

## NAPCAN Submission to the Inquiry into Australia's Youth Justice and Incarceration System

On 28 October 2025, the Senate referred an inquiry into Australia's youth justice and incarceration system. The referral directs the Committee to engage with young people with lived experience and to seek evidence of effective alternatives to detention, including diversionary programs.

NAPCAN welcomes the opportunity to contribute to this inquiry.

In October 2024, NAPCAN contributed evidence-informed, prevention-focused submissions to the Australia's Youth Justice and Incarceration System. Following this, NAPCAN continues to emphasise the importance of youth justice reform in its role as Australia's leading organisation for the prevention of child abuse and neglect. NAPCAN strongly advocated for investment in prevention, diversion, and post-incarceration transition programs, including sustained family-based and community supports. It formed these recommendations on the basis that addressing underlying drivers such as trauma, poverty, and disengagement is more effective in preventing future harm than continued reliance on detention.

Consistent with the Australian Human Rights Commission's recent report, *Help way earlier!: How Australia can transform child justice to improve safety and wellbeing*, NAPCAN supports a shift away from punitive responses and towards prevention, early intervention and community-led approaches that promote long-term safety and wellbeing for children.

NAPCAN recognises that Australia's current youth justice system is not meeting its intended goals. This submission will draw on evidence that demonstrates that incarceration does not reduce reoffending, exposes children to harm and further interrupts key developmental pathways, including education, mental health and stable relationships that are often already at risk. This inquiry provides a critical opportunity to redesign the system so that children receive support before offending, rather than after contact with police or the courts.

### About NAPCAN

The National Association for Prevention of Child Abuse and Neglect (NAPCAN) is Australia's leading organisation dedicated to preventing child abuse and neglect through advocacy, education and community engagement. Established in 1989, NAPCAN works nationally to

ensure that children grow up safe, supported and connected within families and communities. Our work aligns with the National Principles for Child Safe Organisations, the Victorian Child Safe Standards and Early Years Frameworks, embedding prevention and safety across child-serving systems including early childhood education, schools and community services.

Central to NAPCAN's work is meaningful youth participation. In 2022, NAPCAN established the NAPCAN Youth Speak Out (NYSO), a group of 19 young advisors from across Australia who provide guidance and lived-experience insight on issues affecting children's safety and wellbeing. During the 2024 annual meeting, youth incarceration emerged as a priority concern. NYSO members identified the developmental harm caused by detention, the lack of early support and the need for culturally grounded alternatives. This submission has been prepared by NYSO members on behalf of NAPCAN, in line with the Committee's requirement to seek input from young people with lived experience.

## Overview of Recommendations

### 1. Establish a National Indigenous Youth Advisory Mechanism

NAPCAN recommends the creation of a permanently funded advisory body under the National Commissioner for Aboriginal and Torres Strait Islander Children and Young People. This mechanism would ensure that lived experience informs national policy and system reform, strengthen accountability to self-determination and community-controlled structures and provide a formal avenue for young First Nations voices within youth justice decision-making. In the 2024 submission, NAPCAN's position was that the mechanisms should not only confront the ongoing impacts of colonialism but also celebrate and elevate the strengths and richness of Indigenous cultures. For instance, practices such as restorative justice, which involve the participation of Elders, serve as effective diversion and intervention measures. By integrating these culturally informed approaches, we can foster a justice system that values healing and rehabilitation while simultaneously acknowledging the resilience and wisdom inherent in Indigenous traditions.

### 2. Strengthen Community-Controlled Child and Family Services

Long-term investment in Aboriginal Community-Controlled Organisations (ACCOs) is essential to reducing the over-representation of First Nations children in detention. Sustained funding should expand culturally grounded healing and family support programs, place-based prevention models, and workforce development pathways for Aboriginal and Torres Strait Islander practitioners. Strengthening ACCOs enables children to receive support before crisis. It also aligns with Justice Reform One of the National Agreement on

Closing the Gap: Aboriginal and Torres Strait Islander people are empowered to share decision-making authority with governments to accelerate policy and place-based progress on Closing the Gap through formal partnership arrangements.

### **3. Raise the Minimum Age of Criminal Responsibility to 14**

NAPCAN supports the urgent need for all Australian governments to raise the minimum age of criminal responsibility to 14, in line with international human rights standards, developmental evidence and Closing the Gap Target 11.

The UN has benchmarked 14 as the absolute minimum age of criminal responsibility.

Reform must avoid any exemptions, require therapeutic and diversion programs, and include national oversight to prevent expanding the system unnecessarily.

### **4. Shift from Punishment to Prevention and Early Intervention**

After consulting with a diverse group of young people, NAPCAN recommends embedding trauma-informed, developmentally appropriate and culturally responsive programs across early learning, schools, community services and digital environments. Strengthening foundational supports including stable housing, accessible mental health care, youth-friendly services and safe cultural spaces is essential to reducing contact with the justice system. Investment must prioritise regional, remote and multicultural communities and be guided by local leadership.

### **5. Strengthening Post-incarceration Supports**

NAPCAN supports and reiterates the recommendations made by the Queensland Family and Child Commission (QFCC) in *Exiting Youth Detention: Preventing Crime by Improving Post-Release Support* (2024), particularly the call for a dedicated 12-month post-detention transition program for young people exiting youth detention. The period following release is one of heightened vulnerability, with increased risks of re-offending, disengagement from education, unemployment, housing instability, and poor mental health outcomes. A structured, long-term transition program is therefore essential to disrupt cycles of incarceration and support sustainable reintegration. Such a program must incorporate in-home, family-based interventions to strengthen family relationships and caregiving capacity, while also ensuring effective, culturally safe engagement in education, training, and employment as key protective factors against recidivism. NAPCAN emphasises that post-incarceration support should be holistic, trauma-informed, and coordinated across justice, education, health, and community services to improve outcomes for young people, their families, and community safety.

## Response to Terms of Reference

### 3A. Outcomes and impacts of youth incarceration in jurisdictions across Australia

Evidence consistently shows that detention is ineffective in reducing reoffending and contributes to long-term harm. According to the Justice Reform Initiative, approximately 85 percent of young people released from detention return within 12 months.<sup>1</sup> Data from the Australian Institute of Health and Welfare also indicates that children placed in detention are significantly more likely to receive further sentences before turning 18 than those supervised in community settings.<sup>2</sup>

Research demonstrates that young people in detention experience disproportionately high rates of mental illness, disability and adverse childhood experiences.<sup>3</sup> Detention disrupts education, employment pathways and social connection, reducing long-term stability and safety. As NYSO members emphasised, youth incarceration affects not only the individual child but also families and communities, with consequences that extend across generations.

### 3B. Over-incarceration of First Nations children

First Nations children remain significantly over-represented in the youth justice system. In the June quarter 2024, the AIHW reported that First Nations young people accounted for 60 percent of children aged 10 and over in detention, despite representing only 6.6 percent of the Australian population in that age group.<sup>4</sup> The *Help way earlier!* report highlights that this over-representation is directly linked to the ongoing impacts of colonisation, including

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<sup>1</sup> Justice Reform Initiative, *Imprisonment is failing children and communities: new data shows 85% of kids released from detention return within a year* (Web Page, 4 September 2025) <[https://www.justicereforminitiative.org.au/media\\_release\\_imprisonment\\_is\\_failing\\_children\\_and\\_communities\\_new\\_data\\_shows\\_85\\_of\\_kids\\_released\\_from\\_detention\\_return\\_within\\_a\\_year](https://www.justicereforminitiative.org.au/media_release_imprisonment_is_failing_children_and_communities_new_data_shows_85_of_kids_released_from_detention_return_within_a_year)>.

<sup>2</sup> Australian Institute of Health and Welfare, *Children Under Youth Justice Supervision*, (Web Page, 2022) <<https://www.aihw.gov.au/reports/children-youth/australias-children/contents/justice-safety/children-youth-justice-supervision>>.

<sup>3</sup> UNSW Sydney, *Young detainees often have poor mental health. The earlier they're incarcerated, the worse it gets* (Web Page, 15 May 2025) <<https://www.unsw.edu.au/newsroom/news/2025/05/young-detainees-often-have-poor-mental-health-earlier-incarceration-makes-it-worse>>.

<sup>4</sup> Australian Institute of Health and Welfare, *First Nations Young People in Detention*, (Web Page, Dec 2024) <<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2024/contents/summary/first-nations-young-people-in-detention>>.

intergenerational trauma, socioeconomic disadvantage and systemic racism across health, education and legal systems.<sup>5</sup>

Reform must address root causes rather than symptoms. Community-led approaches, including restorative justice led by Elders and on-Country healing, demonstrate effective alternatives that prioritise accountability, connection and cultural identity.

### 3C. Compliance with human rights in detention settings

Reports from oversight bodies, including the Law Council of Australia, indicate that current practices in some jurisdictions fall short of human rights standards.<sup>6</sup> Examples include the use of police watch houses for children, prolonged isolation, and lack of access to therapeutic supports. These practices are inconsistent with the United Nations Convention on the Rights of the Child and undermine children's wellbeing and safety.<sup>7</sup>

### 3D. Australia's international obligations

Raising the minimum age of criminal responsibility to 14 is necessary to align with international standards and reflect the developmental capacity of children. In 2021, thirty-one countries recommended that Australia increase the age during its Universal Periodic Review.<sup>8</sup> Early incarceration does not prevent offending and instead increases the likelihood of adult imprisonment, reinforcing the need for developmentally appropriate and rights-based alternatives.<sup>9</sup>

### 3E. Need for enforceable national minimum standards

National minimum standards would ensure consistency across jurisdictions, embed evidence-based therapeutic approaches and improve accountability through measurable benchmarks. Standardised data collection and independent oversight are essential to

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<sup>5</sup> Australian Human Rights Commission (2024). 'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing. Sydney: Australian Human Rights Commission.

<sup>6</sup> Law Council of Australia, *Report and Warns of Human Failures*, (Web page, 25 July 2025) <<https://lawcouncil.au/media/media-releases/report-card-warns-of-human-rights-failures>>.

<sup>7</sup> UNICEF, UN Convention on the Rights of a Child- Article 3 and 14 <<https://www.unicef.org.au/united-nations-convention-on-the-rights-of-the-child?srsId=AfmBOopBVTpS03BjoiKWshO3TWADCT-cnMZX3J-UD5Q4mOYyG1cSMkP>>.

<sup>8</sup> Human Rights Law Centre, *Major UN Human Rights Review highlights Need for Australia to Raise the Age of Criminal Responsibility*, (Web Page) <<https://www.hrlc.org.au/news/2021-1-20-un-review-highlights-need-for-aust-to-raise-the-age-criminal-responsibility/>>.

<sup>9</sup> Richard Mendel, *Effective Alternatives to Youth Incarceration*, (Web Page, June 2023) <<https://www.sentencingproject.org/reports/effective-alternatives-to-youth-incarceration/>>.

monitoring system performance and ensuring that children, particularly First Nations children and those with disabilities, receive safe and equitable treatment.

## Young People's Perspectives

NYSO members offered the following reflections during the 2024 meeting:

- “The system was never broken. It is doing exactly what it is designed for.”
- “Youth are seen too young to make decisions about our welfare, but old enough to have decisions made about us for the rest of our lives.”
- “Hurt people hurt people. Children are oversimplified and their trauma is ignored.”
- “At ten, children are old enough to remember but not old enough to understand right and wrong.”
- “Lore over law. Therapy on Country is needed for First Nations children.”
- “Youth incarceration does not just affect young people. It affects every person connected to them.”

These perspectives reinforce the need for prevention, cultural connection and system reform guided by lived experience.

## Conclusion

NAPCAN's submission demonstrates the urgent need for reform to ensure that Australia's youth justice system protects children, meets human rights obligations and improves long-term outcomes. As outlined, evidence shows that incarceration causes harm, fuels reoffending and disproportionately affects First Nations children. Meaningful change requires raising the minimum age of criminal responsibility to 14, strengthening community-controlled services, embedding youth participation and establishing enforceable national standards. By prioritising early intervention, culturally safe supports and developmentally appropriate responses, Australia can build a youth justice system that promotes safety, dignity and the right of every child to thrive.

## References

Human Rights Law Centre, *Major UN Human Rights Review highlights the need for Australia to raise the age of criminal responsibility* (2025). Available at:

<https://www.hrlc.org.au/news/2021-1-20-un-review-highlights-need-for-aust-to-raise-the-age-criminal-responsibility/> (Accessed: 18 December 2025).

Justice Reform Initiative, *Imprisonment is failing children and communities: New data shows 85% of kids released from detention return within a year* (Media Release, 2023) *News Hub*. Available at:

<https://newshub.medianet.com.au/2025/09/imprisonment-is-failing-children-and-communities-new-data-shows-85-of-kids-released-from-detention-return-within-a-year/117032/> (Accessed: 18 December 2025).

Law Council of Australia, *Media* (no date). Available at:

<https://lawcouncil.au/media/media-releases/report-card-warns-of-human-rights-failures> (Accessed: 18 December 2025).

Law Council of Australia, *Media release: New National Inquiry offers crucial opportunity to fix youth justice system failure – Justice Reform Initiative | Jailing is failing* (25 July 2025). Available at:

[https://www.justicereforminitiative.org.au/media\\_release\\_new\\_national\\_inquiry\\_offers\\_crucial\\_opportunity\\_to\\_fix\\_youth\\_justice\\_system\\_failure](https://www.justicereforminitiative.org.au/media_release_new_national_inquiry_offers_crucial_opportunity_to_fix_youth_justice_system_failure) (Accessed: 18 December 2025).

Mendel, R., *Effective alternatives to youth incarceration* (2023), *The Sentencing Project*. Available at:

<https://www.sentencingproject.org/reports/effective-alternatives-to-youth-incarceration/> (Accessed: 18 December 2025).

National Office for Child Safety, *National principles for child safe organisations*. Available at:

<https://www.childsafety.gov.au/resources/national-principles-child-safe-organisations> (Accessed: 18 December 2025).

Queensland Family and Child Commission, *Exiting youth detention: Preventing crime by improving ...* (June 2024). Available at: [https://www.qfcc.qld.gov.au/sites/default/files/2024-06/Exiting\\_youth\\_detention\\_report\\_June\\_2024.pdf](https://www.qfcc.qld.gov.au/sites/default/files/2024-06/Exiting_youth_detention_report_June_2024.pdf) (Accessed: 18 December 2025).

UNICEF, *Convention on the Rights of the Child* (20 November 1989–). Available at:

<https://www.unicef.org/child-rights-convention> (Accessed: 18 December 2025).

VIC Government, *Child Safe Standards: Policy*, *Vic.gov.au: Policy and Advisory Library*. Available at:

<https://www2.education.vic.gov.au/pal/child-safe-standards/policy> (Accessed: 18 December 2025).