



Australia's youth justice and incarceration system

A submission to the Australian Government,
Senate Legal and Constitutional Affairs
Committee

October 2024

Authorised by Tracy Adams,
Chief Executive Officer, **yourtown**

email: advocacy@yourtown.com.au **tel:** 0421 956 262

yourtown is a trusted provider of services for young people, with a focus on mental health and wellbeing, parenting and early childhood development, long-term unemployment, prevention of youth suicide, child protection, and support for those experiencing domestic and family violence. **yourtown** has evolved to helping hundreds of thousands of young people each year through a range of service offerings, supporting them through many difficult challenges.

Our services

- Domestic and family violence refuge, accommodation, and therapeutic supports for women and their children, including post-refuge support
- Expressive Therapy interventions for young children and infants who have experienced trauma and abuse, or been exposed to violence
- Accommodation and therapeutic supports for young parents and their children at high risk
- Parentline, a telephone and online counselling and support service for parents and carers in the Northern Territory and Queensland
- Young Parents Program providing parenting support to help with child development, life skills and health and wellbeing activities in safe, supportive environments.
- Kids Helpline, providing professional counselling and support to 5–25-year-olds across Australia since 1991
- Kids Helpline @ School and Kids Helpline @ High School, which delivers early intervention and prevention programs through primary and secondary schools
- My Circle, a confidential, private, online peer support network for 13–25-year-olds to share information and build coping skills
- Mental health service/s for children aged 0-11 years old and their families, with moderate mental health needs, and
- Employment, education, and social enterprise programs to help long term unemployed young people re-engage with education and/or employment.

Kids Helpline

yourtown's Kids Helpline is Australia's only free and confidential 24/7 phone and online counselling service for any young person aged 5 to 25. It offers children and young people a range of care options that are right for their needs and circumstances. Our commitment to being there anytime, and for any reason, has meant that we have responded to more than 8.7 million contacts from children and young people nationally in the 33 years since our service was first established, whilst also providing tens of millions of self-help interactions via our website and social channels. In 2023-24, our Kids Helpline counsellors responded to nearly 118,000 contacts from children and young people across Australia, including 4,047 crisis responses for children and young people at imminent risk of harm.

Employment Services

For over 20 years **yourtown** has been delivering specialist youth employment services. Our employment services programs, including ParentsNext, Transition to Work, Skilling Queenslanders for Work, and Get Back in the Game provide young people with training to expand their options and help them find sustainable employment. During 2023-24 there were more than 7,000 commencements in our employment services and programs in South Australia, Queensland, and New South Wales.

Social Enterprises

yourtown has worked with young people and employers to break down barriers to sustainable employment for more than 20 years. As a leader in work-based enterprises we provide young people at risk of long-term unemployment paid jobs in the following areas: construction, landscaping, and asset maintenance to help their transition to open employment. In 2023-24, almost 200 young people were employed in our social enterprises across South Australia, Queensland, New South Wales, and Tasmania.

Family and Domestic Violence Refuge and Transitional Housing

yourtown's refuge offers supported accommodation for up to 12 weeks. A specialised team provides women and children with a safe and welcoming environment and creates opportunities for mothers to re-build self-concept and experience control and empowerment over their lives. The wrap-around care also

includes linking with transitional housing and community outreach programs for women and children exiting refuges. Transitional housing is a vital steppingstone for women and children moving towards long term, safe and sustainable independent living in the community. **yourtown's** transitional housing offers a safe and supportive environment for 6 – 12 months, with support for legal and financial matters, accessing pre-employment support, and helping children into school. In 2023-24, we supported 20 mothers and 33 young children in our refuge and 24 families in our transitional housing.

Early Childhood Development Programs

We support vulnerable pre-school aged children to make a successful transition to school by using prevention and early intervention approaches to create health families and strong, child-friendly communities. This includes working with parents to better understand their child's barriers to reaching social development milestones, how to help them thrive at school, collaborative case management and support, and in-home help. In 2023-2024, we supported 70 parents and 65 children families in Elizabeth, South Australia and Bridgewater, Tasmania.

Children and Families

yourtown provides accommodation and intensive individualised support to vulnerable young parents and their children through our San Miguel service. For over 40 years, San Miguel has provided a place to call home for vulnerable and at-risk families. In 2023-24, San Miguel supported 43 parents and 52 infants and young children.

ParentsNext

We provide specialised support for parents with children under six years of age, to plan and prepare for their future employment in regional South Australia, from Port Pirie. Our primary goal for ParentsNext is to empower parents to embrace life changes, improve their skills and self-confidence, and achieve their education and employment goals. More than 1,600 young parents participated in our ParentsNext program since it commenced in July 2018.

Parentline

Parentline offers free confidential phone and webchat counselling and support for parents and carers of children in Queensland and the Northern Territory. It offers a safety net for families by providing support when it is most needed. This includes after hours and weekends, where families feel isolated and where local services are unavailable. In 2023-24, there were more than 7,000 counselling contacts with parents and carers in Queensland and the Northern Territory.

yourtown welcomes the opportunity to respond to the Federal Senate Inquiry into Australia's youth justice and incarceration system. Over many decades Royal Commissions and inquiries at both a national and state and territory level have identified serious concerns with youth justice systems in Australia and made recommendations that have not been implemented.¹

²

yourtown has been one of the many voices for more than a decade advocating for reform to the youth justice system, including: trauma responsive systems that focus on prevention and early intervention; the adoption of Aboriginal and Torres Strait Islander led solutions; and raising the age of criminal responsibility. It is time for Australia to take action at a national level and ensure Australia's youth justice system is responsive to the needs and rights of all children and young people.

yourtown has been supporting children and young people across Australia since 1961. We support children, young people and families with mental health and wellbeing, parenting and early childhood development, long-term unemployment, prevention of youth suicide, children protection, and support for those experiencing domestic and family violence.

yourtown is well-positioned to provide feedback to the inquiry due to our extensive experience supporting children and young people with high exposure to the social drivers behind youth offending. This submission sets out our responses to select terms of reference of the inquiry.

The Commonwealth's international obligations in regards to youth justice including the rights of the child, freedom from torture and civil rights

In Australia, our youth justice systems focus on a punitive approach, rather than a therapeutic approach which supports children and young people, when they face challenges. National reform is needed to ensure Australia moves to a child rights approach and upholds the United Nations Convention on the Rights of the Child (CRC), which Australia ratified in 1990.³

Our society rightly places significant protections on children and provides them with rights that are distinct from adults. This includes: the right to non-discrimination; to have their best interest made a primary consideration; the right to life, survival and development; the right to be heard; the right to be protected from violence and abuse; the right to education; the right to adequate standards of living and the highest standard of health; and protection from torture, cruel or degrading treatment. Australia is legally obliged to meet these standards, including within the youth justice systems, and every jurisdiction in Australia is equally responsible to upholding the CRC. Some states and Territories including Queensland, Victoria and the Australian Capital Territory also have their own human rights legislation which outlines several rights specific to children.

Central to a child rights approach is upholding the best interests of the child (Article 3, CRC). This Article promotes demonstrative commitment to a child's well-being, including their physical, emotional, and educational needs. Determining what's best for a child requires careful consideration and assessment, and the need for ensuring that they have protection and care necessary for their well-being and needs. This consideration needs to occur once

¹ Clancey, G., Wang, S., & Lin, B. (2020). Youth justice in Australia: Themes from recent inquiries (Trends & issues in crime and criminal justice, Issue 605). Canberra: Australian Institute of Criminology

² Australian Institute of Family Studies (2024). Emily Stevens and Luke Gahan, Improving the safety and wellbeing of vulnerable children: A consolidation of systemic recommendations and evidence (Report, Australian Institute of Family Studies, 2024)

³ Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 171 (entered into force 2 September 1990) <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

the child is within the youth justice system, and long before they come into contact with the system.

Current youth justice practices within Australia, including prioritising incarceration over diversion and rehabilitation, imposing tougher sentencing and bail laws, the use of isolation, separation and lockdown in youth justice facilities, abuse and racism occurring in youth justice facilities, the lack of access to basic facilities such as water while incarcerated, and incarcerating children as young as 10 years old are not upholding the child rights Australia is legally obligated to meet.⁴ Australia's youth justice system is negatively impacting children's development and inadequately moving children and young people forward in a constructive manner.

Additionally, our system needs a greater focus on cultural safety and responsiveness. Under Article 30 of the CRC, Australia has responsibilities in relation to ethnic, linguistic, religious minorities, as well as young Aboriginal and/or Torres Strait Islanders. Children and young people at risk of offending are not a homogenous group, particularly Aboriginal and/or Torres Strait Islander children and young people from Culturally and Linguistically Diverse backgrounds. Each one requires tailored supports to meet their needs and respect and recognise their right to enjoy and live out their own cultures (Article 30 CRC). There should be targeted programs for these cohorts of young people in contact with the youth justice system, as well as other minority groups in keeping with their culture, age, gender, and circumstances; and culturally appropriate early intervention programs for those deemed at high risk of contact with the system.

Recommendation:

That the Australian Government commit to National Reform of Australia's youth justice system in order to uphold its international obligations on upholding the rights of children and young people.

The right to be heard: Include young people in reviewing and co-designing the system

The voices of young people are generally not heard when youth justice supports and systems are designed. Young people at risk of offending are more likely to be the target of negative press and stigma, than have their voices and stories heard, or to be engaged in co-design processes. The current system works for some, but not for others, and many who come into contact with the system find it highly traumatising and end up in a cycle that traps them within the justice system. We need to think differently about how to address the complex problems of youth crime and change the trajectory of young people engaging in offending or risky behaviour.

It is critical to listen to and let the voices of young people inform any youth justice system's design. Specifically, there needs to be genuine listening to young people about their experiences and learnings, and what would work, what would not work, what would trigger them or scare them, and most importantly, what would help them. An example of this practice is the National Children's Commissioner report (*'Help Way Earlier!' How Australia can transform child justice to improve safety and wellbeing'*) which was grounded in the Australian Human Rights Commission's consultations with 150 children and young people, many who were currently in detention, had previously been in detention or were waiting to go to court.

⁴ Committee on the Rights of the Child (2019). Concluding observations on the combined fifth and sixth periodic reports of Australia. <https://documents.un.org/doc/undoc/gen/g19/316/49/pdf/g1931649.pdf>

Recommendation:

That any reforms to youth justice are informed by the voices of children and young people.

That the Government undertake human-centred design and co-design processes to meaningfully capture and use the experiences of young people and other key stakeholders to inform key reforms.

The right to life, survival and development: Prevention and Early Intervention

The only way to change the trajectory of young people at risk of contact with the youth justice system, is by ensuring that the right support is provided to them, at the right time. Most importantly, the 'best time' is long before potential contact with police or the youth justice system.

Many children and young people across Australia are not having their basic human rights met, which acts as a root cause in their contact with the youth justice system. This includes poverty, homelessness, violence and abuse, racism, intergeneration trauma, and inadequate access to services and supports. Early intervention programs can support children and make communities safer.⁵ Children and young people at risk of contact with the youth justice system are well known to be a vulnerable cohort, often with complex and intersecting social needs including environmental, domestic violence, health, mental health, developmental, disability, employment and/or education, as well as past trauma. To prevent or address potential offending, the root causes of offending need to be addressed. The system should be designed to account for impacts upon the behaviour of children given their individual context and (often multiple) social challenges that they face. A youth justice system fit for a 21st Century Australia needs a flexible service system that can respond to these increasingly complex needs and provide them with opportunities to succeed.

The system should be shifted from a focus on punitive approaches to focus upon delivering therapeutic early intervention programs, including after school and diversion programs, safe accommodation options; alternative police responses; multi-disciplinary panels, and funding community organisations to deliver them. Not only should this provide support for at risk children, but also support should be provided to their families to address the root cause of social issues within their home environment that may trigger offending behaviour, at the same time as bolstering protective factors. For example, some of the underlying factors that can lead to youth offending include homelessness, poverty, education, substance abuse, mental health issues and the effects of trauma, including intergenerational trauma. These are many areas that the Australia Government has responsibility for the policies and legislation in.

Early intervention is proven to be far more cost-efficient in achieving outcomes, and far cheaper than building youth detention centres or watchhouses, and finding, training and retaining staff to work in those institutions.

Recommendation:

That youth justice reforms emphasise prevention and early intervention approaches for children at risk of contact with the youth justice system.

⁵ Sotiri, M; Schetzer, L; Kerr, A (2024) Children, Youth Justice and Alternatives to Incarceration in Australia, Justice Reform Initiative, Australia.

The outcomes and impacts of youth incarceration in jurisdictions across Australia

Young people involved with the youth justice system often experience overlapping adverse childhood experiences. The various protection and service systems have failed to ensure the safety and wellbeing of these children and young people by the time they have contact with the justice system. Of the young people under youth justice supervision during 2020-21, 53% had had an interaction with the child protection system within the 5 years prior and 21% had been in out-of-home care in the last 5 years⁶. In 2022-23, 38% of young people under supervisions were from the lowest socioeconomic areas, compared with 5% from the highest socioeconomic areas.⁷

These cohorts may be facing barriers and challenges relating to their environment (including housing, domestic and family violence, and social disconnection) health and development, education and employment.⁸ There are high rates of disability and neurological conditions among young people in the youth justice system and many are from communities characterised by poverty and entrenched disadvantage. In 2016 between 50-66% of young people in youth justice systems across Australia were estimated as having experienced childhood trauma.⁹ In Queensland in 2023, it has been reported that 53% had been impacted by domestic and family violence, 44% had a mental health and/or behavioural disorder, 44% had a disability, 48% were disengaged from education, training or employment, and 30% had unstable and/or unsuitable accommodation.¹⁰

Upholding human rights

The current youth justice system is ill equipped to support children, and often contributes to exacerbating their circumstances. Young people are being held in watchhouses that are not designed for children. The watch houses are often overcrowded, have low natural light and fresh air, inadequate exercise areas, and may not have showers or privacy regarding toilets. The workforce in watchhouses and detention centres are often not trained in working with children and the complex issues they may present with.¹¹ Any form of incarceration must be a last resort and needs to ensure the provision of trauma informed individualised care and support tailored to the individual needs of the young person, and which ensure their rights are fully upheld. This will help towards meeting the requirements of Article 3 of the CRC.

While community safety relies on justice, accountability and effective rehabilitation, it doesn't have to come at the expense of children's rights. Systems must promote and protect the human rights of both the community and the young person engaging in offending or risky behaviour. We recognise that all Australians have the right to feel safe in their communities and that children at risk of harm to themselves or others may need to be contained for short periods in specialised programs outside the youth justice system. There is a need for children to take some responsibility or accountability for their actions, but alternative approaches to managing anti-social behaviour and offending behaviour is required and indeed is more effective than incarceration.

Alternative options to incarceration

There are many community-based programs that are known to work. One example could be funding after school community diversion approaches that are open overnight. These

⁶ Australian Institute of Health and Welfare (2022). Young people under youth justice supervision and their interaction with the child protection system: 2020–21

⁷ Australian Institute of Health and Welfare (2024). Youth Justice in Australia 2022–23

⁸ Save the Children 54 Reasons, dandolopartners, & McDougall, J. (2023). Putting children first: A rights respecting approach to youth justice in Australia.

⁹ Atkinson, B., & Queensland Department of Child Safety, Youth and Women (2018). Report on Youth Justice, page 38

¹⁰ Queensland Department of Youth Justice (2024). Youth Justice Pocket Stats 2023-24

¹¹ Office of the Queensland Ombudsman (2024). Cairns and Murgon watch-houses inspection report: Focus on detention of children.

approaches need to work in conjunction with other school-based programs, including school refusal interventions (e.g. Regional Youth Engagement Services comprised by guidance officers, youth support workers, transition support officers, Aboriginal and/or Torres Strait Islander officers) that address the root causes of children and young people refusing to attend school.

- Another consideration is funding justice reinvestment approaches centred around early intervention and therapeutic support to improve social outcomes in areas beyond youth justice, such as education or employment, generating multiple benefits across the whole system of social supports.
- Consideration could also be given to incentivising prevention and early intervention through results-based contracting and commissioning. This approach requires a whole of system coordination, particularly for those in contact with the youth justice system, including warm referrals to other services in different service systems to ensure that no one falls between the cracks or is left without support across the system as a whole.
- The common features in successful programs in reducing offending behaviour include opportunities for paid work and a dedicated case manager assisting young people to access appropriate and relevant support.^{12 13}

These should be funded long term to provide funding certainty and protect programs from a change of government or policy. These services should also be funded for quality evaluation. We need quality evaluations to build the evidence base and determine 'what works' and what doesn't. While many early intervention programs can provide anecdotal evidence of 'what works', they are rarely evaluated, or funded to do so. Appropriate funding should be provided along with the funding to deliver the program to ensure that an evidence base is developed for what works within community based early intervention and prevention programs and approaches.

Supporting young people's transition back into the community following incarceration

A reformed youth justice system must prioritise young people's transition back into and ongoing engagement with the community. Often young offenders do not have access to adequate support and services when they are transitioning back to community, increasing the likelihood that they will reoffend soon after release from bail and/or supervision. Continuous wrap around support and planning before and after release is critical to meet the needs and rights of these children and young people.

The development of strong, sustainable relationships built on trust and mutual understanding is important if the relationship is to endure beyond release from the justice system.¹⁴ Our experience previously delivering programs in Queensland to support young offenders in correctional facilities has shown that this approach can be successful. Connecting with the young person and (where appropriate) their family, while they are on bail and/or under supervision allows for a trusting relationship to develop before they are no longer required to be connected with youth justice, the young person can be introduced to the program to allow for suitable options to be identified and work can be conducted with established case managers to support case collaboration.

Engaging in employment, training or education is recognised as being a beneficial mechanism to assist young people after their release from supervision or completion of a sentence. Employment and training pathways provides this cohort with critical factors that can prevent them from reoffending including; self-esteem and increased confidence; a sense of responsibility and improved self-control and agency; structure and daily routines in

¹² Deloitte Access Economics (2018). Transition to Success: Evaluation Report

¹³ Nous Group (2023). Final Report: Evaluation of Intensive Case Management

¹⁴ Queensland Family & Child Commission (2024). Exiting youth detention: Preventing crime by improving post-release support.

their lives; and perhaps most tangibly a source of income.¹⁵ However, many young offenders have been long-term unemployed, which **yourtown** has recognised as a barrier to work in and of itself.¹⁶ Developing the attitudes, skills and other capacities necessary to gain and maintain employment can take considerable time.

Young offenders preparing for release are often developmentally behind their peers. Hence, they need time and support to develop the skills, attitudes and behaviours valued by employers and education and training provides, including communication, the capacity to work as a productive team member, self-organisation, reliability, problem-solving and impulse control. It is important that their unique needs are understood and incorporated within a service focused on assisting them to prepare for employment or education by building trusted relationships and developing support networks before they are released.

The over-incarceration of First Nations children

Australia continues to have significant overrepresentation of Aboriginal and Torres Strait Islander youth in contact with the youth justice system. In 2022-23, 57% of those aged 10-17 under youth justice supervision were First Nations.¹⁷ Australia has made commitments through the National Agreement on Closing the Gap to reduce the rate of Aboriginal and Torres Strait Islander young people in detention by at least 30% by 2031. This outcome is not on track to be met. An initial decline in the number of Aboriginal and Torres Strait Islander young people in detention has been followed by increases since 2020-21, resulting in no change from baseline in 2018-19.¹⁸

Aboriginal and/or Torres Strait Islander Led solutions

Aboriginal and Torres Strait Islander people should lead the design, and development of a reformed youth justice system. The voices of our Aboriginal and Torres Strait Islander young people and communities are essential to ensure our youth justice system finally addresses the systemic injustice of their overrepresentation. Their leadership in guiding a reformed system focused on early intervention, with incarceration as a last resort, is essential if we are ever going to build a better service system (beyond that of just youth justice) that is culturally safe and responsive for young Aboriginal and Torres Strait Islander people.

It is well known that supports delivered by Aboriginal and Torres Strait Islander communities have greater success in preventing and responding to offending among Aboriginal and Torres Strait Islander young people.¹⁹ **yourtown** strongly supports increased funding for proven, strengths-based solutions led by Aboriginal and Torres Strait Islander communities that address the underlying social and economic issues and intergenerational trauma impacting our Indigenous young people. This is essential if Australia is to successfully address the overrepresentation of Aboriginal and/or Torres Strait Islander young people in contact with the criminal justice system.

Indigenous Sentencing Courts and Community Justice Groups

Indigenous Sentencing courts operate at some level in all states and territories except Tasmania. These courts allow Elders and Respected Persons to participate in the legal process and advise the magistrate to create a more culturally appropriate forum for Aboriginal and/or Torres Strait Islander young people.²⁰

¹⁵ Verbuggen, J. (2015) Effects of Unemployment, conviction and incarceration on employment: a longitudinal study on the employment prospects of disadvantaged youths. Oxford University Press on behalf of the Centre for Crime and Justice Studies

¹⁶ yourtown (2018) Tackling long-term youth unemployment: position paper:

<https://www.yourtown.com.au/sites/default/files/document/yourtown-LTYU-position-paper.pdf>

¹⁷ Australian Institute of Health and Welfare (2024). Youth Justice in Australia 2022–23

¹⁸ Productivity Commission (2024). Closing the Gap Annual Data Compilation Report July 2024, Canberra

¹⁹ Pooley K. (2020). What are the characteristics of effective youth offender programs? Trends and issues in crime and criminal justice, 604. Canberra: Australian Institute of Criminology

²⁰ Marchetti E. (2009). Indigenous Sentencing Courts. Indigenous Justice Clearinghouse

In Queensland a highly successful example is the Murri Court. It is effective because it instils community ownership,²¹ and taps into the respect and influence of local Elders within their community to mediate positive and sustainable legal responses. The therapeutic model is also more in keeping with Aboriginal and/or Torres Strait Islander values, understanding and facilitates Aboriginal Traditional Lore. Other key components contributing to its success include: comprehensive assessment of young person's circumstances which is made available to court; including the young person's family, Elders and other influential people as part of the sentencing process; and linking the young person to appropriate support services based on their assessment and offence as managed by a Murri Court coordinator.²² However, currently there are only 15 locations for Murri Courts in Queensland, and yet 131 locations that Magistrates Courts can hear cases throughout Queensland.

It is important to note that these courts would not exist without the support and commitment of the community, Elders and Respected Persons. This needs to be acknowledged and valued by continuing to involve community and Elders in the development and evolution of these courts and provide appropriate compensation and support for participating Elders.

There should be increased investment to extend the availability of Indigenous Sentencing courts on a more equitable basis throughout Australia, in partnership with Elders and the Aboriginal and Torres Strait Islander communities. A commitment is needed from magistrates across Australia to continue to work with Elders and access cultural training for themselves and their court personnel.

Recommendation:

That the Australian Government prioritise targeted programs for Aboriginal and/or Torres Strait Islander children and young people who are at risk of coming into contact with the youth justice system.

That the Government increase funding for proven, strengths-based solutions led by Aboriginal and/or Torres Strait Islander communities that address the underlying social and economic issues and intergenerational trauma impacting Aboriginal and/or Torres Strait Islander young people.

The benefits and need for enforceable national minimum standards for youth

yourtown supports the recommendations in the National Children's Commissioner's *'Help Way Earlier! How Australia can transform child justice to improve safety and wellbeing'* report to enable national reform, calling on the Australian Government to:²³

- Establish a National Taskforce for reform of child justice systems. This Taskforce should report to Ministers responsible for child justice and child wellbeing across jurisdictions and develop a 10-year cross-portfolio National Roadmap to reform.
- Appoint a Cabinet Minister for Children, with responsibility for the human rights and wellbeing of children in Australia
- Establish a Ministerial Council for Child Wellbeing, chaired by the Minister for Children, and reporting to National Cabinet.
- Incorporates the Convention on the Rights of the Child into Australian law through a National Children's Act as well as a federal Human Rights Act.

²¹ Ipsos Aboriginal and Torres Strait Islander Research Unit, Brisbane Public Affairs Unit, Guerzoni, M., & Martin, K. (2019). Evaluation of Murri Court: Prepared for the Queensland Department of Justice and Attorney-General.

²² Morgan, A., & Louis, E. (2010). Evaluation of the Queensland Murri Court: Final Report. AIC Reports: Technical and Background Paper 39 Evaluation of the Queensland Murri Court: Final report (aic.gov.au)

²³ Australian Human Rights Commission (2024). 'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing.

Without a clear and cohesive approach and commitment to youth justice between states and territories it is hard to see how Australia can enable reform in this area. Progress has been hampered in past years due to shifting policy directions and funding cuts. National reform requires a long term political and policy commitment to a child's rights approach, prevention and early intervention, and being trauma responsive. A unified approach will strengthen accountability and coordination of governments, reducing silos, and increase the likelihood of improved outcomes.

Recommendation:

That the Government implement the National Children's Commissioner's 'Help Way Earlier!' How Australia can transform child justice to improve safety and wellbeing' report to enable national reform and minimum standards for youth.

Raising the age of criminal responsibility

Currently in Australia the age of criminal responsibility is still set at 10 years in most jurisdictions. Australia has been criticised by the United Nations for having our age of criminal responsibility set too low, with Australia having one of the lowest ages in the OECD.²⁴ Children under the age of 14 should not be held criminally culpable for offending behaviour, as their behaviours are often the result of developmental immaturity, experiences of trauma, and intergenerational, social, and environmental disadvantage beyond their control.

Criminalising children at an early age and relying on a punitive crisis model only entrenches disadvantage, reinforces trauma, and fails to address the underlying societal and environmental factors that lead to offending and re-offending. Raising the age of criminal responsibility to 14 would represent a significant step in shifting the focus of the youth justice system from criminalising disadvantage to addressing the causes of disadvantage.

The earlier a child is exposed to the justice system the more likely they are to reoffend.²⁵ Research also clearly demonstrates that early contact with the youth legal system increases the likelihood of:

- **Poor future justice outcomes:** the younger they are at their first point of contact with the youth justice system, the longer their involvement in the system is likely to be
- **Interruption to education:** children in contact with the youth justice system are less likely to complete their education, and less likely to thrive into the future, and
- **Trauma and mental illness:** incarceration and criminalisation cause documented long-term impacts on mental health and often compounds pre-existing trauma.²⁶

Raising the age of criminal responsibility will break the cycle of crime and deliver permanent and positive change to Australian communities. **yourtown** strongly advocates for a national age of criminal responsibility for all types of offences that is set to at least 14 years old. This national age of criminal responsibility should be accompanied by national minimum standards for the age of detention, along with focuses on early intervention, prevention, holistic and community-based approaches by way of responses to child anti-social behaviour and offending. Raising the age of criminal responsibility should also be accompanied by investment in strengths-based supports and services to address drivers of disadvantage that lead to anti-social behaviour in under 14-year-olds.

²⁴ Save the Children 54 Reasons, dandolopartners, & McDougall, J. (2023). Putting children first: A rights respecting approach to youth justice in Australia.

²⁵ Sentencing Advisory Council (2016). Reoffending by children and young people in Victoria (p. xiii).

²⁶ Save the Children 54 Reasons, dandolopartners, & McDougall, J. (2023). Putting children first: A rights respecting approach to youth justice in Australia.

Recommendation:

That reforms to youth justice include a national age of criminal responsibility for all types of offences that is set to at least 14 years of age.

We would welcome the opportunity to explore these ideas with you in further detail. Should you require further information about any issues raised in the submission, please do not hesitate to contact Tracy Adams, CEO of **yourtown** via email at advocacy@yourtown.com.au.