interests of the child as a primary consideration;
 - the right to life, survival and development;
 - the right to express views and have them taken into account.¹
- 1.4 The UNCRC is the most ratified human rights treaty in the world. It was ratified by Australia in December 1990.² Relevant sections of the UNCRC are listed below.

Initial contact with detention

- 1.5 Article 37 of the UNCRC relates to the initial contact of children with detention, stating that:

¹ Australian Human Rights Commission, *What is the United Nations Convention on the Rights of the Child*, 27 March 2025, <https://humanrights.gov.au/known-your-rights/rights-of-individuals/childrens-rights/articles/un-committee-rights-child-and-reporting-childrens-rights> (accessed 18 August 2026).

² Australian Human Rights Commission, *What is the United Nations Convention on the Rights of the Child*, 27 March 2025, <https://humanrights.gov.au/known-your-rights/rights-of-individuals/childrens-rights/articles/un-committee-rights-child-and-reporting-childrens-rights> (accessed 18 August 2026).

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

...

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.³

Separation from adults in detention

1.6 Article 37(c) of the UNCRC requires children should be kept separately from adults when in detention:

Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so...⁴

1.7 Australia has a reservation to Article 37(c) of the UNCRC. The justification for the reservation stems from Australia's vast size and low-density population:

Australia accepts the general principles of article 37. In relation to the second sentence of paragraph (c), the obligation to separate children from adults in prison is accepted only to the extent that such imprisonment is considered by the responsible authorities to be feasible and consistent with the obligation that children be able to maintain contact with their families, having regard to the geography and demography of Australia. Australia, therefore, ratifies the Convention to the extent that it is unable to comply with the obligation imposed by article 37 (c).⁵

Transport to detention facilities

1.8 In relation to maintaining familial contact for children in detention, Article 37(c) of the UNCRC states that children in detention have the right to maintain contact with their family through correspondence and visits 'save in exceptional circumstances'.⁶ This aligns with the underlying principles of the UNCRC that

³ *United Nations Convention on the Rights of the Child*, New York, 20 September 1989, entry into force 16 January 1991, [1991] ATS 4, Part I, Article 37(b), (d).

⁴ *United Nations Convention on the Rights of the Child*, New York, 20 September 1989, entry into force 16 January 1991, [1991] ATS 4, Part I, Article 37(c).

⁵ United Nations Treaty Collection, *Convention on the Rights of the Child*, 10 August 2026, https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&clang=en (accessed 11 August 2026).

⁶ *United Nations Convention on the Rights of the Child*, New York, 20 September 1989, entry into force 16 January 1991, [1991] ATS 4, Part I, Article 37(c).

the best interests of the child be the primary consideration and that the family is the 'natural environment for the growth and well-being' of children.⁷

Sentencing

- 1.9 Article 40(1) requires that a child's age be taken into account when sentencing children for a crime.⁸

Conditions in detention

- 1.10 Article 19(1) requires State parties to the UNCRC to take appropriate action to protect children from all forms of 'physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse'.⁹ Article 37(a) of the UNCRC also provides that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.¹⁰

Access to healthcare and education

- 1.11 Article 28 requires parties to the UNCRC to ensure that all children have access to stable education, and Article 23 requires children with a disability have their support needs met.¹¹ These rights remain regardless of whether a child or young person is in detention.
- 1.12 Additionally, Article 40(1) requires parties to the UNCRC to ensure accused children are treated in a manner that promotes their sense of dignity and worth, and takes into account 'the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society'.¹²

International Covenant on Civil and Political Rights

- 1.13 The International Covenant on Civil and Political Rights (ICCPR) commits signatory nations to protect the civil and political rights of its citizens, including the right to freedom of religion, the right a fair trial and the right to be free from

⁷ *United Nations Convention on the Rights of the Child*, New York, 20 September 1989, entry into force 16 January 1991, [1991] ATS 4, Preamble.

⁸ *United Nations Convention on the Rights of the Child*, New York, 20 September 1989, entry into force 16 January 1991, [1991] ATS 4, Part I, Article 40(1).

⁹ *United Nations Convention on the Rights of the Child*, New York, 20 September 1989, entry into force 16 January 1991, [1991] ATS 4, Part I, Article 19(1).

¹⁰ *United Nations Convention on the Rights of the Child*, New York, 20 September 1989, entry into force 16 January 1991, [1991] ATS 4, Part I, Article 37(a).

¹¹ *United Nations Convention on the Rights of the Child*, New York, 20 September 1989, entry into force 16 January 1991, [1991] ATS 4, Part I, Articles 23, 28.

¹² *United Nations Convention on the Rights of the Child*, New York, 20 September 1989, entry into force 16 January 1991, [1991] ATS 4, Part I, Article 40(1).

torture.¹³ It was adopted in December 1966 by the United Nations General Assembly and ratified by Australia in August 1980.¹⁴

Initial contact with law enforcement

1.14 Article 10 of the ICCPR relates to all persons deprived of their liberty, including young people who are arrested and detained. Article 10(1) provides that ‘all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person’.¹⁵

1.15 Article 9(2) of the ICCPR also requires that ‘anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.’¹⁶

Remand

1.16 Article 10(2)(a) of the ICCPR provides that accused persons shall, except in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.¹⁷

Separation from adults in detention

1.17 Further, Article 10(2)(b) of the ICCPR sets out that accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.¹⁸

Access to healthcare and education

1.18 Article 10(3) of the ICCPR provides that in detention facilities the essential aim of the treatment of detained persons shall be their reformation and social

¹³ Australian Human Rights Commission, *Human Rights Explained: the International Bill of Rights*, 14 December 2012, <https://humanrights.gov.au/resource-hub/by-resource-type/education/human-rights-explained/human-rights-explained-international-bill-rights> (accessed 17 August 2026).

¹⁴ *International Covenant on Civil and Political Rights*, New York, 16 December 1966, entry into force 13 November 1980, [1980] ATS 23; AHRC, *Human Rights Explained: the International Bill of Rights*, 14 December 2012, <https://humanrights.gov.au/resource-hub/by-resource-type/education/human-rights-explained/human-rights-explained-international-bill-rights> (accessed 17 August 2026).

¹⁵ *International Covenant on Civil and Political Rights*, New York, 16 December 1966, entry into force 13 November 1980, [1980] ATS 23, Part III, Article 10.

¹⁶ *International Covenant on Civil and Political Rights*, New York, 16 December 1966, entry into force 13 November 1980, [1980] ATS 23, Part III, Article 9(2).

¹⁷ *International Covenant on Civil and Political Rights*, New York, 16 December 1966, entry into force 13 November 1980, [1980] ATS 23, Part III, Article 10(2)(a).

¹⁸ *International Covenant on Civil and Political Rights*, New York, 16 December 1966, entry into force 13 November 1980, [1980] ATS 23, Part III, Article 10(2)(b).

rehabilitation, and that young people particularly be accorded treatment appropriate to their age and legal status.¹⁹

United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

1.19 The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) sets out requirements that aim to protect people from torture and other cruel, inhuman or degrading treatment or punishment.

1.20 Under the UNCAT, 'torture' is defined as:

...any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.²⁰

1.21 Australia ratified this convention in 1989. As a party to the UNCAT, Australia is obliged to 'take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction' under Article 2.²¹

The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

1.22 The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is an international treaty designed to support the protection of individuals in places of detention from torture and other ill treatment.²² The OPCAT does not establish new rights; rather it creates a system for the regular and independent monitoring of places of detention, including youth detention facilities.²³

¹⁹ *International Covenant on Civil and Political Rights*, New York, 16 December 1966, entry into force 13 November 1980, [1980] ATS 23, Part III, Article 10(3).

²⁰ *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, New York, 10 December 1984, entry into force 7 September 1989, [1989] ATS 21, Part I, Article 1(1).

²¹ *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, New York, 10 December 1984, entry into force 7 September 1989, [1989] ATS 21, Part I, Article 2.

²² Commonwealth Ombudsman, *Monitoring places of detention*, 22 June 2026, <https://www.ombudsman.gov.au/industry-and-agency-oversight/monitoring-places-of-detention-opcat> (accessed 19 August 2026).

²³ Australian National Preventative Mechanism, *Submission 109 (47)*, p. 4; Commonwealth Ombudsman, *Monitoring places of detention*, 22 June 2026,

- 1.23 OPCAT also sets the standard for effective monitoring. It requires monitoring to be independent, be appropriately staffed and resourced and allow inspectors to have full access to places of detention. It also requires the ability to publicly report on inspections, protect participants from reprisals, and allow visits by the UN Subcommittee on the Prevention of Torture.²⁴

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)

- 1.24 The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) were adopted by the UN General Assembly in November 1985.²⁵

Separation from adults in detention

- 1.25 Rules 13.4 and 26.3 of the Beijing Rules state that juveniles detained shall be kept separate from adults, including when pending trial. The commentary to the Beijing Rules set out that this separation is to protect children against the negative influence of adult offenders.²⁶

Remand

- 1.26 Rule 13.1 of the Beijing Rules provides that ‘detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time’. The rules specify that, where possible, detention pending trial shall be replaced by alternative measures, such as ‘close supervision, intensive care or placement with a family or in an educational setting’.²⁷
- 1.27 The commentary accompanying the Beijing Rules discusses the danger of ‘criminal contamination’ to young people in detention pending trial. For this

<https://www.ombudsman.gov.au/industry-and-agency-oversight/monitoring-places-of-detention-opcat> (accessed 19 August 2026).

²⁴ Australian National Preventative Mechanism, *Submission 109* (47), p. 5; Dr Lisa Ewenson and Dr Bronwyn Naylor, *Protecting human rights in youth detention: listening to the voices of children and young people in detention*, additional information, p. 100.

²⁵ United Nations, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)*, 29 November 1985 <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile> (accessed 17 August 2026).

²⁶ United Nations, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)*, 29 November 1985 <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile> (accessed 17 August 2026).

²⁷ United Nations, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)*, 29 November 1985 <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile> (accessed 17 August 2026).

reason, it emphasises the importance of alternative measures to ensure detention in these circumstances is only used as a last resort.²⁸

Sentencing

1.28 The Beijing Rules contain guiding principles for the adjudication and sentencing of young people including:

17.1 The disposition of the competent authority shall be guided by the following principles:

- (a) The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and the needs of the juvenile as well as to the needs of the society;
- (b) Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum;
- (c) Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response;
- (d) The well-being of the juvenile shall be the guiding factor in the consideration of her or his case.²⁹

1.29 The commentary to the Beijing Rules explains that there is philosophical conflict on topics, listed below, that are more pronounced in cases involving young people which makes it difficult to formulate precise guidelines:

- (a) Rehabilitation versus just dessert;
- (b) Assistance versus repression and punishment;
- (c) Reaction according to the singular merits of an individual case versus reaction according to the protection of society in general;
- (d) General deterrence versus individual incapacitation.³⁰

1.30 The commentary suggests that the starting point for any discussion of sentencing of children and young people be to preserve the fundamental rights of the individual young person, particularly their right to personal development

²⁸ United Nations, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)*, 29 November 1985 <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile> (accessed 17 August 2026).

²⁹ United Nations, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)*, 29 November 1985 <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile> (accessed 17 August 2026).

³⁰ United Nations, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)*, 29 November 1985 <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile> (accessed 17 August 2026).

and education, so that their well-being and future is protected. This includes that alternative sanctions to detention should be used to the greatest extent possible, such as through ‘suspended sentences, conditional sentences, board orders and other dispositions’.³¹

The United Nations Rules for the Protection of Juveniles Deprived of the Liberty (the Havana Rules)

1.31 The above agreement was ratified by the UN in December 1990 and was intended to establish minimum standards for the protection of young people deprived of their liberty in all forms.³²

Separation from adults

1.32 Rule 29 states that juveniles in detention facilities shall be held separately from adults.

Remand

1.33 Rule 17 provides that detention before trial should be avoided to the extent possible. Young people who are nonetheless required to be detained before trial should be separated from those who have been convicted.³³

Sentencing

1.34 Rule 2 states a fundamental perspective that:

Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The length of the sanction should be determined by the judicial authority, without precluding the possibility of his or her early release.³⁴

³¹ United Nations, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)*, 29 November 1985 <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile> (accessed 17 August 2026).

³² United Nations, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, 14 December 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty> (accessed 17 August 2026).

³³ United Nations, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, 14 December 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty> (accessed 17 August 2026).

³⁴ United Nations, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, 14 December 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty> (accessed 17 August 2026).

- 1.35 Rule 3 explains that the deprivation of liberty should be managed to maintain the young people's human rights and freedoms, to counteract the 'detrimental effects' of being detained and promote integration back into society.³⁵

Transport

- 1.36 Rule 26 requires juveniles to not be arbitrarily transferred between facilities. When detained young people do need to be transferred, the conditions of transport must not subject the young person to hardship or indignity.³⁶

Conditions in detention

- 1.37 Rule 67 requires that 'all disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned'.³⁷
- 1.38 The Havana Rules also prohibit instruments of restraint or use of force on young people in detention except in exceptional cases with controls which are specified in Rule 64.³⁸ For example, where all other control methods have failed, where specified by law, and for the shortest possible period of time.

Access to healthcare and education

- 1.39 The Havana Rules provides for certain conditions that should be provided for young people in detention, including the facilities, the provision of appropriate medical care, access to education and opportunities for recreation. These include:
- Rule 18(b) which provides that juveniles, specifically those held on remand, 'should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so';
 - Rule 38 which states that 'every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to

³⁵ United Nations, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, 14 December 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty> (accessed 17 August 2026).

³⁶ United Nations, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, 14 December 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty> (accessed 17 August 2026).

³⁷ United Nations, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, 14 December 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty> (accessed 17 August 2026).

³⁸ United Nations, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, 14 December 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty> (accessed 17 August 2026).

prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty.’ This includes any detained young people who are illiterate or with cognitive or learning difficulties having the right to special education; and

- Rule 53 which provides that ‘a juvenile who is suffering from mental illness should be treated in a specialised institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release’.³⁹

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)

1.40 The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) set out what is generally accepted as good principles and practices for the treatment of prisoners and prison management. This includes specific rights for ‘untried prisoners’ (Rules 111–120) including that they be kept separate from convicted prisoners (Rules 11(b), 112(1)).⁴⁰

Sentencing

1.41 Preliminary observation 4(2) states that ‘as a rule, such young persons should not be sentenced to imprisonment’.⁴¹

Transport to detention facilities

1.42 In relation to transport for detained young people, Rule 73 stipulates that when being transported, they should be ‘exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form’.⁴²

³⁹ United Nations, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, 14 December 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-protection-juveniles-deprived-their-liberty> (accessed 17 August 2026).

⁴⁰ United Nations Office on Drugs and Crime, *The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, 17 December 2015, https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf (accessed 19 August 2026).

⁴¹ United Nations Office on Drugs and Crime, *The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, 17 December 2015, https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf (accessed 19 August 2026).

⁴² United Nations Office on Drugs and Crime, *The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, 17 December 2015,

Conditions in detention

1.43 The Mandela Rules prohibit certain practices, such as indefinite or prolonged solitary confinement and the use of restraints as punishment, as set out in Rule 43:

1. In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited:

- (a) Indefinite solitary confinement;
- (b) Prolonged solitary confinement;
- (c) Placement of a prisoner in a dark or constantly lit cell;
- (d) Corporal punishment or the reduction of a prisoner's diet or drinking water;
- (e) Collective punishment.

2. Instruments of restraint shall never be applied as a sanction for disciplinary offences...⁴³

https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf (accessed 19 August 2026).

⁴³ United Nations Office on Drugs and Crime, *The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, 17 December 2015, https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf (accessed 19 August 2026).