

The Australian Youth Justice Action Circle
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Committee Secretary
Legal and Constitutional Affairs References Committee

Submission by email: legcon.sen@aph.gov.au

Dear Committee members,

Submission: Inquiry into Australia's Youth Justice and Incarceration System

Please accept this submission from the Australian Youth Justice Action Circle to the Committee's Inquiry, entitled "A Call for Evidence-based Youth Justice Reform: Prevention and Rehabilitation through Family and Community Support". The Australian Youth Justice Action Circle was convened in 2023 under the auspices of the Parenting and Family Research Alliance (PAFRA) in response to concerning trends in the treatment of children and young people in the Australian youth justice system. This team brings together leading experts in crime prevention, public health, child development, parenting, and economics, who propose an evidence-based, preventative approach to youth justice. By shifting from reactive detention-based measures to proactive, family- and community-based interventions, we can reduce youth crime, promote rehabilitation, prevent recidivism, and protect the human rights of Australian children.

This submission discusses the following inquiry terms of reference a, b, c, d, e, and f, pertaining 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, whereby we discuss the importance of a evidence-based, population-level approach to youth justice with a focus on rehabilitation and prevention of offending and recidivism through cost-effective family and community intervention.

We appreciate the Committee's invitation to contribute to this inquiry and are pleased to share our evidence and recommendations in the following submission.

Yours sincerely,

The Australian Youth Justice Action Circle

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A Call for Evidence-based Youth Justice Reform: Prevention and Rehabilitation through Family and Community Support

The outcomes and impacts of youth incarceration

Youth justice policies in Australia are failing to prevent crime and are causing significant harm to children and young people. Although national youth offending rates declined by 42% from 2009-2023, concerns remain about a subset of youth who are engaging in serious crime and becoming entrenched in the criminal justice system. Stagnating rates for assaults, increases in reoffences including homicide [1], and high state-based reoffending rates fuel these concerns. For example, more than 80% of the young people aged 10-14 who are involved in the Victorian justice system go on to reoffend [2]. Research has consistently found incarceration is an ineffective method for reducing recidivism rates amongst youth offenders [3] and has a range of negative impacts on children and young people's wellbeing and rehabilitation [4]. Incarceration often re-traumatizes children and young people through exposure to violence, thus increasing their risk of reoffending and further entrenching them in the justice system [5, 6]. It exacerbates poor mental health, neurodevelopmental disorders, and antisocial behaviour [5, 7, 8], and has long-term effects including socio-economic disadvantage, unstable job prospects, and disrupted education [9]. These impacts can additionally contribute to entrenchment of disadvantage, as young people from disadvantaged backgrounds are disproportionately over-represented in the justice system. Approximately 49% of children and young people aged 10–17 under supervision are from Aboriginal and Torres Strait Islander backgrounds, 39% are culturally and linguistically diverse, 40% are from remote areas, 36% are from low socioeconomic status areas, and 89% have at least one form of severe neurodevelopmental impairment [10]. Incarceration is also particularly damaging for children under 14 years who lack the capacity to understand and navigate the criminal justice system. These children face a heightened risk of becoming entrenched in the justice system, as they are more likely to reoffend with escalating severity, leading to involvement in the adult criminal justice system [11]. Additionally, the financial cost of youth detention is unsustainable, with Queensland alone spending \$1,834 per incarcerated child, per day [12].

Violations of the human rights of children and young people

The current punitive approach to youth justice in Australia has sparked significant concern over its violation of the rights of children and young people under both domestic and international law. To illustrate these violations, we focus on the treatment of children in Queensland's youth justice system, which has raised alarm due to the use of watchhouses and police stations to detain minors for extended periods. Between 2021 and 2022 in Queensland, 46 children aged 10 (of which 86% were Indigenous children) and 111 children aged 11 were held in watchhouses and police stations. Additionally, 144 instances involved children (aged 10-17 years) being kept in adult watchhouses for 8 to 14 days, with one child remaining in a police station for a period of unknown duration of 14 or more days [13]. In March and August 2023, the Queensland Parliament suspended the Human Rights Act 2019 (Qld) to criminalise breaches of bail for children and allow the extended holding of children in adult watchhouses [14, 15]. These decisions resulted in further increases to the number of children being held in watchhouses, police stations, and juvenile prisons.

Holding children in adult facilities not only puts them at significant physical and psychological risk, but also breaches the Queensland Police Services Operational Procedures Manual, the Charter of Principles in the Youth Justice Act, the Human Rights Act 2019 (Qld), and Australia's obligations as a signatory to the United Nations Convention on the Rights of the Child (CRC; 1989). The Human Rights Act 2019 (Qld) explicitly protects children from being treated inhumanely or subjected to arbitrary detention. Article 37 of the CRC (1989) asserts that detention of children should only be used as a last resort and for the shortest appropriate time, and that detained children must be separated from adults to ensure their safety and dignity [16]. The frequent violations of these provisions reflect a system that places punitive measures over the welfare and rights of children and young people, especially Indigenous youth who are overrepresented in the justice system. It is therefore imperative that Australia ceases to hold children for extended periods and in adult facilities and reduce its reliance on incarceration.

Recommendation: Support rehabilitation and prevent youth crime, with evidence-based interventions focused on families and communities

In order to effectively address the need to prevent youth crime and support rehabilitation, the Australian Government must adopt an evidence-based, preventative approach that emphasizes proactive strategies that tackle the issues underlying youth crime [17]. Family- and community-based interventions have long been considered internationally as the “gold standard” for reducing recidivism and improving outcomes for young people involved in the justice system [18]. These interventions offer a more effective solution to youth crime than incarceration. They are more economically sustainable, with substantial returns on investment that far outstretch the cost of implementation. Rigorous evidence supports their effectiveness at increasing rehabilitation, reducing recidivism, preventing youth crime, and improving the wellbeing and functioning of young people, their families, and their communities. Evidence-based programs should be available nationally, with additional targeted support in areas with high youth crime rates, and integration with community services to ensure broad accessibility. However, they are yet to be widely implemented in Australia.

We therefore urge the Government to adopt an evidence-based approach to support rehabilitation, prevent recidivism and youth justice involvement, and protect the rights of Australian children and young people. We provide the following examples of interventions that should be considered for implementation based on evidence for their efficacy and cost effectiveness. Further evaluation of these and other interventions should be undertaken by Government, in conjunction with respectful and sincere engagement with communities, and particularly First Nations communities, to develop local solutions that reflect community values. Such an approach will enable the Government to develop a comprehensive evidence-based system that proactively and effectively addresses the risk factors surrounding children and young people who are involved in the justice system, those at risk of involvement, their families, and the wider community.

Interventions for youth involved in the justice system

Problem-solving courts address some of the underlying issues that bring many children and families to the Children’s Court, by providing children and parents with opportunities to tell their stories, describe their circumstances, and present their views [19-21]. They enhance parents’ and children’s understanding of court processes, and enable better compliance with, and acceptance of, court recommendations and outcomes that aim to prevent ongoing youth crime and continuing engagement with the justice system [22].

Assessment and Referral Courts, along with other **Therapeutic Jurisprudence Courts** such as **Indigenous Courts**, focus on the young person’s circumstances. They leverage existing supports, such as family and community resources, to address the underlying causes of a young person’s offending behaviour. By doing so, these courts achieve long-term positive outcomes, including the prevention of reoffending, and reductions in the severity of reoffending behaviour when it does occur [21, 23].

Family-based therapies for court-involved youth aim to prevent further involvement in the justice system by targeting the family dynamics contributing to youth offending. They focus on restoring family roles, improving parenting skills, enhancing communication, and connecting families to community-based services. Research shows these interventions are highly cost-effective, with a benefit-to-cost ratio of \$13.62, and significant impacts including reduced recidivism and improved outcomes for youth and families [24].

Functional Family Therapy is a family-based intervention aimed at reducing risk factors and enhancing protective factors for youth previously in detention. The program includes family therapy sessions on engagement, motivation, and behaviour change. It has an estimated benefit-to-cost ratio of \$18.73 per year and is effective at reducing recidivism, increasing probation completion, and improving young people’s mental wellbeing following incarceration [25-27].

Interventions for preventing youth justice involvement

Universal prevention programs are designed for all children, young people, or families within a population, such as an entire community, school, or age group. Examples include high school programs that shift peer norms to reduce sexual violence [28], parenting information for caregivers [29], and social-emotional learning initiatives for primary school children [30]. Universal prevention promotes a wide range of positive outcomes, is non-stigmatizing, and is cost-effective due to its broad reach [31].

Parenting support programs may help parents to manage and reduce issues that place children and youth at risk of justice system involvement. They use a range of formats, such as groups, individual sessions, and self-directed programs; and may be delivered using targeted, universal or blended approaches. Some parenting programs have been found to be highly effective in reducing risk factors for youth justice involvement such as behaviour problems, poor mental health, and substance use, including among youth who have characteristics that may place them at further increased risk of justice system involvement, such as living in foster care, a history of maltreatment, culturally and linguistically diverse background, socioeconomic disadvantage, and neurodevelopmental disorders [32-38]. Evidence for the effectiveness and economic viability of a range of parenting programs is available through clearinghouses such as the Washington State Institute for Public Policy [39].

Pathways to Prevention is an Australian early intervention project that effectively reduced youth crime [40]. The program, implemented in a disadvantaged area of Brisbane from 2002 to 2011, included an enhanced preschool program aimed at improving children's communication skills. Children in the program were 50% less likely to have a court-adjudicated offense by age 16 compared to those who did not participate [41]. When combined with community-based family support, youth crime rates in the participating community were 20% lower than in similar communities.

Communities That Care is a community-based program which aims to prevent problematic behaviours among youths including underage drinking, smoking or tobacco use, substance abuse, delinquency, violence, and dropping out of school [42]. It is estimated to return \$4.80 per dollar invested. This model operates effectively in Australia and was shown to annually reduce police reported youth crime by 5% and violent crime by 2% in Victorian municipalities [17].

Conclusion

Australia's youth justice system urgently requires reform to prioritize rehabilitation and prevention over punitive measures. Evidence-based, family- and community-focused interventions are effective in reducing recidivism, improving youth outcomes, and addressing the root causes of offending. By shifting towards a comprehensive and proactive approach that emphasizes early intervention and support, the Government can not only protect the rights of children but also prevent young people from offending, reoffending, and being entrenched in the justice system. Such reforms will foster safer, more resilient communities, reduce long-term social costs, and ensure sustainable, positive outcomes for future generations.

Conflicts of interest declaration

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