

## Submission to the inquiry into community safety in regional and rural NSW

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The Office of the Advocate for Children and Young People (ACYP)

June 2024

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## About the Advocate for Children and Young People (ACYP)

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The Advocate for Children and Young People (ACYP) is an independent statutory appointment overseen by the Parliamentary Joint Committee on Children and Young People. ACYP advocates for and promotes the safety, welfare, well-being and voice of all children and young people aged 0-24 years, with a focus on the needs of those who are vulnerable or disadvantaged.

Under the *Advocate for Children and Young People Act 2014*, the functions of ACYP include:

- making recommendations to Parliament, and government and non-government agencies on legislation, policies, practices and services that affect children and young people;
- promoting children and young people's participation in activities and decision-making about issues that affect their lives;
- conducting research into children's issues and monitoring children's well-being;
- holding inquiries into important issues relating to children and young people;
- providing information to help children and young people; and
- preparing, in consultation with the Minister responsible for youth, a three-year, whole-of-government Strategic Plan for Children and Young People (the Plan).

Further information about ACYP's work can be found at: [www.acyp.nsw.gov.au](http://www.acyp.nsw.gov.au)

## Introduction

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The Office of the Advocate for Children and Young People (ACYP) welcomes the opportunity to provide a submission to the inquiry into youth crime in regional and rural NSW.

Community safety is important to children and young people and it is a key focus area of the [NSW Strategic Plan for Children and Young People 2022-2024](#) (Strategic Plan).<sup>1</sup> For more information regarding the initiatives listed in the Plan, please refer to Appendix 1.

While we welcome the NSW Governments' commitment to improving outcomes for children and young people, there are cohorts of children and young people, notably Aboriginal children and young people, those living with disability, those in the out-of-home care (OOHC) system and other priority young people who continue to need greater Government and community support.

Children and young people require a comprehensive support system to thrive across physical, social, and emotional domains. Supports include but are not limited to, safe, stable and adequate housing; strong cultural connections; education and employment opportunities; positive role models and strong, continuous connections to support workers, pro-social activities, youth centred programs and opportunities to participate<sup>2</sup>. When deficiencies exist within one or more areas, the propensity for children and young people to carry out anti-social behaviours increases.

When considering youth crime and developing strategies to better improve community safety, ACYP recommends using a public health approach<sup>3</sup>. This approach focuses on early intervention and prevention strategies rather than punitive approaches and is consistent with the National Framework Protecting Australians Children.<sup>4</sup> A public health approach primarily focuses on identifying risk and protective factors, prioritising the needs of children and young people, and addressing the social determinants of violence and anti-social behaviour.<sup>5</sup>

ACYP has been working to support children and young people engaged in the justice system since 2015. In many of our consultations we have heard heartbreaking stories of disadvantage, marginalisation and systemic failures across various levels of government, which for some young people has led to offending and reoffending behaviours.

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<sup>1</sup> ACYP (2022). *NSW Strategic Plan for Children and Young People 2022-2024*. <https://www.acyp.nsw.gov.au/strategic-plan-2022-2024>

<sup>2</sup> The Wellbeing of Australia's Children, A story about data, a story about change (2023) Unicef and ARACY

<sup>3</sup> J Ravulo, (2023) *Childrens Court of NSW Resource Handbook*; The role of holistic approaches in reducing the rate of recidivism for young offenders. Judicial Commission of New South Wales. Retrieved on April 25, 2024, from [https://www.judcom.nsw.gov.au/publications/benchbks/children/CM\\_Holistic\\_approaches\\_reducing\\_recidivism.html](https://www.judcom.nsw.gov.au/publications/benchbks/children/CM_Holistic_approaches_reducing_recidivism.html)

<sup>4</sup> Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031 (the National Framework) (2021), Commonwealth of Australia (Department of Social Services)

<sup>5</sup> H. Klose (2020) Re-Thinking Approaches to Youth Justice a Public Health Model Approach to Respond to Young People's Involvement in Violence in Australia, *Court of Conscience*, (Issue 14)

Over the last five years, ACYP has undertaken significant work relating to youth justice including, a collaboration with the Department of Communities and Justice to produce the Youth Engagement Insights Report <sup>6</sup>which informed a short-term remand pilot program; formal submissions to government inquiries including the Inquiry into Diversionary Programs 2018 and the Young Offenders Act Review 2020; and compiled our exit interviews with children and young people in Youth Justice Centres<sup>7</sup>.

In recent years, there have been extensive reviews and analysis' undertaken by government and non-government agencies relating to youth justice in NSW.<sup>8</sup> While it is encouraging to see that the overall numbers of children and young people engaged with youth justice has remained stable, which may indicate that the investments made into diversionary initiatives are working to keep young people out of incarceration, it must be continued to be recognised that children and young people engaged with the justice system are a vulnerable population.

When a whole of government approach compliments a whole of community response and support system, we can start to tackle the issues that are leading to youth crime. A collaborative approach comprising government, NGO's, community stakeholders, families, children, and young people. Long term programs which are community designed, led and managed while adequately resourced will give children and young people in regional and rural NSW communities the best chance to thrive.

For the purpose of this submission, we have focused our response on the questions A-C.

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<sup>6</sup> Youth Engagement Insights Report Short-term Remand Pilot, Communities and Justice, NSW Government

<sup>7</sup> ACYP. (2020). *Youth Justice Exit Interviews*. This report was not publicly released but was provided to other government departments upon.

<sup>8</sup> G. Clancey, S. Wang and B. Lin, Youth Justice in Australia: themes from recent inquiries, *Trends & Issues in Crime and Criminal Justice*, Australian Institute of Criminology

## Summary of Recommendations

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1. ACYP Recommends funding and support for Aboriginal Community-Controlled Organisations to work with First Nations children, families, and communities. Support for children and young people should include:
  - a. access to Aboriginal Elders for spiritual guidance; and
  - b. participation in cultural programs.
2. Greater investment in, and resourcing of, a trauma-informed, youth specific early intervention services and support networks.  
Services to include:
  - I. youth friendly, safe spaces which offer after- hours and weekend programs to engage children and young people in meaningful activities; and
  - II. Activities should be free of cost, conveniently located and linked with opportunities to learn about and access support services.
3. Enhanced pathways for children and young people to access safe, stable and affordable accommodation post release, ideally co-located with holistic supports. This includes, where possible accommodation planning commences prior to exiting custody a smooth transition.
4. Greater investment in culturally appropriate accommodation options for children and young people in regional and rural NSW to avoid unnecessary exposure to incarceration. This may include children and young people:
  - a. on bail;
  - b. needing alcohol and other drug support; and
  - c. with unstable family housing situations.
5. The Joint Protocol be extended across all regions of NSW to further reduce the criminalisation of children and young people engaged with the OOHHC system.
6. Increase funding for NSW Education to expand their support programs to include a dedicated support worker to work with children and young people who are at risk of disengaging from school.
7. The Department of Education provides ongoing monitoring of the implementation of the Behaviour Policy to ensure suspensions and expulsions are limited and only when it is in

accordance with the policy.

8. Increase investment in mental health programs that ensure children and young people are provided with access to safe, inclusive and culturally safe mental health care and support, including access to support after hours. This should include investment in Aboriginal-led and co-designed programs, culturally specific mental health services and supports (including translation services).
9. Develop and implement targeted employment support programs to assist young people leaving custody to transition into the workforce through opportunities to obtain work experience, apprentice and traineeships, certifications, and training in life skills. Where appropriate, programs should be built in partnership with Aboriginal community-controlled organisations. Certificates such as the White Card is consistently mentioned by children and young people as the most valuable gain throughout their time in custody
10. Expansion of activities and programs within youth justice centres to include:
  - a. Access to young people on remand;
  - b. consistency across youth justice centres to ensure young people aren't missing out on opportunities required for a positive transition; and
  - c. Extending the prerelease transition program for children and young people exiting youth justice, to include intensive and culturally appropriate casework for up to two years.
11. Greater resourcing for post release intensive family support programs including longer timeframes (for up to two years) and more placements in communities with an identified need.
12. Increase the minimum age of criminal responsibility from 10 to 14.

## Youth crime trends in NSW

The official statistics and figures indicate that youth crime has remained consistent over the last five years. We acknowledge there have been communities in regional and rural NSW that have experienced an increase in youth crime. To change and reduce youth crime we need to understand what children and young people need in those communities and invest in prevention and intervention. We also need to look at supports to reintegrate and support young people coming out of custodial settings back into their communities.

It is important to note, the current rhetoric in media is not consistent with official figures being reported by the Australian Institute of Health and Welfare (AIHW) or the Bureau of Crime Statistics and Research (BOCSAR).

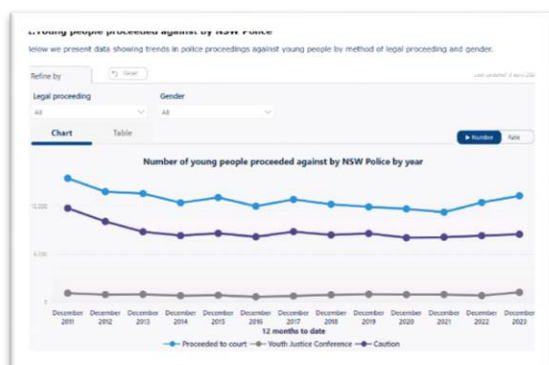


Figure a.<sup>9</sup>



Figure b.<sup>10</sup>

While we acknowledge that crime rates in regional and rural areas are higher than in Sydney, and that pockets of regional and rural NSW are experiencing spikes in youth crime, the overall number of children and young people under supervision or proceeded against by NSW Police, has remained consistent over the last five years.<sup>11</sup> Please refer to figure a (young people proceeded against by NSW

<sup>9</sup>Young Offending, Young people proceeded against by Police in NSW, NSW Bureau of Crime Statistics and Research May 1 2024 retrieved from [https://www.bocsar.nsw.gov.au/Pages/bocsar\\_pages/Young-people.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Young-people.aspx)

<sup>10</sup> Rate of young people under supervision on an average day, by supervision type, New South Wales 20-17-2018 to 2021-2022, Australian Health and Welfare Youth Justice in Australia (2021-2022) Retrieved from <https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-2021-22/contents/state-and-territory-fact-sheets/new-south-wales>

<sup>11</sup> Australian Health and Welfare. (2022). *Youth Justice in Australia 2022–23*. retrieved 1 May 2024



Police) and figure b (Rate of young people under supervision on an average day, by supervision type in NSW 2017-2022) above.

## What are the factors underpinning youth crime?

The drivers of youth crime are complex. It is widely understood that children and young people who commit crimes are more likely to, have been victims of domestic violence;<sup>12</sup> have experienced severe trauma, be homeless or experience housing instability, have poor mental health, be disengaged from school and struggle with drug and or alcohol addiction.<sup>13</sup> It is the intersectionality of these factors which provides further complexity when providing support to this cohort.

We know that there are several priority cohorts with particular complexities and intersectionality. Including Aboriginal and Torres Strait Islander young people, those living with disability, children and young people who have been in the OOHC system. As at March 2024 there were 223 young people in custody, and 66.4% (148) identified as Aboriginal.<sup>14</sup>

We also know that there is a high number of young people who come into custody with undiagnosed disability<sup>15</sup> and, finally young people who had contact with child protection services are:

- nine times more likely than the general population to be under youth justice supervision;
- more likely to have intersecting vulnerabilities including poverty, social disadvantage, living with disability, mental health issues and to be victims of family violence; and
- more likely to be Aboriginal.

In interviews with children and young people, residential care facilities are described as unsafe and hostile environments, where children and young people found their needs for respect, safety, care, and connection were not being met. Some young people directly attributed their offending

<sup>12</sup> Boxall H, Pooley K & Lawler S.(2021). *Do violent teens become violent adults? Links between juvenile and adult domestic and family violence*. Trends & issues in crime and criminal justice no. 641. Canberra: Australian Institute of Criminology.  
<https://doi.org/10.52922/ti78450>

<sup>13</sup> Borschmann R, Janca E, Carter A, Willoughby M, Hughes N, Snow K, Stockings E, Hill NTM, Hocking J, Love A, Patton GC, Sawyer SM, Fazel S, Puljević C, Robinson J, Kinner SA. (2020 ) *The health of adolescents in detention: a global scoping review*. Lancet Public Health. Feb;5(2):e114-e126. doi: 10.1016/S2468-2667(19)30217-8. Epub 2020 Jan 16. PMID: 31954434; PMCID: PMC7025881.

<sup>14</sup> NSW Bureau of Crime Statistics and Research. (2024). *NSW Custody Statistics: Quarterly Update March 2024*

<sup>15</sup> Telethon Kids Institute reported a study in Western Australia found that in the Banksia Hill youth detention facility, 89% of inmates had at least one form of severe neurodevelopmental impairment and 36% had FASD89%. Despite being engaged with other government agencies prior to detention, most of the disabilities had gone undiagnosed. Bower C, Watkins RE, Mutch RC, et al. *Fetal alcohol spectrum disorder and youth justice: a prevalence study among young people sentenced to detention in Western Australia*. (2018) BMJ Open; 8:e019605. doi:10.1136/bmjopen-2017-019605

behaviours and arrests to the challenges they faced in the residential care environment, and they want these agencies and their workforces to better support their reintegration with the community.

*“I feel like when I get out, I don’t really want to get out because I know I’m always going to have to go back to care... I just want to be with a family member. I feel like every time I go back to care I keep making the same mistakes, over and over.”*

ACYP acknowledges the collaboration between the Department of Communities and Justice (DCJ) and NSW Police, in designing and implementing the joint protocol which aims to reduce the criminalisation of children and young people who live in residential care and Intensive Therapeutic Care (ITC) settings and promote their safety, welfare and wellbeing. The Joint Protocol promotes information-sharing and collaborative working between out-of-home care (OOHC) service providers of residential and ITC and NSW Police Force.

## Did COVID affect youth crime?

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The COVID-19 pandemic affected children and young people across several life domains including but not limited to social connectedness and social support, psychological distress, education and employment, housing and homelessness, family relationships and financial stability.<sup>16</sup> Polling undertaken by ACYP during the pandemic period, found that children and young people felt more isolated than usual, experienced more mental health issues and were worried about financial security for themselves and for their families. While for many children and young people, the negative impacts of the pandemic ceased once the lock downs were lifted and communities were reopened, for some children and young people, the impacts are longer lasting.

In recent case work undertaken by the ACYP Recovery Youth Support Service (RYSS) in the Northern Rivers of NSW, children and young people have reported feeling isolated as a consequence of the lock downs, and remain reluctant to re-engage with school, sports or social activities. Research following trends of young people suggest the effects of COVID-19 on youth mental health are longer lasting than anticipated, and that young people in NSW are experiencing greater difficulties in their daily lives than prior to the COVID-1 pandemic.<sup>17</sup>

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<sup>16</sup> Australian Health and Welfare. (June 2021). *COVID-19 and the impact on young people* retrieved May 1, from <https://www.aihw.gov.au/reports/children-youth/covid-19-and-young-people#impact>

<sup>17</sup> (CYPEP), Monash Centre for Youth Policy and Education Practice; Deng, Zihong; Walsh, Lucas; Huynh, Thuc Bao; Cutler, Blake (2024). *The pandemic years and their impact on young people in New South Wales and Victoria: Insights from the Australian Youth Barometer*. Monash University. Report. <https://doi.org/10.26180/25735479.v2>

## **What are the issues for children and young people in regional and rural NSW?**

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A common theme that is often reported in our consultations with all children and young people living in regional and rural NSW is the lack of appropriate, child-friendly programs and spaces available to them. The issue is even more significant for marginalised and vulnerable cohorts of young people, who may have already disengaged from school. Without a safe space to participate in pro social activities with other young people and adults, the propensity to engage in antisocial behaviours in the community increases.

Recently, ACYP met with Aboriginal young people who were from a regional town, and currently in a custodial setting, to understand their experience(s). They talked about not having access to culture and that the programs that had been running were not available anymore.

This sentiment was echoed in interviews with children and young people in Northern NSW, who also identified a deficient of activities or employment and/or training opportunities within their community. Many had already disengaged from school, and without any constructive activities, turned to offending. The rising cost of living and rental prices is also impacting children, young people and their families, which may be contributing to the increase in crime rates of stealing, petrol and grocery theft and break and enters.

When there are activities available, transport to and from a service or event can be difficult at best or in most cases non-existent, particularly for those living outside of the town centre. This is also relevant to employment or training opportunities. If young people don't have access to a car or a valid licence, and are solely reliant on public transport, which applies to the majority of marginalized young people, getting to and from a job, a youth centre, or social / sporting event is impossible.

## **How a whole of Government approach can reduce the drivers of youth crime in regional and rural NSW.**

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A public health approach is based on three main stages: first, understanding the nature of the problem, through data; second, implementing what works, with a focus on young people's experiences and input; and third, learning from experience, improving policies based on evaluation.<sup>18</sup>

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<sup>18</sup> Hannah Klose. (2020) *Rethinking Approaches to Youth Justice*, Court of Conscious Issue 14

Taking a public health approach to youth justice would involve introducing data-driven strategies and evidence-based programs, particularly with Indigenous and other vulnerable groups through participative and restorative approaches.

Key to this approach, and its overall efficacy, is listening to the voices of children and young people who have had contact with the criminal justice system and incorporating their stories and experiences into decision making process.

Children and young people have provided information to ACYP regarding the deficiencies in the existing support systems available to them, which if improved may, prevent initial engagement with the criminal justice system, and for those already engaged, provide better outcomes for reintegration into the community.

While we acknowledge the NSW Government is already undertaking significant work in the following areas and we welcome the recent housing and mental health investments, we need to ensure that children and young people have access to this work and they themselves suggest there is still work that needs to be done. A robust whole of community approach comprising government, non-government, community stakeholders, families and children and young people is the most effective way of ensuring children and young people have all the support needed across all domains of life, necessary to thrive.

### ***Housing and Homelessness***

Housing is a foundational element of a young person's life. Without safe and stable housing, it is difficult for a young person to stay engaged in education, training, or employment, stay physically and mentally well and maintain positive social relationships. Housing instability and homelessness are often cited as drivers of an increasing youth detention population.<sup>19</sup>

In interviews with children and young people, unstable housing situations are commonly reported prior to offending. Many are also unsure where they will live upon release from custody, and some are in custody due to welfare issues of not having safe, stable accommodation whilst on bail. Children and young people experience significant distress and anxiety as a result of accommodation insecurity. Some children and young people are placed in residential care facilities or temporary accommodation (TA) upon release from custody, although many are averse to placement within

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<sup>19</sup> Cunneen C, Goldson B and Russell S (2016) 'Juvenile justice, young people and human rights in Australia', Current Issues in Criminal Justice, 28(2): 173–189, doi:10.1080/10345329.2016.12036067.

these environments, having previously experienced them as criminalising, traumatising, and isolating.

Children and young people often describe their conflicting feelings of wanting to be free from incarceration, while also recognising that sometimes youth justice facilities can be safer and more secure than their community-based options. Some children and young people report positive experiences engaging with programs which provide holistic support encompassing accommodation, education, and employment, such as Pathfinders. Although some are opposed to engaging with these programs as they are required to relocate away from family and community support networks.

*“I’ll go to juvey if I’m homeless, can’t get kicked out of juvey. If I get arrested, at least I have a roof over my head and a feed. They look after you in juvey.”*

### **Education**

Education is a right of all children and young people<sup>20</sup> and plays a vital role in their lives. Poor school attendance, disengagement and underperformance are associated with a range of adverse outcomes, including contact with the criminal justice system.<sup>21</sup> Maintaining a connection with education is therefore a crucial component of efforts to prevent crime and divert young offenders from long-term involvement with the criminal justice system.

ACYP believes that early intervention programs, which prevent school disengagement are an essential strategy in preventing youth crime. School is often the last positive connection a young person has to community, and once disengaged, maladaptive behaviours, such as drug taking, homelessness and engaging in criminal activity increase.

In communities where young people are at risk of disengaging from school and rates of youth crime are higher, ACYP recommends expanding the support services available to young people in schools. Noting that school counsellors and Student Support Officers (SSO) are often overwhelmed with mainstream student need and may not have the ability (due to time restraints not skill level) to support at risk young people, this role would be a dedicated role to ensuring young people stay engaged with school. The support person would liaise with other services within the community as well as provide one-on-one support to a young person. In communities with higher Aboriginal

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<sup>20</sup> United Nations Convention on the Rights of the Child art 28; Education Act 1990 s 4(a).

<sup>21</sup> Justice Health & Forensic Mental Health Network and Juvenile Justice NSW. 2015 Young People in Custody Health Survey: Full Report, 14. Retrieved April 20  
[https://www.nsw.gov.au/sites/default/files/2022-05/2015\\_YPiCHS\\_Full\\_report.pdf](https://www.nsw.gov.au/sites/default/files/2022-05/2015_YPiCHS_Full_report.pdf)

populations, the support person should identify as Aboriginal and support the young person using culturally appropriate programs and activities both during school and outside.

*“I don’t know ever since I went to school, I loved it in here. See out there I just never really wanted to go to school. More support in here that’s why. We need that support out there too, you know, so we stop coming in here”.*

Most children and young people who enter the youth justice system are disconnected from mainstream education, despite many of them having educational aspirations and interests. Throughout ACYP’s consultations with young people in custody, most young people report having experienced cycles of back-to-back suspensions and expulsions from multiple schools. Many report that it was during a period of suspension or disengagement from school that they first came in contact with the youth system. Young people have told us that repeated school suspensions are counterproductive as a means of managing challenging behaviour, instead leading young people to fall behind and face greater difficulty in class and driving them to offending behaviours by leaving them with nowhere safe to go during the day. They suggested in-school and out-of-school alternatives to suspension to maintain their engagement with education, and greater one-to-one support which address diverse learning abilities and needs in the classroom.

*“Most of these young fellas need an education, they’re only 14, 15. There’s not even that much education there for them, you know they are getting suspended from school nearly every day of the week. They get suspended when they come back from a suspension, they get suspended again. It’s terrible and it should stop. That’s a big thing in our community, you see all the little brothers walking around the streets suspended from school, smoking. It’s terrible and needs to stop.”*

Young people have reported not being allowed to participate in certain educational or training programs as a consequence of their behaviour while being in a youth justice centre. These programs are designed to ensure that, upon exit, young people are ready to re-engage with their education or go on to employment. While we appreciate the hard work of Department of Communities and Justice (DCJ) to support incarcerated children and young people, we do believe that exclusionary practices further penalise young people and may contribute to young people cycling in and out of the carceral system.

*“When you get suspended from school you’ve got nothing else to do, walk the streets. Our mum and that wasn’t there for us, you know.”*

## **Mental Health**

All children and young people have the right to receive safe, accessible, inclusive and culturally safe mental health care and support when they need it.

Children and young people engaged with the justice system have a significantly higher prevalence of mental health disorders and suicidal behaviours than their peers in the community, along with substance use disorders, and neurodevelopment disabilities.<sup>22</sup>

Children and young people often report barriers to seeking mental health support. This includes costs of services, transport to and from services, waitlist times and a shortage of youth friendly specialist services. This is even more relevant for children and young people in regional and rural NSW. young people also report facing additional barriers due to their cultural background. Young people highlight the importance of culturally safe services and workers in creating welcoming environment, including that services aimed at Aboriginal children and young people should be designed, managed and delivered by Aboriginal people and organisations.

*"[I like the Aboriginal Medical Service] cos like I know the workers very well like they're my Aunties and all that. I can understand them more than I can understand the other people. I can open up to them and like if I go to that other doctor, I won't open up to him, I won't tell him what's wrong with me or nothing."*<sup>23</sup>

## **Employment**

In all of ACYP's consultations in youth justice centres, young people have told us that what they want most when they leave custody is to get a job.

Almost all children and young people approaching release from custody identify an urgent need for support to acquire and retain employment. They recognise stable work and consistent income as fundamental to addressing their offending behaviours and establishing a safe and stable foundation for their reintegration with the community.

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<sup>22</sup> Borschmann R, Janca E, Carter A, Willoughby M, Hughes N, Snow K, Stockings E, Hill NTM, Hocking J, Love A, Patton GC, Sawyer SM, Fazel S, Puljević C, Robinson J, Kinner SA. (2020 ). *The health of adolescents in detention: a global scoping review*. Lancet Public Health. Feb;5(2):e114-e126. doi: 10.1016/S2468-2667(19)30217-8. Epub 2020 Jan 16. PMID: 31954434; PMCID: PMC7025881.

<sup>23</sup> ACYP (2019). [What Aboriginal children and young people have to say](#). p.13.

*“Yeah 100% [getting a job is] number one. That’s what I reckon will make us all stable. Make us earn our own money to live, you know, we’ll be able to go and buy our own things what we need instead of going thieving and taking off people who’ve worked.”*

Many feel that job seeking support is difficult to access and have experienced challenges attempting to secure employment in the past; they may be geographically isolated from support services, training, and employment opportunities, facing discrimination from prospective employers, or reporting having their job applications overlooked due to inexperience. They expressed a desire for intensive and youth specific supports, both pre and post custody, that not only support young people to find employment, but also support their attendance for an initial period.

*“More opportunities for us so we can get a job and that, you know, like some qualifications for us. Someone there to help us with all that stuff. Like someone there to help us with a resume so we can get a job and make some money for ourselves. Instead of going and stealing, cos I’m sick of stealing. I don’t do it just for the fun of it I do it to support myself, cos no one else is.”*

Young people said there also needs to be more youth employment agencies willing to work with young people who have been in contact with the youth justice system, and with expertise working with young people tackling complex issues around mental health, substance use, homelessness, and limited education and employment experience. Young people also said income support whilst studying, training, or seeking employment was important in allowing them to financially support themselves. They said that the process of arranging income support, completing application forms, and obtaining the relevant identification must commence while in custody to ensure the timely provision of support post-release.

### **Connection to culture**

Aboriginal and Torres Strait Islander children and young people need to be valued and encouraged in the development of their cultural identity. Programs which foster a connection to culture have shown to reduce Aboriginal youth suicides, promote thriving families and strengthen young Aboriginal people’s identity.<sup>24</sup> Aboriginal children and young people told ACYP that connecting to their cultural community, practicing ancient traditions, and drawing on ancestral knowledge and spirituality builds

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<sup>24</sup> Dudgeon P, Bray A, Blustein S, Calma T, McPhee R, Ring I, and Clarke R (2022) Connection to community. Produced for the Indigenous Mental Health and Suicide Prevention Clearinghouse. Catalogue number IMH 9, AIHW, Australian Government.



on their sense of belonging, strength, and connection. Having a strong connection to culture was described as fostering holistic wellbeing, hope for the future, and a sense of responsibility and respect.

Cultural connection can be developed in many ways, through educational and cultural programs, interactions with other Aboriginal peoples, including Elders, community mentors, support workers, or counsellors, or through the provision of Aboriginal controlled services. While in custody, Aboriginal children and young people value interaction and connection with other Aboriginal peers, including Aboriginal staff. They report that Aboriginal workers better understand their life experiences and perspectives, and some young people describe hesitance interacting with non-Aboriginal staff due to experiences of discrimination, hostility, and misunderstanding.

*“Culture keeps us out of trouble.”*

Aboriginal children and young people need consistent access to a cultural support network in both community and custodial settings, through which they can access meaningful opportunities for learning and practicing Aboriginal culture and spirituality. Some Aboriginal young people reported their entry into the youth justice system being the first opportunity they had to engage with cultural education and programs, and they are eager to access similar opportunities in their communities.

*“More cultural stuff. Like camping you know. The JJ used to do that, used to go get us all and just and go camping for the weekend. Teach us about our culture, teach us how to make and do everything properly, you know. That’s what I want to see happen more. I reckon that’s what the Elders want to see happen more.”*

### **Activities and programs**

Many children and young people identify that offending behaviours are related to a scarcity of age-appropriate recreational and educational activities for young people in their community. They spoke about the influence of peers on offending behaviours, and they are concerned that in the absence of meaningful child and youth-centred programs, they are more likely to offend and use substances. Importantly, they stress that youth-centred activities and spaces need to be available after hours and on weekends to effectively support children and young people who are at risk of contact with the youth justice system. They say engagement with activities and youth programs provides an alternative to offending, and a soft entry point to connect with support services. Children and young

people also said that programs which are targeted for young people in the youth justice system, which understand their complex challenges, and offer intensive worker support are a useful starting point for young people who are socially excluded.

Children and young people explain that they benefit from the range of programs and activities in youth justice centres, but often feel disconnected from these supports upon release. Children and young people desire more continuity between what is available to them in custody compared to the community. Some children and young people are unaware of any youth centred programs in their communities, while others have limited access to transportation and cannot engage with what is available. Children and young people also advocate for a greater focus on rehabilitation programs and educational interventions in communities where alcohol and other drug use is identified as problematic. Children and young people provide specific and creative suggestions with regard to the kinds of programs and opportunities they feel their local community would benefit from. These young people must be centrally involved in the development and implementation of youth-centred programs to ensure their relevance to young peoples' unique needs as they seek to reintegrate and reconnect with their community.

*"Teach us about our culture. Cos there's just, like I said before, nothing in our communities for us to do. That's mainly the reason why we getting into trouble. Trying to find something to do."*

### ***Support people***

In all consultations with children and young people engaged with the justice system, the importance of positive adult connections, either in the form of a caseworker, support worker, teacher or mentor is mentioned.

Children and young people express a desire for meaningful and consistent support from positive role models within their communities, and they emphasise the importance of these role models prior to offending and in supporting their transition back to community from custody, and in developing positive behaviours. Young people identified that positive role models and mentors could be found in many services and emphasised that it was the nature of the connection rather than the service provided which was beneficial for their wellbeing. Positive relationships could be built with various support workers or youth mentors, some young people suggest access to Elders who can teach them right from wrong from a cultural values perspective, or access to youth groups and programs where they can engage with peers and community members in a pro-social environment. Many children

and young people note that these relationships are most beneficial when they could be maintained over a long period of time, and when their access to the support person was continuous across community and custodial settings.

*“If I had that [positive role models] I wouldn’t be in here right now but we all make hard decisions in our life and we got to learn from our mistakes. I would just like to see us with more opportunities.”*

Young people appreciate workers who listen to their views, stories, and challenges, and in contrast, they notice when caseworkers make assumptions about their needs and feel this leads to mistakes and hostility. Young people also value caseworkers who spend time with them outside of mandatory transports and meetings, they appreciate caseworkers who arrange additional pro-social activities based on their client’s unique interests and needs.

*“She would always ask me for my opinion, how I felt about things, and she felt like a genuine person I could really connect to and talk about my problems.”*

The Department of Communities and Justice has continued to invest in the Youth on Track program. Youth on Track is a Youth Justice early intervention program that identifies and responds to the needs of young people aged 10 to 17 years who are at risk of long-term involvement in the criminal justice system.<sup>25</sup> It is currently available in a number of regional areas such as Coffs Harbour, Central West, the Riverina and New England.

Youth on Track is a program that uses a combination of individually tailored engagement strategies, one-on-one case management and evidence-based behavioural and family interventions that aim to:

- reduce the risk of a young person coming into contact with police and law enforcement;
- improve their relationship with their family or carers; and
- increase engagement with education, employment and their community.

Supports are provided according to a young person’s level of need and engagement with the program ranging from 12 weeks to 12 months depending on the young person’s assessed risks and

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<sup>25</sup> <https://www.nsw.gov.au/legal-and-justice/youth-justice/programs-and-services/support-services/youth-on-track>

needs.<sup>26</sup>

### ***Post release support***

Children and young people in custody spoke positively about pre-release units and programs. They told ACYP that the pre-release unit is important for young people to be able to learn life skills they may not have been taught before. They said it was helpful to have a structured and long-term approach to their arrangements for leaving custody, and pre-release units involved six months of planning and support to set up education, training, and employment, and develop a routine and connections before their release. It was however reported that there are inconsistencies across centres in relation to pre-release programs.

Young people on long remand periods (which can extend for up to two years) raised the issue of such programs being inaccessible to them, and experienced anxiety as a result. If young people on remand aren't provided access to education and training opportunities, they are further disadvantaged upon release and more likely to cycle back into incarceration.

Young people have reported that a positive connection with a caseworker, who assists them to stay engaged with education and training or employment; find and maintain suitable housing and accommodation and overcome any additional barriers, can reduce the likelihood of reoffending.

*"A support team before you get out, so you aren't back in here a week later".*

ACYP acknowledges the investments made into post release support programs including the Intensive Family Preservation program run by Department of Communities and Justice (DJC), and while service providers delivering the program speak highly of its efficacy, there is a need for greater investments to the program, for example more placements within communities and longer support timeframes.

*"Instead of wasting time in here, talk to caseworkers, try to get jobs, interviews lined up outside, or seeing counselling... whatever you need to for yourself, setting it up from the. Inside, having those steps already there, instead of having to start from scratch".*

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<sup>26</sup> Ibid

## Law Reform

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Depriving children and young people of their liberty by detaining and incarcerating them contravenes international children's rights law.<sup>27</sup> The United Nations Convention on the Rights of the Child 1989 (UNCRC) states that detention should only be utilised as 'a last resort' and, if required, should only be for the least possible time (Article 37).

In principle, ACYP welcomes the NSW Government's recent announcement to investment in a new range of state-wide regional crime prevention initiatives which includes the expansion of the Youth Action Meetings (YAMS)'s.

Placing greater emphasis on and investment into early interventions and diversionary programs, with the intention of keeping children and young people out of the carceral system is the most effective way of improving outcomes for children and young people and improving community safety.

While investing in early intervention programs including diversionary approaches is essential, ACYP recommends increasing the minimum age of criminal responsibility from 10 to 14. This is particularly relevant in the current landscape, given the age of perpetrators has lowered in certain communities in NSW. This is consistent with other Australia child rights advocates and government agencies including the Australian Human Rights Commissioner.<sup>28</sup>

## The wraparound approach for children and young people

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This submission articulates the complexity of supporting young people engaged in the youth justice system. The circumstances surrounding these young people are complex, multifaceted, and deeply entrenched.

It is therefore essential that NSW provides these children and young people with a holistic, rights-based support system delivered by government and non-government agencies, that can appropriately respond to their needs. A wrap-around- system comprising, safe and stable housing, drug and alcohol support, mental health support, family support where appropriate, connection to culture, engagement with education or training and pathways into employment. the system must be

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<sup>27</sup> In line with the definition of children and young people in the UN Convention on the Rights of the Child 1989, we refer to all those aged 18 years and under.

<sup>28</sup> Australian Human Rights Commission (2021) *The Minimal Age of Criminal Responsibility*, Australia's third UPR

well coordinated, and available to children and young people for an extended period. The voices of children and young people must also be embedded into the system.

## Conclusion

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ACYP thanks the Committee for considering these important issues and welcomes any follow-up questions from its members. If any further information is required, please contact ACYP on 9248-0970 or at [acyp@acyp.nsw.gov.au](mailto:acyp@acyp.nsw.gov.au).