

18 December 2025

Legal and Constitutional Affairs References Committee
Australian Senate
Parliament of Australia

To the Legal and Constitutional Affairs References Committee,

RE: Australia's youth justice and incarceration system

The Network of Councils of Social Service (the Network) is made up of the peak bodies representing the needs and interests of service providers and their clients in the non-profit social service sector in Australia. Our members comprise community service providers, professional associations and advocacy organisations. We provide independent and informed policy development, advice, advocacy and representation about issues facing the community services sector; a voice for all Australians affected by poverty and inequality; and a key coordinating and leadership role for non-profit social services across the country. We work with our members, clients and service users, the non-profit sector, governments, departments and other relevant agencies on current, emerging and ongoing social, systemic and operational issues.

The Network made a submission to this inquiry in October 2024 and this letter serves to update the commentary and recommendations in that submission in response to:

- the recent deterioration of conditions for young people in the youth justice and detention system across Australia
- research released since October 2024 which finds that there has been an increase in the number of people living in poverty in Australia, including children-socio-economic disadvantage being a causal factor for offending behaviour.

The deterioration of conditions for young people in the youth justice and detention system across Australia

Since September 2024, the following significant changes in the youth justice and detention system have occurred in jurisdictions across Australia, despite the generalised downward trend in youth offending:

- The age of criminal responsibility was reduced from 12 to 10 years of age in the Northern Territory (NT).
- In Western Australia, the age of criminal responsibility remains 10 years of age, despite consistent calls for raising the age.
- In Queensland, the “Adult Crime, Adult Time” sentencing framework has been introduced and expanded; the principle of detention as a last resort has been removed from the Youth Justice Act; and powers for police to scan people for weapons in public places without a warrant, including children, have also been expanded.
- Stricter bail laws have been legislated and are applicable equally to both adults and children & young people in the NT, South Australia and New South Wales.

- NT (28.8%)¹ and NSW (34%)² have experienced increases in the number of young people in detention.
- Youth diversionary programs run by Aboriginal Community Controlled Organisations and the social and community sector have been defunded in the NT.
- South Australia is introducing harsher penalties in response to young people deemed to be in ‘street gangs’, with their right to free association being criminalised and the penalties mimicking laws already imposed on outlaw motorcycle gangs.
- The West Australian and Northern Territory governments refused access to the United Nations Working Group on Arbitrary Detention from youth detention facilities, reinforcing concerns within the justice system of potential human rights violations.
- The Office of Inspector of Custodial Services has found multiple breaches of the human rights of children in detention in Western Australia, in addition to violations of state law in response to ongoing solitary confinement for more than 20 hours per day.
- The final findings of the Coronial Inquest into Cleveland Dodd’s death were handed down, finding the Western Australian Government completely and undeniably failed in their care for Cleveland. His death by suicide was predictable and preventable. In the 87 days leading up to his death, Cleveland spent most of the time confined to his cell for more than 23 hours a day, which breaches human rights conventions and constitutes torture.
- The Western Australian Government has continued to pursue a legislative reform agenda fundamentally at odds with a child-centred and evidence-based approach to youth justice.
- Independent oversight bodies in Tasmania have raised concerns about serious and ongoing safety risks for children in detention, including police watchhouses.³
- Community organisations in Tasmania have raised concerns about the impact of recent legislative changes (including a significant expansion of police search powers) which are likely to increase the criminalisation of children and young people.⁴

In contrast, between 2023 and 2025, the ACT legislated a staged increase in the minimum age of criminal responsibility from 10 to 12, and then from 12 to 14, supported by system readiness measures including diversion-focused court practices and strengthened community-based supports.

¹ See [Youth detention census | Department of Corrections](#)

² NSW Bureau of Crime Statistics and Research b (2025) NSW Custody Statistics Quarterly update June 2025. As accessed via <https://bocsar.nsw.gov.au/research-evaluations/2025/nsw-custody-statistics-quarterly-update-jun-2025.html>

³ Office of the Custodial Inspector (2025) [Children in Tasmania's prisons: review report 2025](#). As accessed via https://www.custodialinspector.tas.gov.au/_data/assets/pdf_file/0005/814073/Children-in-Tasmanias-prisons-review-report-2025.pdf

⁴ Please see TASCOSS submission to this inquiry.

Central to this reform is the Therapeutic Support Panel, an independent, multidisciplinary body that coordinates therapeutic and community-based responses to address the drivers of harmful behaviour and divert children from criminalisation. These reforms are complemented by initiatives such as the Safer Youth Response Service Pilot, which provides after-hours crisis youth work, emergency accommodation and case management for children who cannot safely return home.

The Jumbunna Institute's independent review highlights the need for continued reform, particularly to address the over-representation of Aboriginal and Torres Strait Islander children in custody. In 2023–24, Aboriginal and Torres Strait Islander children were 14 times more likely to be held in youth detention at the ACT's youth justice centre, Bimberi, than non-Indigenous children.⁵

While these reforms are still maturing and further investment is required, the ACT experience reflects a positive, evidence-based shift in youth justice policy. It demonstrates that raising the age of criminal responsibility can be implemented in practice and provides a credible model for other jurisdictions to adopt and learn from.

Increase in the number of children living in poverty in Australia- socio-economic disadvantage being a causal factor for offending behaviour.

Research released since our last submission finds the poverty rate increased by nearly half a million people between 2021 and 2022:

- The proportion of all people in poverty rose by 1.8 percentage points from 12.4% (one in eight) in 2020-21 to 14.2% (one in seven) in 2022-23.⁶
- This includes an additional 102,000 children moving into poverty.⁷
- This poverty is driven by rising living costs and housing stress.⁸

As such, the COSS Network reiterates the following recommendations:

1. As recommended in *Poverty in Australia 2025: Overview* implement the following policies to reduce poverty

⁵ Cunneen, C., Fiona, A., Beaufils, J., Corrales, T. and Selcuk, A (2025) [Independent Review into the Overrepresentation of First Nations People in the ACT Criminal Justice System: Strategies and Recommendations for Reducing Aboriginal and Torres Strait Islander Over-Representation in the ACT Criminal Justice System](#). Jumbunna Institute for Indigenous Education and Research, University of Technology, Sydney, 184.

⁶ Davidson, P & Bradbury, B (2025) *Poverty in Australia 2025: Overview* Australian Council of Social Service (ACOSS) and UNSW Sydney. As accessed via https://povertyandinequality.acoss.org.au/poverty_in_australia_2025_overview/

⁷ Bankwest Curin Economics Centre (2024) *Child Poverty in Australia*. As accessed via <https://valuingchildreninitiative.com.au/news/media-release-cost-of-living-crisis-drives-an-increase-in-child-poverty-in-australia>

⁸ Davidson, P & Bradbury, B (2025) *Poverty in Australia 2025: Overview* Australian Council of Social Service (ACOSS) and UNSW Sydney. As accessed via https://povertyandinequality.acoss.org.au/poverty_in_australia_2025_overview/

- Lift the lowest income support payments (including Youth Allowance, JobSeeker Payment and Parenting Payment Single) to a benchmark level of adequacy, taking account of essential living costs, relativities with other income support payments and wages.
- In addition, introduce and improve income support supplements to cover essential costs above and beyond basic income support, including the extra costs of sole parenthood, disability and renting privately.
- Commit to full employment based on targets which guarantee there are enough jobs and paid working hours overall for people who need them.
- Invest in effective employment services to end the entrenched economic exclusion of people such as those unemployed long-term, First Nations communities, people with disability and older people; and to improve access to decent jobs and careers for people entering or returning to paid work including young people, parents and carers.
- Set and fund clear social housing targets to address unmet housing need and strengthen rental protections, including protections against excessive rent increases.

2. A commitment must be made to address the disproportionate impact of the youth justice system on particular groups of children.

- Action is needed to address the over-representation of Aboriginal and Torres Strait Islander children, children from marginalized communities confronted by racism and discrimination, children with disability, and young people who have experiences of out-of-home-care.
- In Aboriginal and Torres Strait Islander communities, the planning, design and implementation of prevention, early intervention and diversionary responses should be community-led.
- Policy solutions must be ‘underpinned by the principle of self-determination, respect for Aboriginal and Torres Strait Islander people’s culture and identity, and recognition of the history of dispossession and trauma experienced by many communities’.⁹
- Evidence-based screening, assessment and early support are critical to identifying children who experience disability, including neurodevelopmental and cognitive differences, within the community and prior to contact with the youth justice system. Appropriate resources should be directed toward supporting children and their families to understand and manage these conditions in community settings, thereby reducing the likelihood of contact

⁹ Change the Record Coalition (2015) *Blueprint for Change: Changing the Record on the disproportionate imprisonment rates, and rates of violence experienced by Aboriginal and Torres Strait Islander people*, 5.

with the youth justice system. Specific legislative and policy measures are needed to end the over-representation of children with care experience within the criminal legal and prison systems (noting this is an issue which also disproportionately impacts First Nations children and families). The Australian Government should support and coordinate measures to prevent the criminalisation and incarceration of children in care or who have been in care, including (but not limited to) the following:¹⁰

- establishing clear and time-bound objectives - for example, shared commitments across Government and non-Government entities to reduce the number of children with care experience in the criminal legal system;
- increasing community-based supports for children and families to receive targeted assistance at the earliest opportunity to prevent further involvement in the child safety and/or criminal legal systems;
- expanding supports available for adults with children and care responsibilities involved in the criminal legal system, acknowledging the significant and ongoing impact of parental incarceration; and
- supporting effective and ethical partnerships between community-based organisations and Government to work collaboratively with children and families.¹¹

3. We oppose the incarceration of children and young people. In the event that children and young people are criminalised, the following must apply:

- The minimum age of criminal responsibility must be raised to at least 14 years without exceptions;
- Therapeutic and culturally appropriate child and family supports and initiatives to keep children and adults out of the criminal legal system should be put in place and used. This could include the adoption of a justice reinvestment framework, focusing on community-led prevention and place-based responses to children and young people;
- Formal diversion programs and mechanisms should be prioritised and put into place, including initiatives such as Embedded Youth Outreach Models, and First Nations First Responders so that police are not the only option for intervening; and Community Justice Centre models to decrease the likelihood of incarceration¹². In addition, the requirement of police consent for diversion must be removed across all jurisdictions.

¹⁰ Further examples and more detailed discussion can be found in Tait, M (2025) 'Community support models preventing the care criminalisation of children', accessed at [Meg Tait - Churchill Trust](#).

¹¹ For example, see Tasmanian Aboriginal Centre (2025) 'Nukara Strategy: Weaving a wise, bold and strong basket to safely hold Aboriginal children and their families', accessed at [Strategic-Plan.pdf](#)

¹² Rothwell et al. (2022) *Blueprint for a Better Future: Paving the Way for Youth Justice Reform in Western Australia*. West Leederville: Social Reinvestment WA.

- Opportunities to divert children as early as possible from formal criminal legal proceedings should be maximised – this includes changes to police charging and other protocols to increase non-prosecutorial outcomes offered to children and young people, legislative reform across jurisdictions to maximise opportunities for diversion (such as the introduction of a presumption in favour of diversionary outcomes for children and young people, as well as the removal of existing legislative barriers which can impede diversionary options being offered or considered).¹³
- Alternatives to being remanded in custody must be employed, especially culturally appropriate, therapeutic, and alternative education-focused options which support reintegration into the community. Examples like Scotland’s *Needs not Deeds*¹⁴ model, and options such as alternative schools, and on-country camps should be utilised.
- Children and young people are entitled to have their rights met and must not be subjected to a range of human rights violations as has repeatedly been found to be the case across all jurisdictions.

4. It is clear that the degree of compliance with child and human rights by state, territory and federal prisons and detention centres is severely compromised, and that there is a lack of enforceability and accountability. We therefore recommend the following:

- That enforceable minimum standards are established across all jurisdictions and at a national level. These standards are to recognise the jurisdiction of youth justice as it applies up to the age of 25 years.
- The mechanism to establish minimum standards will be through the Australian Government incorporating 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, which will apply to all states and territories.
- That a National Accord on Youth Justice, committed to by all States and Territories, is developed in order to establish a shared vision for youth justice. This is to be accompanied by the development of a National Partnership Agreement on Youth Justice, which is to direct dedicated funding towards community-based services and alternatives to detention.
- That the following rules and proposed legislation are to be included in the minimum standards: The Havana Rules and the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) – regarding the use of solitary

¹³ See TasCOSS (October 2024) ‘Australia’s Youth Justice and Incarceration System’ and TasCOSS (April 2023) ‘Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters’.

¹⁴ Sturgeon, J., & Leygue-Eurieult, E. (2020). [‘Needs before actions’ - The Scottish Children’s Hearing and the enduring legacy of Lord Kilbrandon](#). *Criminocorpus: Histoire de la justice, des crimes, et des peines*.

confinement; and Poccum's Law, which aims to ensure that bail hearings are fair, and that remand is only used as a last resort.

- That the recommendations made by the National Children's Commissioner, in the *'Help Way Earlier!' report*,¹⁵ are supported. These include:
 - enabling a legislative basis for national out-of-home care standards and new child justice standards;
 - minimum standards to be applied in all places of detention where children are held – consistent with Australia's obligations under the Optional Protocol to the Convention against Torture (OPCAT). To this end, each state and territory government must designate, without delay, an independent National Preventive Mechanism, as outlined by OPCAT, with child rights expertise to ensure child-focussed preventive oversight of all settings in which children and young people could be deprived of their rights and liberty;
 - providing for the legislative inclusion of commitments in relevant national frameworks – such as the National Agreement on Closing the Gap;
 - enabling mechanisms for the voices of children and young people to be heard, and for involvement of children in policy making, and monitoring processes through, for example, establishing minimum requirements for Child Rights Impact Assessments and instances where such assessments should be mandatory.

Thank you for considering our submission. For further information please contact claire@ntcooss.org.au.

Yours sincerely,

The COSS Network



¹⁵ Australian Human Rights Commission (2024). *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing*. Sydney: Australian Human Rights Commission.