

Making Queensland Safer Bill 2024

Submission No: 95
Submitted by: Justice Reform Initiative
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:

SUBMISSION TO THE MAKING QUEENSLAND SAFER BILL
2024

3 December 2024

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INTRODUCTION

The Justice Reform Initiative welcomes the opportunity to put forward a submission to the Justice, Integrity and Community Safety Committee inquiry into the Making Queensland Safer 2024 (the Bill). We acknowledge that the Queensland Government has provided the opportunity for community consultation on the Bill; however, it is our view that genuine and proper consultation with the community, on such significant legislative reform that overrides domestic and international human rights of children, requires a longer scrutiny period than the equivalent of two business days that has been provided.

The Bill represents a dramatic and deliberate policy and legislative departure from core human rights principles. The proposed approach also ignores the evidence about what works to reduce crime, it ignores the evidence about the harms of incarceration, and it explicitly undermines the rights of children. The Bill, and the extraordinarily limited process for consultation, is unfortunately a textbook example of the kind of rushed, politicised law making that will inevitably have significant, harmful consequences for all Queenslanders. Many of these consequences have been explicitly outlined in the Bill's Statement of Compatibility with Human Rights, and others have been presented to the Queensland Parliament via expert submissions not just over the last week, but over the last two years of politicised debate about youth justice policy. The Justice Reform Initiative urges the Queensland Parliament to press pause on pushing through this legislation and take the time to properly consider the legacy of this Bill for future generations. Aside from being an incredibly costly approach, that will fail to achieve its goal of making Queensland safer, the legacy of this Bill will be the hyper-incarceration of some of the most vulnerable and victimised children across the state.

From the outset, the Justice Reform Initiative reiterates the position that **increasing the imprisonment of children and introducing harsher (and longer) penalties for children will not improve community safety or reduce victimisation in Queensland**. Community sector experts have previously provided a wealth of evidence to the Queensland Parliament¹, which clearly shows the failures of imprisonment and harsher penalties when it comes to building safer communities, as well as 'what works' when it comes to controlling crime and protecting the community. Despite this, both sides of politics in Queensland have continued to implement 'tough on crime' reforms that are not grounded in evidence and that fail to 'get tough' on what really matters – addressing the root causes of crime to both prevent and reduce the occurrence of crime in the community.

As highlighted in the attached Justice Reform Initiative Queensland Alternatives to Incarceration Report (Attachment 1)², the Justice Reform Initiative submission to the Youth Justice Reform Select Committee³, and in countless other government and non-government reports, research, evaluation, and reviews⁴, there are multiple proven, cost-effective reforms that can work together to make Queensland safe. We have welcomed the commitment from the new Queensland Government to 'Gold Standard Early Intervention', diversion and long-term post-release support for children leaving prison. As noted in our Alternatives to incarceration report, we know that early intervention and early prevention programs have the ability to reduce crime at a population level by between 5% and 31%, and lower reoffending rates among children by 50%. We also know that post-release support can reduce recidivism by over 60% and that investment in diversion and place-based community-led interventions, such as those led by First Nations groups, have tangible reductions in offending.⁵

As the Bill identifies, "Queensland has spoken clearly about the need for clear and strong action to combat youth crime." We urge the Queensland Government to take these concerns

seriously by focusing on **evidence-based youth justice policies**, and best-practice in youth justice policy development. For a comprehensive overview of this evidence, please refer to the attached Justice Reform Initiative Youth Justice Position Paper (Attachment 2), which outlines in significant detail examples of programs and approaches that prevent crime, reduce reoffending and keep the community safe. There are ways to hold children accountable for serious offending in the community that work to maintain public safety as well as support children and families.

INCOMPATIBILITY WITH HUMAN RIGHTS

The Justice Reform Initiative expresses deep concern with the precedent that has been set in Queensland by the Queensland Government in justifying the use of the override provision within the *Human Rights Act 2019* (Qld) for matters involving **children**. Section 43(4) of the *Human Rights Act 2019* (Qld) states:

“It is the intention of Parliament that an override declaration will only be made in exceptional circumstances.”

“Examples of exceptional circumstances — war, a state of emergency, an exceptional crisis situation constituting a threat to public safety, health or order.”

This is the third time the override provision has been used for matters involving children – and the third time this provision has ever been used in Queensland. The ‘statement about exceptional circumstances’ for the Bill prepared by the Queensland Government does not set out any compelling evidence to show how the proposed amendments will result in improved public safety and order, and the data outlined in the statement does not demonstrate an exceptional crisis. The statement of compatibility with human rights and the statement of exceptional circumstances for the Bill notes that the purposes of the amendments are punishment and denunciation. As is made clear throughout this submission, it is well established in the literature that punitive, unjustifiably harsh, and labelling responses to crime and offending involving children do not reduce reoffending or make the community safer. As such, the Justice Reform Initiative supports the view of the Queensland Human Rights Commissioner that the use of the override declaration for this Bill is not justified and will cause harm to children and undermine community safety.⁶

REMOVING DETENTION AS A LAST RESORT

The Justice Reform Initiative does not support amendments that seek to remove provisions that reflect the principle of detention as a last resort from the *Youth Justice Act 1992* (Qld). We also strongly oppose amendments that seek to remove the principles that a sentence which allows the child to stay in the community is preferable and that the best interest or rights of the child should be disregarded (with primary consideration instead given solely to impact of offending on the victim). Protecting victims and community safety should always be a central focus of criminal justice reform policy – but responses must be founded on evidence and not at the cost of children (who are often victims themselves) and who will be detrimentally and inhumanely impacted by the proposed amendments.

It is extremely troubling that the statement of compatibility with human rights for the Bill notes that the proposed amendments will “in essence, create a sentencing system where adults are better protected from arbitrary detention than children” by imposing clear and deep limitations on human rights standards set out in the *Human Rights Act 2019* (Qld) including:

- the right to liberty (Section 29(1));

- the right of children to protection in their best interests (Section 26(2));
- the right to equality (Section 15), noting that the principle of last resort is removed for children and remains for adults for non-violent offending as set out within the *Penalties and Sentences Act 1992*;
- the right to enjoy their right to liberty without discrimination (Section 15(2)) in acknowledgement that “the amendments will treat children less favourably than adults in the same circumstances and therefore directly discriminate on the basis of age”; and
- the right to equal and effective protection against discrimination (Section 15(4)).

Additionally, it is of immense concern that the statement of compatibility with human rights for the Bill accepts that under international standards the “negative impact [of these amendments] on the rights of children likely outweighs the legitimate aim of making children more accountable for their crimes.” Australia ratified the United Nations Convention on the Rights of the Child (CRC) in 1990. This means all states and territories in Australia have a duty to ensure that the human rights of all children in Australia are upheld to the standard set out in this treaty.⁷ Article 37(b) of the CRC states that:

“No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.”

The proposed changes set out in this Bill stray dramatically from this principle.

Both major parties in Queensland have put forward policy positions that undermine the principle of detention as a last resort for children.

In August 2024, the former Qld Government amended Principle 18 of the Charter of Youth Justice Principles within the *Youth Justice Act 1992* (Qld):

Original wording:

“A child should be detained in custody for an offence, where on arrest, remand or sentence, only as a last resort and for the least time that is justified in circumstances.”

Revised wording in August 2024:

“A child should be detained in custody – a) where necessary, including to ensure community safety, and where other non-custodial measures of prevention and intervention would not be sufficient; and b) for no longer than necessary to meet the purpose of detention.”

The previous amendment and proposed removal of Principle 18 disregard Article 37(b) of the CRC. As identified in the statement of compatibility with human rights for the Bill, these proposed amendments also disregard international standards, which outline that the best interests of the child should be the primary consideration (Article 3(1) of the CRC) and that a child who has infringed penal law should be treated in a manner that takes into account their age, and the desirability of promoting the child's reintegration and the child assuming a constructive role in society (Article 40(1) of the CRC).

In addition, Article 37(c) states that:

“Every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with

his or her family through correspondence and visits, save in exceptional circumstances.”

Alongside the removal of detention as a last resort, the large numbers of children who are incarcerated in police watch houses with adults (including for extended periods) across Queensland also breaches Queensland’s human rights obligations. The Justice Reform Initiative urges the Queensland Government to cease the practice of holding children in police adult watch houses. We acknowledge that the Queensland Government has set a deliverable around reducing the number of children held in police watch houses. However, this Bill has been introduced before the Qld Government has developed and implemented a comprehensive plan for reducing the number of children in custody within police watch houses and prisons (youth detention centres).

The Justice Reform Initiative is concerned that these changes will result in more children being arrested and incarcerated in watch houses and prisons. Given the existing prisons for children are currently operating at or above capacity and that jailing is failing in Queensland, it is unclear how the flow on effect of these legislative changes will be managed including how the Queensland Government intends to lower the number of children held in police watch houses as it has committed to doing.

As outlined later in this submission, other jurisdictions like Hawai’i, have developmentally and age appropriate Indigenous-led assessment centres where children can be taken following Police contact to have comprehensive culturally-modelled assessment and screening completed. This informs decision-making around community-based programming to support children (and their families) to address challenges in their life and address the root causes of their behaviour.⁸ **Hawai’i has reduced the number of children in prison by 82%⁹, reduced youth crime overall by 86%¹⁰, and achieved zero girls in prison.¹¹**

SENTENCING CHILDREN AS ADULTS

The Justice Reform Initiative does not support amendments that seek to amend the *Youth Justice Act 1992* (Qld) to remove the current restrictions on minimum or mandatory sentences for children for the 13 identified offences under the *Criminal Code 1899* (Qld). As noted in the supporting documents for the Bill, these amendments will also result in children who are found guilty of these offences being subject to the same minimum, mandatory and maximum sentences that currently apply to adults. It will also mean children will be subjected to mandatory sentences for:

- murder – mandatory life detention with a minimum non parole period of 20 years (25 years for murder of a police officer or 30 years for murder of more than one person or by a person with a previous conviction);
- offences other than murder where a sentence of life imprisonment is received – mandatory requirement of 15 years’ imprisonment;
- unlawful striking causing death – mandatory requirement for the child to serve the lesser of 80% or 15 years where a sentence of imprisonment is received;
- dangerous operation of a vehicle with a previous conviction – imprisonment must form whole or part of the punishment;
- grievous bodily harm, serious assault or wounding committed in a public space while adversely affected by an intoxicating substance – mandatory sentence of a community service order.

Sentencing children as adults is a failed policy approach. Evidence from the United States, shows clearly that where such legislative changes have been implemented, they have resulted in children being treated more harshly than adults and sentenced to longer periods

of imprisonment.¹² It is deeply concerning that while the Queensland Government understand the consequences of the proposed changes, and also are well briefed on the harm that imprisonment causes to children, that it is progressing with this approach. The statement of compatibility for the Bill states that “the amendments will lead to sentences for children that are more punitive than necessary to achieve community safety.” The supporting documents for the Bill further acknowledge that this “will result in more children who are found guilty of these serious crimes being sentenced to, and spending more time in, detention.” Studies show **recidivism and re-incarceration rates are higher when children spend longer periods incarcerated.**¹³ Increasing the number of children incarcerated and the length of sentences for children incarcerated is also likely to increase (re)offending and fail to meet the rehabilitation aims set out by the Queensland Government. Australian Institute of Health and Welfare (AIHW) data shows 9 in 10 children (91.26%) who are released from sentenced detention in Queensland return within 12 months.¹⁴ This tells us detention is not working to break the cycle.

Not only are prisons in Queensland ineffective, they are also expensive - costing Queensland taxpayers close to \$1.5 billion per year on operating costs alone for both adult and children prisons. The Queensland Government currently spends over \$207 million dollars per year on the operation of youth detention centres alone, with millions more spent on capital infrastructure. Construction of two new youth detention centres is likely to cost Queenslanders close to a billion dollars, with the new facility at Woodford alone expected to cost \$627.61 million to build.¹⁵ This is an incredible investment in a system that is failing. At a time when cost of living pressures are front of mind, it is critical that the response following the most recent election is to adopt a different, evidence based approach to building safer communities. This is not about being soft on crime, it is about being smart on crime.

Although it might be tempting to send a message to the public that reinforces a governmental position of ‘tough on youth crime’, unnecessarily exposing children to punitive and harsher sentences in a failing prison system only risks worsening community safety and hindering voter confidence in the government’s action to take the root causes of crime seriously.

EVIDENCE SHOWING WHY TREATING CHILDREN AS ADULTS IS A POLICY FAILURE

The proposed amendments that seek to sentence children as adults contravene the *Human Rights Act 2019* (Qld), which states under Section 33 Subsection 3 that:

*“a child who has been convicted of an offence must be treated in a way that is appropriate for the child’s age.”*¹⁶

The neuroscience is very clear that the pre-frontal cortex, which controls the brains executive functions, is still developing until the age of 25 years old.¹⁷ This means that **all children and adolescents are still developing the cognitive processes required in planning, controlling impulses, and weighing up the consequences of decisions before acting.**

The evidence is also clear that the development and maturation of the adolescent brain can be impacted by a range of factors including physical, mental, economical and psychological stress and trauma; problematic alcohol and drug use, and hormones. Adolescent brain development and maturation can also be influenced in early childhood experiences by nurture, pre-natal and post-natal exposure, nutrition, and sleep (among other factors).¹⁸ It is well established in the literature that adverse childhood experiences and traumatic stress in

the early years adversely impacts brain development as well as cognitive and behavioural functioning.¹⁹

The majority of children (and adults) incarcerated in Queensland have experienced multiple and intersecting forms of trauma, adverse childhood experiences, and systemic disadvantage. According to the Department of Youth Justice and Victim Support, at least 53% have experienced or been impacted by domestic and family violence, 44% who have a mental health or developmental condition, 48% who are disengaged with education training or employment; 25% who have at least one parent who spent time in custody; 30% who live in unstable or unsuitable accommodation; 44% who have a disability; and 81% have used at least one substance (which can be connected to trauma).²⁰

A 2018 study by the Telethon Kids Institute and the University of Western Australia showed that 9 out of 10 (90%) of incarcerated young people in WA had some form of neuro-disability, ranging from dyslexia or similar learning disability, language disorder, attention deficit hyperactivity disorder, intellectual disability, executive function disorder, foetal alcohol spectrum disorder, memory impairment or motor coordination disorder.²¹ Given the robustness of this study in comparison to Queensland data, there is no reason that this finding would not also be generalised to children who are incarcerated in Queensland.

Correspondingly, evidence is very clear that the younger a child is when they enter the criminal legal system, the more likely they are to be cycling in and out of it for years to come. Children as young as 10 (who are in primary school) will be impacted by this legislation.

There is expert consensus on the need to raise the minimum age of criminal responsibility to at least 14 years old in Queensland. As of the June Quarter in 2023, there were 19 children aged 10-13 years in detention on average night in Queensland.²² This number could rise as a result of this legislation. The evidence is very clear that 14 years old is the minimum age developmentally and neurologically that children could or should be held criminally responsible.²³ There are in fact compelling developmental arguments to suggest this age should be higher.²⁴ The Parliament of Australia has recognised this evidence founded in neurodevelopmental science in the recently passed legislation to ban children under the age of 16 years old from social media use.²⁵

The Justice Reform Initiative is again deeply concerned that these proposed legislative amendments contravene the domestic and international human rights standards set out in the Human Rights Act 2019 (Qld), UN CRC and the UN *Standard Minimum Rules for the Administration of Juvenile Justice* ('Beijing Rules') – the Committee only need to read the statement of compatibility with human rights for this Bill to understand the extent to which it blatantly disregards all human rights protections put in place for children, and especially children experiencing vulnerability and disadvantage.

TRANSFERRING 18 YEAR OLDS TO THE ADULT SYSTEM

While 18-year-olds are considered adults in the criminal legal system, neuroscientists have recognised that adolescence spans to 24 years old.²⁶ As noted earlier in this submission, the pre-frontal cortex (the part of the brain that controls executive functioning) does not fully develop and mature until the age of 25 years old.²⁷ Brains are still developing between the ages of 18 to 25 years old, meaning developmentally appropriate interventions will differ for this age group in comparison to people in adult prisons over the age of 25 years old. Furthermore, as outlined above, many children and adolescents who are brought into the criminal legal system (including those aged 18 years old and above) may have a developmental capacity younger than their actual age as a result of earlier exposure to

multiple and intersecting forms of trauma, adverse childhood experiences, and systemic disadvantage.

Concerningly, the statement of compatibility with human rights for the Bill acknowledges that these amendments will limit the right to humane treatment when deprived of liberty (Section 30) and the right to have access to vocational education and training (section 26(2)) as set out in the *Human Rights Act 2019* (Qld). It states that “this right is limited by the amendments because the automatic transfer does not take into account circumstances conducive to their rehabilitation – including that, for example, they may lose access to beneficial programs, therapeutic supports and services, and rehabilitative interventions that they were accessing in the [youth detention centre] that are either not available, or not available to the same extent, in an adult correctional facility.” This is not conducive with the Queensland Government’s commitment to rehabilitation and aims of reducing the number of victims and improving community safety across Queensland. Providing children and adolescents with developmentally and age-appropriate support and services will support rehabilitation, reduced victimisation, and community safety aims of the current government.

CONTENTS AND ADMISSABILITY OF A CHILD’S CRIMINAL HISTORY

The Justice Reform Initiative does not support amendments that seek to:

- include cautions, restorative justice agreements and contraventions of supervised release orders on a child’s criminal history;
- ensure that a child’s criminal history is admissible where they are being sentenced for an offence committed as an adult;
- enable childhood findings of guilt for relevant offences made within five years of a person who is an adult committing a further offence of dangerous operation of a vehicle to be treated as previous convictions for the purpose of the circumstances of aggravation.

We do not support amendments that, as acknowledged by the Queensland Government itself, contravene the Human Rights Act 2019 (Qld) including:

- the right to enjoy liberty without discrimination (Section 15(2));
- the right to equal protection of the law without discrimination (Section 15(3));
- the right to equal and effective protection against discrimination (Section 15(4));
- the right to privacy (Section 25(a));
- the rights of a child to protection in their best interests (Section 26(2));
- the right to liberty (Section 29(1)); and
- additionally the right for a child who has been convicted of an offence to be treated in a way that is appropriate for the child’s age (Section 33(3)).

The Justice Reform Initiative is concerned that all of the proposed amendments in the Bill, including those outlined within this section, apply to children as young as 10 years old, which risks net-widening and entrenching children into the criminal legal system across the life course.

DISPROPORTIONATE INCARCERATION OF FIRST NATIONS CHILDREN

The Justice Reform Initiative is deeply concerned that the Queensland Government has acknowledged in the supporting documents for the Bill that the proposed amendments “are expected to have a greater impact on Aboriginal and Torres Strait Islander children, who are

already disproportionately represented in the criminal [legal] system.” The Queensland Government already incarcerates First Nations children at a higher rate and number than any other jurisdiction in Australia.²⁸ Almost half of all First Nations children incarcerated by state and territory governments on an average night across Australia are Queensland children.²⁹ This is despite the Queensland Government signing onto the National Agreement on Closing the Gap, which includes a commitment to Target 11: “By 2030, reduce the rate of Aboriginal and Torres Strait Islander young people (aged 10-17 years) in detention by at least 30 per cent. The rate that the Queensland Government incarcerates First Nations children was already worsening, with a 17% increase over the four year period from 2018-19 to 2022-2023. This failure to reduce the disproportionate representation of First Nations children in detention is consistent with a longer term trend of the Queensland Government increasingly incarcerating First Nations children – the rate that the Queensland Government incarcerates First Nations children has increased by 68% over the last 10 years (from 2013-14 to 2022-23).³⁰

We acknowledge that the court will retain the ability to take into account that a child is Aboriginal or Torres Strait Islander, as provided in sections 150(1)(ha) and (i) of the *Youth Justice Act 2019* (Qld), during sentencing. However, as acknowledged by the Queensland Government itself, the proposed amendments within the Bill only seek to further disproportionately entrench First Nations children within a carceral system that causes harm to children, families, and communities. As noted in the Commission of Inquiry into Queensland Police Service responses to domestic and family violence, “colonisation, dispossession, generational trauma and systemic racism are but a few of the factors that have led to this tragic situation” in which First Nations people are disproportionately represented in the criminal legal system.³¹ Prior to taking up the role of incoming government, the Queensland LNP released a policy platform that committed to “improving outcomes for our Indigenous communities” and acknowledged that “after nearly a decade of this Labor Government, the gap is widening, not closing.”³² The Justice Reform Initiative urges the Queensland LNP Government to stay focused on this commitment to improving outcomes in First Nations communities and closing the gap.

First Nations Elders, leaders and communities have for decades been calling for greater investment in place-based and community-controlled approaches, such as justice reinvestment, that seek to address structural and systemic social and justice problems at the local level rather than through top-down policies. First Nations place-based responses, like justice reinvestment, draw on the unique capabilities and strengths, as well as the challenges, that First Nations communities face and challenge governments to develop genuine partnerships with communities to alleviate structural disadvantage. Place-based initiatives prioritise networks, collaboration, community engagement and flexibility.³³ As noted in the Justice Reform Initiative Alternatives to Incarceration Report and submission to the Youth Justice Reform Select Committee, there are multiple First Nations place-based approaches across Queensland and within Australia that are improving outcomes for First Nations children, families and communities including reducing incarceration and preventing crime. However, structural and systemic barriers continue to impact on the delivery of such approaches. First Nations communities across Queensland continue to advocate for true self-determination and for decision making authority to be handed back to communities to better resolve structural disadvantage, systemic racism, and the ongoing impacts of colonisation (especially when it comes to youth and adult justice).

A whole-of-government funding approach that provides First Nations communities with sustainable, long-term, and flexible funding is needed in Queensland to improve both social and justice outcomes for First Nations peoples. Breaking down complicated,

restrictive, and siloed funding mechanisms that currently exist will enable First Nations communities to better provide holistic community-controlled and placed-based responses that meet the needs of their community. This includes the opportunity for enhanced housing and homeless services; support across kinship care; support to retain engagement in culturally modelled education and health systems; support to strengthen social and emotional wellbeing and economic wellbeing; support to heal from ongoing impacts of international trauma and colonisation; alongside support to maintain strong and healthy relations with family, kin, community and Country.

WHY IMPRISONMENT AND THE THREAT OF HARSHER PENALTIES DOES NOT WORK

Although it is tempting to invoke the threat of harsher penalties when tragic events occur, we need to be very realistic about the likely impacts of these policies. It is very clear that prison is ineffective when it comes to controlling crime or protecting the community.³⁴ Evidence shows that sending children (and adults) to prison does not reduce offending behaviours and increasing the length of a sentence does not reduce the likelihood of occurrence either. In summary, **imprisonment often leads to more crime – not less.**

The current policy approach to keep more children in prison for longer will not result in therapeutic or community safety outcomes. As noted above, studies have shown **recidivism and re-incarceration rates are higher when children spend longer periods incarcerated.**³⁵ Pre-sentence detention (**remand**) **has also been associated with a 33% increase in recidivism for children.**³⁶ We need to be very clear that the threat of harsher penalties (including longer prison sentences and mandatory sentencing) does not reduce crime.³⁷ Even in the United States, which is the only Western democracy to retain the use of Capital Punishment, there is absolutely no evidence that the threat of the death penalty has any impact on homicide rates.³⁸

There are a number of reasons why ‘deterrence’ in the form of the threat of harsher penalties is unsuccessful when it comes to improving community safety. Research has consistently shown that individuals who commit crime are rarely thinking of the consequences of their actions. This is because the context in which most crime is committed often does not lend itself to someone rationally weighing up the consequences of their actions. This is further exacerbated for children and adolescents given the evidence noted earlier in this submission with regards to brain development and developmental crime prevention.³⁹ The threat of harsher penalties or longer sentences is not something that most people who engage in offending, especially children, are considering at the moment they are committing crime.⁴⁰

It is easy to have populist appeal, especially with those agitating loudly, by making promises about ‘getting tough on crime’, tightening bail and bringing in harsher penalties. Denial of bail and failure to provide adequate diversion and bail support options may effectively impose a denial of liberty to people not convicted and some of whom will never be convicted or will be convicted of a crime that does not require imprisonment. In fact, this response goes against the evidence of what works to address crime, which is to target the underlying drivers and the entrenched disadvantage within large parts of our society. This means properly resourcing the community to deliver supports that genuinely allow and support children and families to build their lives in the community.

While of course the fact of disadvantage⁴¹ cannot be used to discount the consequences of crime, it is crucial to understand the context in which most crime is committed⁴² to build and implement effective policy to reduce the numbers of children in custody and strengthen

genuine evidence-based early intervention, prevention, diversion, and sentencing options that work (instead of relying on prison).

UNINTENDED CONSEQUENCES OF RUSHED LEGISLATION

It is very clear from past experiences that ‘toughening’ laws often has unintended consequences. For example, when the Victorian Government restricted access to bail, following the Bourke St rampage that killed six people,⁴³ lawmakers presumably didn’t intend to lock away more women, especially First Nations women, many of whom are domestic and family violence victims, experiencing homelessness, and otherwise experiencing vulnerability, in relation to offences for which they have not yet been convicted. Yet, this is precisely what has happened.⁴⁴ Acknowledging this, the Victorian Government has since brought in new bail reforms to reduce the disproportionate impact felt by women, children and Aboriginal and/or Torres Strait Islander peoples.⁴⁵

The Justice Reform Initiative urges the Queensland Government to reconsider the rushed introduction and implementation of this legislation, which could have dire and catastrophic unintended consequences not just for the children who will be impacted by the legislative changes but also for victims of crime, government workers (including police and watch house staff), and the community more broadly. For instance, the supporting documents for the Bill acknowledge that this legislation will result in pressures on a youth legal system that is already stretched to operational capacity, but it does not consider the unintended consequences of this. Potential unintended consequences may include:

- further incidents and harm within prisons for children and watch houses (including increased instances of solitary confinement/separation, increased assaults and self-harm, staff safety, (re)traumatisation, (re)victimisation, staffing issues impacting on rehabilitation aims);
- significant cost to society, government and taxpayers (including increased work health safety claims, staff burnout and retention issues, increased personal liability claims, class actions like the recent class action involving Ashley Youth Detention Centre⁴⁶, increased cost of creating a cycle into adult incarceration, further violence and crime in society, increased pressures on health and mental health systems and and the risk of a death in custody prompting coronial inquests);
- increased demand on early intervention, prevention, diversion, bail support and post-release that are already underfunded (impacting on community safety outcomes and community service delivery);
- increased demand on legal support and advocacy services that are already underfunded (which may cause further delays in court hearings impacting children held on remand and victims who want quicker court processes);
- changes in the way children plead (which may cause further delays in court hearings impacting children held on remand and victims who want quicker court processes);
- other unintended consequences that have not been considered in the short timeframe provided around this legislation.

REPRESENTING THE RIGHTS OF ALL VICTIMS

The Justice Reform Initiative is concerned about the perpetuation of the binary between “offenders” and “victims” that is used by the Queensland Government, the media and others in community. This fails to recognise that many children who are incarcerated or are alleged to have committed a crime are also victims. As highlighted in the Queensland Children’s Court Annual Report 2022-23, almost half of all people that were victimised through child offending were themselves children (18 years old or younger).⁴⁷ The largest cohort of victims in this group were aged 10-14 years old. The Women’s Safety and Justice Taskforce (the Taskforce) report *Hear Her Voice Report one – Addressing coercive control and domestic*

*and family violence in Queensland (Report One)*⁴⁸ also explores the reality that many women who are in prison are also victims of crime themselves, with many experiencing domestic and family violence. Similarly, as noted above, the majority of children in the Queensland youth justice system have experienced or been impacted by domestic and family violence. If the Queensland Government is serious about victim's rights it should not discriminate against which victim rights are more important than others.

REDUCING THE NUMBER OF CHILDREN ON REMAND

Remanding children (and adults) in custodial settings should only be used as a last resort. When a child is charged with a criminal offence, a decision must be made as to whether that child is held in custody on remand to wait their hearing or trial, or released into the community on bail. Queensland currently has the highest percentage of children on remand in the country, **with 92% of children in Queensland prisons yet to be sentenced.**⁴⁹

In addition to high numbers of children on remand in prison, there are longstanding and serious concerns in Queensland about the number of children who are held in police watch houses on remand as a result of overflowing prisons, as noted earlier in this submission.⁵⁰ In 2022-23, Queensland Police Service held 8,119 children in police watch houses and stations, with many children spending extended periods in these facilities without access to exercise, family visits, programs and other supports. Queensland Police Service held almost 1000 children in a watch house for a period longer than five days and 146 children for a period of 15 days or more.⁵¹

Queensland's prisons for children are the most crowded in the country, with 98.3% of beds utilised in 2022-23. No other jurisdiction in Australia has a centre utilisation rate this high for children's prisons, with the ACT having the second highest centre utilisation rate at 69.1% in 2022-23 (and the ACT only has 27 permanently funded beds in comparison to 288 permanently funded beds in Qld). In 2022-23, children's prisons in Queensland were operating over their safe capacity by an average of 23 children a day.⁵²

Adding to this, many children who are held prison in Queensland are spending extended periods in isolation as a result of staffing levels in prisons (particularly within the Cleveland prison). For example, the most recent Children's Court Annual Report provides an example of a 13 year old child with foetal alcohol syndrome and attention deficit hyperactivity disorder who was confined in their cell for 20 hours or more on 78 days and for 24 hours a day over 10 days (across an 88 day period in custody).⁵³ As demonstrated throughout this submission, any period of incarceration (short or long) is likely to have a criminogenic effect and increase the likelihood of future offending and incarceration (which is only exacerbated by holding children in such inhumane conditions).

As noted in the Queensland Audit Office review of serious repeat offending, 'in March 2023, the Department of Justice and Attorney-General implemented the Fast Track Sentencing Pilot to identify the causes of court delays, reduce the number of young offenders on remand, and reduce the time taken to finalise court cases and reduce the length of time young offenders spend on remand. The department reports that the median time to finalise cases for young offenders has improved at 2 (Cairns and Townsville) of the 4 court locations. The pilot will finish in late 2024.⁵⁴' Despite this trial being in place, the majority of children in youth detention centres across Queensland continue to be held on remand. Additional pressures on the courts and criminal legal systems will likely further exacerbate this problem. The Justice Reform Initiative recommends that the Queensland Government considers the evaluation of this pilot program and develops a comprehensive plan for reducing the number of children on remand.

Furthermore, there is a particular opportunity in Queensland to increase investment in, and use of, community-based alternatives to remand (especially First Nations led alternatives), at both the point of police and court interaction, to support children to comply with their bail conditions. Two-thirds of children that the Queensland Police Service charges with breach of bail offences in Queensland are First Nations children.⁵⁵ A recent Queensland Family and Child Commission report found many children who were remanded into watch houses for lengthy periods did not have stable accommodation or family support that assisted them to comply with their bail conditions.⁵⁶ Police cited denying bail for reasons such as a child's parent being intoxicated, family or community fighting, family criminal history, and lack of parental supervision. Incarcerating children does not address these circumstances of systemic disadvantage and intergenerational trauma. Providing bail support to children and families (including properly resourced accommodation and kinship caring supports) serves to enhance both community safety and the interests of the children who are in conflict with the law. The Justice Reform Initiative understands some people in the community hold concerns about children reoffending while on bail. We agree that there is a need to protect the community from the risk of offences being committed on bail. This is best achieved through community-based alternatives to remand that work to support children to comply with their bail obligations and address the root causes of their offending. Incarceration, on the other hand, creates worse outcomes in terms of community safety and mitigating risks of further offending.

ALTERNATIVE COMMUNITY-LED YOUTH JUSTICE RESIDENTIAL MODELS

The statement of capability with human rights for this Bill states "it is likely at least in the short term that the increase in custodial sentences will further strain capacity in youth detention centres in Queensland, and may result in children being held in watchhouses for extended periods of time." It also states that this will impact on the protection from cruel, inhuman and degrading treatment, having regard to the fact that it is widely accepted that watchhouses are not appropriate or humane places in which to detain children (particularly for any lengthy period of time).

We urge the Queensland Government to review the evidence of what works to keep the community safe, and to accordingly invest in community-led alternatives to incarceration rather than continuing to waste taxpayer money building more ineffective and expensive prisons for children that fail to demonstrate results in reducing reoffending and breaking the cycle of crime and disadvantage.

We acknowledge the Queensland Government has committed to prevention, early intervention, diversion and rehabilitation; however, the conditions which this Bill creates does not create a context in Queensland that is conducive to the primary prevention of youth crime and reduction of (re)offending in Queensland. Incarcerating children in overcrowded and punitive custodial environments does not work to improve community safety.

The literature is clear that children and the community are best served through models that support children and families to access targeted and evidence-based supports while staying connected to their community and living in their home environment.⁵⁷ That is, non-residential support options are far more effective than residential options.⁵⁸ If residential options are required where there is not a suitable home environment, it is critical to consider what does work. Incarceration does not work to make the community safer, deter offending, or reduce crime. **Youth detention centres, prisons, and watch houses – in any form - are not suitable places for children.** Any model that seeks to support children to stop offending should take a child-centred approach to 'do no harm'. In Queensland, there have been numerous reports of children being held in solitary confinement for significant periods in prison and watch houses, of children losing hair due to lack of sunlight while being

held in watch houses, and of children experiencing other inhumane conditions that compound harm and trauma.⁵⁹

Despite prisons being the most ineffective and expensive response, the Queensland Government is planning to build two new prisons for children, which will increase the number of beds in child prisons from 306 to 426 by 2027.⁶⁰ It is stated that these new centres will be 'therapeutic' and modelled on the principles of the 32 bed West Moreton Youth Detention Centre (which include restorative practice, trauma informed care and positive behaviour support).⁶¹ In considering what infrastructure and residential options are suitable for children, it is important to consider the efficacy of models like West Moreton Youth Detention Centre. Although West Moreton Youth Detention Centre is smaller than Brisbane Youth Detention Centre and Cleveland Youth Detention Centre, it has not achieved the therapeutic and rehabilitative aims intended - **84% of young people who completed a custody stay at West Moreton Youth Detention Centre were alleged to have reoffended within 12 months of release from this prison.**⁶² The Queensland Government has previously noted that reoffending rates have not materially changed over the last four years.⁶³ **This tells us that our current approach is not working.**

In jurisdictions where therapeutic and rehabilitative facilities have worked (such as Hawai'i, Missouri and Spain), there has been a whole-of-system change process that genuinely centres a trauma-informed and restorative approach. This is more than simply implementing 'therapeutic' or 'rehabilitative' programs or centres. It is a significant paradigm shift in the way that systems work, and in the knowledge, attitudes, perspectives, and skills of people who work within those systems.⁶⁴ Effective residential models have emerged alongside major systemic reforms that move jurisdictions away from the traditional punitive and carceral aspects of the criminal legal system. The responses in these jurisdictions are very different to those in Queensland (which centre 'tough on crime' policies, 'stronger laws' and tougher penalties).

As shown in the case studies below, therapeutic residential models differ across jurisdictions; however, unlike youth detention centres in Queensland, these facilities are much smaller in scale, local and community-based. They are delivered as part of a whole-of-community response and in most cases are designed and run by community-based services. Facilities are home-like, prioritise trust and relationships (above security and compliance), and create stable, safe, and trauma-informed environments for children to thrive (rather than survive). There is a particular focus on wrapping community-led supports and services around children and their families to address the root causes of their offending. Staff are highly-skilled and guide children (and their families) down a different path through positive connections and relationships. Unlike Queensland where the majority of children held in prison are there for very short periods on remand, children in jurisdictions with alternative residential models that work are typically sentenced and receive support over a longer period. Importantly, alternative residential models that work also provide the avenue for children to stay connected and involved in their community – whether through social media or giving them flexibility (and trusting them) to leave the residential facility to participate in employment, workforce development and training opportunities, recreational activities and/or community/cultural engagements.

In considering evidence-based youth justice residential models and what might work in Queensland (and Australia), it is fundamental to consider the historical context of our country. The disproportionate representation of Aboriginal and Torres Strait Islander children (and adults) in Queensland prisons both reflects and reproduces systemic disadvantage. It is impossible to disconnect this disproportionate representation and the continued

institutionalisation of First Nations peoples with the social drivers of incarceration identified so clearly in the thirty-year-old Royal Commission into Aboriginal Deaths in Custody report, including the impact of colonisation, structural racism, and dispossession.

Colonialisation and the “eroding of First Nations peoples’ ways of knowing, being and doing” has led to current levels of First Nations incarceration.⁶⁵ Drawing on the strengths of First Nations communities is infinitely more difficult when governments “are imprisoning traumatised, developmentally compromised, and disadvantaged young people, where imprisonment itself adds to the re-traumatisation and complexity of supporting rehabilitation and recovery.”⁶⁶

Aboriginal and Torres Strait Islander organisations and communities have for decades been providing leadership and advocacy in this space, as well as clearly stating what is needed to prevent this disproportionate representation continuing. Some of the reforms required are legislative. Other reform areas are about handing back cultural authority and community control to First Nations communities and increasing accessibility to services and supports that are First Nations-led and culturally modelled. There are well-developed, researched, and detailed proposals for new alternatives to youth detention centres in Queensland. Remote healing centres – proposals that have been put together by respected First Nations leaders alongside subject matter experts – have the potential to be an extraordinarily helpful tool in the development of alternative youth justice residential responses.⁶⁷ There is an opportunity for governments in Queensland (and Australia) to look across the borders and learn lessons from the major systems reform that has occurred in Hawai’i. As outlined below, Hawai’i has replaced its punitive colonial youth justice system with an Indigenous-led and culturally modelled restorative alternative. Governments here must follow in the footsteps of jurisdictions like Hawai’i and **build genuine partnerships with First Nations people to ensure First Nations children have access to culturally modelled and community-led supports.**

THE KAWAILOA YOUTH AND FAMILY WELLNESS CENTRE IN HAWAI’I (INTERNATIONAL)

Hawai’i has reduced the number of children in prison by 82%⁶⁸, reduced youth crime overall by 86%⁶⁹, and achieved zero girls in prison.⁷⁰ This dramatic reduction is a direct result of systems change that replaced the harmful and punitive western carceral criminal legal system with a culturally modelled restorative alternative. Reforms in Hawai’i particularly focused on providing adequate community-led and culturally modelled alternatives at the point of police interaction to divert children away from the system. This included implementing Indigenous Assessment Centres where children can be taken following contact with Police to have comprehensive assessment and screening completed, which informs decision-making around community-based programming that will support children (and their families) to address challenges in their life and the drivers of behaviours deemed problematic⁷¹. For children who are considered “high-risk”, the focus is on probation not prison. Other alternatives implemented include day and evening reporting centres, shelter care, home confinement, and the Kawaihoa Youth and Family Centre.

The Kawaihoa Youth and Family Wellness Center in Hawai’i is a community-based alternative and transformative Indigenous-led model, which seeks to replace incarceration with therapeutic services that empower youth and strengthen community.⁷² ‘Kawaihoa’ translates to the long waters, which represents the ecosystem of resources and supports that guide youth to become leaders of social justice systems, racial equity, and healthy lives. The model is a whole of community-partnership response between state departments, community organisations and service providers, universities, and foundations.⁷³ It is a place of healing

located on 500 acres of property where youth have access to holistic services and supports including:

- housing and homelessness support;
- support around commercial sexual exploitation;
- workforce training and development opportunities in partnership with local businesses and volunteers who are mentors in trades and community services;
- vocational training, healing and connection, and economic opportunities to transform island food systems;
- the Olomana School;
- a residential facility; and
- connections with the broader community through social media, employment, volunteers, community council, youth and elder councils, youth transition supports, state-wide involvement with service, faith-based and cultural groups.

DIAGRAMA FOUNDATION, SPAIN (INTERNATIONAL)

Diagrama is an international not-for-profit organisation that operates over 35 custodial centres across Spain for young people aged 14 to 23 who are remanded or sentenced to custody (typically for serious and persistent violent offending). The Diagrama model has demonstrated it reduces rates of recidivism and its operational costs are comparable to or lower than those of other providers. The model has been implemented across France and the United Kingdom. A study of 757 young people who attended a Diagrama centre in 2011 found that by December 2017 (six years later), only 13.6% had been placed back in custody.⁷⁴

Diagrama Foundation visited Australia in 2019 and produced a comprehensive report exploring the feasibility of adopting this model in the Northern Territory (NT).⁷⁵ This report outlines the way in which Diagrama's evidence-based centres differ to youth detention centres in the NT and across our country, which are built on a punitive, carceral system.

Diagrama's centres offer a home-like, stable, safe, and supportive environment for young people - wrapping supports around them to prepare them to succeed post-intervention.

The staffing model places emphasis on highly qualified workers who are trained to support young people in a trauma-informed and therapeutic way. This includes:

- degree-qualified social educators who support young people throughout the day through warm and parenting relationships; and
- a multi-disciplinary professional technical team (including psychologists, psychiatrists, speech therapists, occupational therapists, social workers, reintegration workers and healthcare staff) who plan and deliver individual assessments, integrated case planning, interventions, and reintegration programs.

The centres employ only a small number of security staff who play a passive role and only intervene as a last resort in incident management. The culture and infrastructure of these centres is completely different to that of youth detention centres and prisons in Australia. In Spain, young people are guided by role models and professionals who help them to develop the skills needed to engage in positive behaviour and provide opportunities for them to be held accountable in ways that work. Young people are held accountable for their behaviour through guidance and support that enables them to earn increasing autonomy and responsibility both within and outside of the centre. This includes opportunities to be involved in work, study, recreational and social activities in the community. As highlighted in Kate Bjur's Winston Churchill Fellowship Report⁷⁶, leave of absences are standard practice:

'In Spain, approximately 30 to 50 percent of young people go off centre daily, and in the lower- risk open centres, every young person is in the community every day, with or without a staff member. In one centre in the Murcia region, 4000 instances of young people leaving the centre occurred in 2022. From those, four young people came back to the centre after curfew and none re-offended while on leave.'

As further explained in this report, young people are given space and supported to fail while residing at these centres. The model of care recognises that young people need time to practice new skills and heal with the support of trusted adults. Rather than pressing further charges or punishing young people when they make mistakes (like what happens in other custodial settings), young people are guided in ways that help them learn and keep working at getting better. The genuinely therapeutic and trauma-informed model of care enables young people to feel safe and build trusted relationships with staff, resulting in very low levels of incidents and use of restraints within these centres.⁷⁷ In 2022, the 65 bed Diagrama centre in Ciudad Real Spain had no incidents where staff restrained young people.⁷⁸

In Queensland, the majority of children in prison are on remand (86% in 2022-23)⁷⁹. The average length of time these children who are unsentenced spend in custody in Queensland is 46 days.⁸⁰ For the small number of children who are sentenced in Queensland, recent data shows the median duration of completed sentenced detention was around 32 days (over a six month period in 2021), with an average of 40 days.⁸¹ This is because a large proportion of children (45% in 2021-22) who are eventually sentenced to detention have already served their time in detention on remand.⁸² In comparison, around 80% of young people in Spain are sentenced and the Diagrama centres typically work with young people for an average of nine months (and at least six months at a minimum).⁸³ In their analysis and observations of the NT context, Diagrama commented that young people are being “set up to fail” in contexts where remand numbers are very high and where there is repeated use of short sentences. Another observation was that the Spain centres were predominately used for young people who have committed serious violent offending, while the NT had more young people detained for breaches of bail and less serious offences.

Central to this report was the recommendation that legislative and policy measures be put in place to allow for not-for-profit NGOs with relevant expertise to run youth justice facilities. The Diagrama model “recognises that preventing offending is achieved through a focus on the child and their best interests and not just on their antisocial behaviour – allowing for individualised justice and the opportunity for change.”

THE MISSOURI MODEL, UNITED STATES (INTERNATIONAL)

The Missouri Model in the United States also adopts a trauma-informed and therapeutic approach to youth justice.⁸⁴ Missouri has undergone major systems reform over the past 50 years to address youth offending, with a key feature being the implementation of small place-based and home-like facilities (around 10-30 beds) where children can access individual support (delivered in a group-based therapeutic setting and involving family).⁸⁵ There are a range of different options available as part of this model depending on the strengths and needs of children and their families such as diversion programs, community-based supervision, day treatment and family resource centres, group homes (10-12 bed community-based residential homes), open facilities, moderately secure facilities, and secure care facilities⁸⁶. Residential support is provided over a longer period – typically 4-6 months for group homes, 6-9 months for moderately secure facilities and 9-12+ months for secure care.⁸⁷

The Missouri model moves away from the traditional punitive and carceral aspects of the criminal legal system, and instead focuses on creating a safe environment where young

people are supported through trusted relationships and guidance to address the drivers of their offending behaviours. The model has been shown to be effective at reducing reoffending – of the 640 young people who left these facilities in 2016, 85.4% did not reoffend after one year, 77.6% did not reoffend after two years, and 73.1% did not reoffend after three years.⁸⁸ There are; however, some questions around the universal applicability of the Missouri Model⁸⁹, demonstrating the importance of program fidelity when adapting programs to local contexts.

ALTERNATIVE CARE MODELS (AUSTRALIA & INTERNATIONAL)

Internationally, multi-dimensional treatment foster care is an effective alternative residential model for children with antisocial behaviour and chronic offending behaviours. As part of this model, children live with specially trained foster parents for 6 to 9 months while their birth family receives family therapy, parent training and support. A treatment team (including a family therapist, individual therapist, child skills trainer, and engagement officer) provide intensive support for the child (through an individualised treatment plan) and to the foster parents and birth family. Evaluations have found multi-dimensional treatment foster care contributed to reduced criminal referral rates, criminal behaviours and days spent in custody for boys, and significant reductions in delinquency for girls.⁹⁰

In Australia, kinship care has been practiced by First Nations peoples for many thousands of years.⁹¹ Research suggests children who are placed in kinship care have better health and social and emotional wellbeing outcomes compared to those in foster care.⁹² Elders and First Nations communities across Queensland have called for formalised kinship caring models that support children who are at risk of, or already engaged with, the youth justice system. In many cases, kin are already informally supporting these children without resourcing or financial support. There is an opportunity for the state government to work with First Nations Elders and communities to formalise a First-Nations-led kinship youth justice caring model that provides a similar level of support to that which is provided through multi-dimensional treatment foster care in other jurisdictions.

ABOUT THE JUSTICE REFORM INITIATIVE

The Justice Reform Initiative is an alliance of people who share long-standing professional experience, lived experience and/or expert knowledge of the justice system, further supported by a movement of Australians of goodwill from across the country who believe jailing is failing and that there is an urgent need to reduce the number of people in Australian prisons.

The Justice Reform Initiative is committed to reducing Australia's harmful and costly reliance on incarceration. Our patrons include more than 120 eminent Australians, including two former Governors-General, former Members of Parliament from all sides of politics, academics, respected Aboriginal and Torres Strait Islander leaders, senior former judges including High Court judges, and many other community leaders who have added their voices to end the cycle of incarceration in Australia.

We seek to shift the public conversation and public policy away from building more prisons as the primary response of the criminal legal system and move instead to proven evidence-based approaches that break the cycle of incarceration. We are committed to elevating approaches that seek to address the causes and drivers of contact with the criminal legal system. We are also committed to elevating approaches that see Aboriginal and Torres Strait Islander-led organisations being resourced and supported to provide appropriate support to Aboriginal and Torres Strait Islander people who are impacted by the justice system.

The Queensland Patrons of the Justice Reform Initiative include:

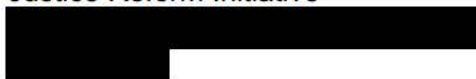
- **Sallyanne Atkinson AO.** Co-Chair of the Queensland Interim Body for Treaty and a member of the Queensland University Senate.
- **Adjunct Professor Kerry Carrington.** School of Law and Society, University of the Sunshine Coast, and Director of her own Research Consultancy.
- **Mick Gooda.** Former Aboriginal and Torres Strait Islander Social Justice Commissioner and former Royal Commissioner into the Detention of Children in the Northern Territory.
- **Keith Hamburger AM.** Former Director-General, Queensland Corrective Services Commission.
- **Professor Emeritus Ross Homel, AO.** Foundation Professor of Criminology and Criminal Justice, Griffith University.
- **Gail Mabo.** Gail is of the Meriam language group and clan of Mer (Murray Island) in the Torres Strait. She is an Australian visual artist who has had her work exhibited across Australia and is represented in most major Australian art galleries and internationally. She was formerly a dancer and choreographer. Gail is also deeply engaged with young people in her community as a mentor and is the daughter of land rights campaigner Eddie Mabo and educator and activist Bonita Mabo AO.
- **Professor Elena Marchetti.** Griffith Law School, Griffith University.
- **The Honourable Margaret McMurdo AC.** Former President Court of Appeal, Supreme Court of Queensland and Commissioner of the Victorian Royal Commission into the Management of Police Informants.
- **Dr Mark Rallings.** Former Commissioner, Queensland Corrective Services.
- **Greg Vickery AO.** Former President, Queensland Law Society and former Chair of the Standing Commission of the International Red Cross and Red Crescent Movement.
- **The Honourable Dean Wells.** Former Attorney General of Queensland.
- **The Honourable Margaret White AO.** Former Judge of the Queensland Supreme Court and Queensland Court of Appeal, former Royal Commissioner into the Detention of Children in the Northern Territory, and Adjunct Professor TC Berne School of Law UQ.

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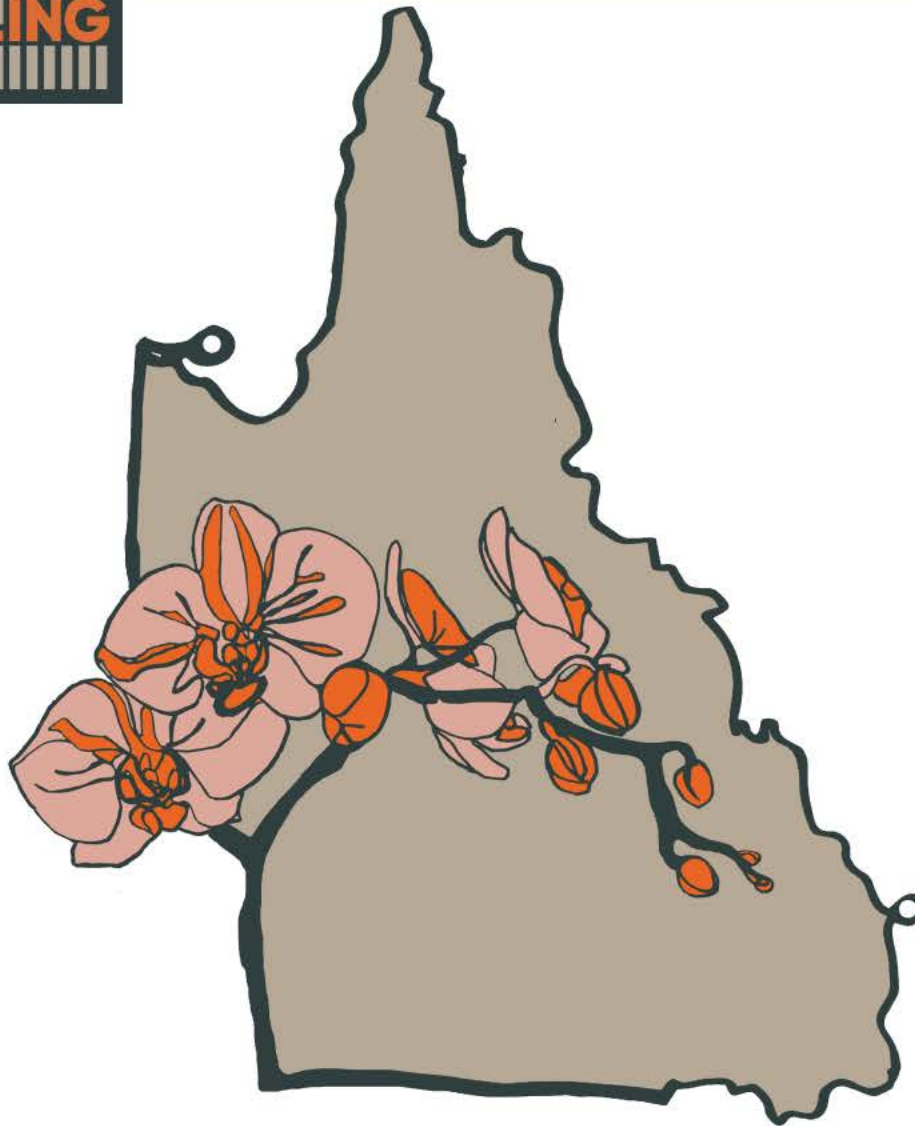
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JUSTICE
REFORM
INITIATIVE

JAILING
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FAILING



A PAPER FROM THE JUSTICE REFORM INITIATIVE

ALTERNATIVES TO INCARCERATION
IN QUEENSLAND

May 2023

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EXECUTIVE SUMMARY

Queens and relies on a system of incarceration for children and adults that is harmful, expensive and ineffective. Prison does not work to reduce crime; it does not work to build safer communities; and it does not work to address the social drivers of contact with the criminal justice system.

The overuse of incarceration in Queensland has historically been driven by a politicised approach to justice policy, with both major parties frequently competing to promote a tough on crime agenda. Too often, decision-making about criminal policy and legislative reform has focused on politics rather than policy outcomes. Heated political conversations about how to respond to crime often entirely neglect the evidence about what actually works to reduce it.

However, there are alternatives to the current approach. This report sets out more than 70 examples of community-based programs, place-based initiatives, services, policies and alternative justice approaches (including at the point of contact with police and courts) that are working to reduce the numbers of people in prisons across Australia and internationally. The examples in this report have been subject to evaluations that demonstrate the ability to reduce contact with the criminal justice system.

It is time for both sides of politics in Queensland to press pause on politicised law and order policy and instead look towards responses that align with what the evidence shows will genuinely make a difference when it comes to crime reduction and protecting the community. Although there are already excellent programs, strategies and policies operating in Queensland (several of which are outlined in this report), alternative approaches are struggling to make a system difference in the current Queensland policy environment, which remains heavily invested in incarceration.

Despite significant efforts made in recent years by the Queensland Parliament to explore alternative approaches to the current system of incarceration, and the state government's public commitment to adopt many of the important recommendations made in recent rigorous reports, Queensland's prison population continues to grow. Sense and evidence-based policy commitments have been undermined by the consequences of entrenched and long-standing law and order politics. This approach has resulted in a dramatic increase in prison population, skyrocketing costs for Queensland and taxpayers, and thousands of people unnecessarily incarcerated in a system with no evidence of efficacy in terms of rehabilitation, deterrence or community safety in the long term.

Queensland has the second-highest rate of children's incarceration (4.8 per 10,000 children) in Australia.² The only jurisdiction with a higher rate of children's incarceration is the Northern Territory. Queensland also has the highest number of children in detention in Australia: more than one-third (38%) of all children aged between 10 and 17 detained in Australia are in Queensland.³ There were on average 267 children imprisoned in Queensland last year, an increase of 41% since 2019–20.⁴ There has also been a dramatic increase in recent years in Queensland's adult prison population. On an average night in 2021–22, 9589 people are locked up in Queensland prisons, an increase of 63.9% over the last decade.⁵

Around eight in 10 children released from sentenced detention in Queensland return within 12 months.⁶ A most children released from prison in Queensland (around 90%) are alleged to reoffend within 12 months of their release.⁷ Similarly, over two-thirds of adults in Queensland prisons have been in prison before.⁸ The evidence is very clear that prison's criminogenic, that is, the experience of incarceration makes

re-offending more likely. The over-use of prison fails to keep the community safe. It also causes enormous and inter-generational harm to First Nations communities and other groups that experience multiple and intersecting forms of marginalisation and disadvantage and are disproportionately represented in the prison system.

The total recurrent annual operating expenditure on adult prisoners in Queensland is more than \$859 million,⁹ with a further \$218 million spent on children's incarceration each year.¹⁰ The real net costs of the states' prison and correctional services have risen dramatically over the last decade. Queensland has increased expenditure on imprisonment by over \$450 million since 2014–15.

A series of planned prison expansions across the state will likely result in over one billion dollars of additional taxpayer money spent on a system that is not working to build safer communities. The Queensland and Government is planning to expand the adult prison in Gatton by 1500 beds at a cost of \$861 million.² The state government has also recently announced that it will be building two new youth detention centres. This is in addition to the already increased spending on youth detention centre capacity in 2019, with \$150 million spent on building the 32-bed West Moreton Youth Detention Centre and \$27 million spent on expanding the Brisbane Youth Detention Centre by 16 beds.³

Financial commitment to incarceration continues to increase in Queensland, despite overwhelming evidence that the current prison system (for both adults and children) is harmful, expensive and ineffective. Investing in failing to prevent offending or reduce reoffending, and investing to keep the community safe.⁴

In many Australian jurisdictions, incarceration rates have fallen over the past few years, especially since the COVID-19 pandemic. Many states and territories have explicitly recognised the deep policy failures of incarceration, and both sides of politics are championing alternative approaches. However, despite all the evidence of its failure, the Queensland and Government continues to embrace a justice system that centres the use of imprisonment. Too many Queenslanders are trapped in a cycle of incarceration, becoming entrenched in a justice system that fails to address the causes of crime and fails to keep the community safe.

This report proposes a different approach. We argue that the solutions to both over-incarceration and community safety are located outside the justice system. We cannot imprison our way to a safer society, and it is now time for the Queensland and Government to turn away from its reliance on the prison system. This sentiment was recently shared by the Head of the Queensland and Police Service Youth Justice Taskforce who publicly stated that police cannot arrest their way out of youth justice issues and keeping children in detention is not the end solution.⁵

This report's promotion of evidence-based and evidence-informed alternatives to imprisonment should not be mistaken as a soft on crime approach. Taking crime seriously requires taking the drivers of crime seriously and looking outside the justice system to develop evidence-based solutions. Our aim is not to excuse crime or minimise its impact but to build responses to crime that will genuinely disrupt its re-occurrence. Although imprisonment protects the community for the period of time that someone is incarcerated (especially if someone has been offending prolifically), it does not address the root causes of crime. We know that in the medium and long-term, imprisonment does not rehabilitate people, and makes reoffending much more likely.

There is an opportunity for the Queensland and Government to expand its investment in evidence-based programs and services run by the community sector (especially First Nations-led organisations) to keep the community safe, address the social drivers of contact with the criminal justice system, and provide off-ramps out of the justice system.

These programs (if properly resourced) will:

- » Significantly reduce recidivism for children and adults and in turn improve community safety
- » Successfully divert children and adults who are at risk of being involved in the criminal justice system
- » Strengthen families and communities, which are too often managed in the justice system settings rather than receiving the support, care and opportunities that improve their prospects
- » Result in significant cost-savings and substantial improvements in health and wellbeing across the community, including for victims.

The collective findings of the evaluations included in this report demonstrate the efficacy of community-based approaches that address the social drivers of over-incarceration. Summary, the combined findings of evaluations of alternative modes of policing, court and prison in this report demonstrate the way in which interventions with the justice system have the capacity to move people away from the justice system, if those interventions are non-punitive and focus on addressing the drivers of criminal justice system contact.

Despite this evidence base, we have only seen a piecemeal approach to resourcing, expanding and evaluating alternative approaches to incarceration in Queensland and Community-ed programs in Queensland are already doing considerable work in breaking cycles of disadvantage for individuals impacted by the justice system. First Nations communities and First Nations community-ed organisations are leading this work, often achieving remarkable outcomes with very limited support and resourcing.

Where excellent programs exist, the policy and regulatory environment in Queensland still drives too many people into prison who would be more likely to stop offending if they received support in the community to address the drivers of criminal justice system involvement. The often-limited scope and capacity of existing programs means that many people who are at-risk of imprisonment, or at-risk of recidivism, do not receive the support they require to get out of the system. A significant funding shift is needed so that a Queensland children and adults can receive effective support, care, connection and opportunity in the community rather than be managed in the justice system. This support needs to be available for both children and adults across the life-course and at different stages of contact with the justice system.

This report summarises evaluations and reviews of diversionary programs (including at the point of policing and court) and holistic support programs (including on release from custody). It also highlights evaluations and reviews that demonstrate the importance of early intervention and early prevention strategies to engage children and families at-risk before they encounter the system, and to address the social drivers of incarceration at the whole-of-community level.

The research outlined in the body of this report primarily draws on independent evaluations, some of which use matched administrative data as points of comparison, and some of which include randomised controlled trials (the gold standard of evaluations) or time-series analyses to explore criminal justice trajectories over time. Where this report also includes overviews of less comprehensive evaluations, all of the studies included in the body of this report explore the impact of the program, intervention or support on people's contact with the justice system.

The studies overviewed in this report outline findings that include:

- » Early intervention and prevention programs reduce crime at a population level by between 5–31%,⁶ reduce offending among at-risk populations by 50%,⁷ significantly improve other health and wellbeing outcomes in children and families⁸ and result in significant cost savings including those resulting from reduced criminal justice system contact over time.⁹
- » First Nations place-based approaches have resulted in significant reductions in crime, criminal justice system contact, youth justice contact and significant cost savings, as well as improvements in a range of cultural, social, health and wellbeing measures.²⁰
- » Basic support programs significantly reduce reoffending (by 33%), increase compliance with bail conditions (by 95%),² improve a range of other social and health wellbeing measures relevant to the drivers of criminal justice system contact²² and achieve cost savings when compared to an absence of basic support.²³
- » Post-release and diversionary community-ed programs have resulted in dramatic decreases in recidivism, including:
 - intensive post-release support programs focusing on people experiencing problematic alcohol and other drug use and other complex needs (483 participants) have achieved reductions in custody days (by 65.8%), reductions in new custody episodes (by 62.6%) and reductions in proven offences (62.1%) measured two years post-referral.²⁴
 - A first Nations-led post-release service has achieved recidivism rates of 4.1% (compared to 57.3% for a comparable cohort).²⁵

- A place-based, intensive support service for children at-risk of criminal justice system involvement has dramatically increased the number of children engaging with education and/or employment (85%) and has led to significant reductions in crime (35%) in the surrounding community.²⁶
- » A ternative policing and a ternative first-responder models reduce criminal justice system involvement and lessen the likelihood of arrest by 58%,²⁷ have the rate of crime and justice system involvement,²⁸ significantly reduce levels of specific crime, improve health and wellbeing (especially for people with mental health conditions)²⁹ and address the social drivers of incarceration while avoiding contact with police.³⁰
- » A ternative and specialist court processes reduce contact with the justice system including:
 - In-court diversionary programs reduce reoffending, increase health and wellbeing and address the drivers of incarceration.³
 - Those who have the matter dealt with in a community and neighbourhood justice court have reoffending rates that are 25% lower than those whose matters are heard in mainstream courts.³²
 - Restorative justice processes significantly reduce the likelihood of reoffending,³³ work to support people to connect with services and programs in the community³⁴ (as well as provide support to victims of crime)³⁵ and are extraordinarily cost-effective.³⁶
 - Drug courts reduce the likelihood of reoffending and improve access to a cohort and other drug treatment.³⁷
 - Mental health courts reduce reoffending and facilitate access to mental health treatment as well as improve other health and wellbeing measures.³⁸
 - First Nations courts reduce reoffending, empower first Nations communities, increase the likelihood of court attendance, and improve access to other supports and services.³⁹
- » A ternative detention models have extraordinarily low rates of recidivism including:
 - Internationally therapeutic residential models for children (outside of detention centre settings) result in recidivism rates as low as 13.6%⁴⁰

- Rehabilitation and therapeutic incarceration models with a focus on a cohort and other drug treatment have recidivism rates as low as 2.0%.⁴

In Queens and, there is a need to invest in – and increase the availability, scope and capacity of – the kinds of programs identified in this report; that is, programs that have a strong evidence base in terms of breaking cycles of criminal justice system involvement. There is an opportunity in Queens and to move away from the current approach, which prioritises incarceration, in terms of both policy settings and resourcing. The research is very clear that the current approach has been highly ineffective in terms of building safer communities and reducing crime. It has also been extraordinarily expensive and continues to cause enormous harm to the individuals, families and communities that are cycling in and out of the justice system. The main recommendation threaded throughout this report is that there is a need to invest in the supports, programs, services and alternatives that address the drivers of incarceration and that have an evidence base in terms of reducing crime, reducing recidivism and building safer communities.

There is enormous stakeholder expertise and goodwill in Queens and. A growing coalition of first Nations leaders and communities, researchers, community sector practitioners, people with lived experience of incarceration and diverse advocates are a committed to sharing this expertise and supporting decision-makers in Queens and to develop and properly resource evidence-based approaches to criminal justice. There is a need for leaders in parliament and government in Queens and to first, acknowledge the policy failure of incarceration in Queens and and second, to work alongside stakeholders – who are standing by and ready to assist – to move towards a justice system that genuinely builds a safer community.

As ongoing investing in evidence-based alternatives to incarceration, there is a concurrent need to continue to build and improve the evidence base in Queens and, particularly for community-led programs. The community sector has not historically had the resources or opportunity to evaluate the efficacy of its work in a manner that can easily contribute to the growing body of research in this area. There is the need to ensure community-led organisations are funded adequately to both deliver services

and have access to independent and transparent evaluation that generates high-quality data. There is an opportunity for the Queens and Government to build genuine partnerships with researchers, service providers, first Nations communities and other experts in the sector to continue to build the evidence base of what works in Queens and.

This report shows that there are multiple points of intervention that can make a difference, and that there are many examples of programs that work. They are, however, currently operating on a scale that is too small to make a systemic difference when it comes to reducing recidivism and reducing criminal justice system contact.

There is an opportunity in Queens and to turn around the current over-reliance on incarceration, and to genuinely invest in the evidence-based alternatives. These alternatives will reduce crime, build community safety, reduce recidivism and give people the opportunity to build productive and meaningful lives in the community; these alternatives are a so significant less expensive than incarceration.

ABOUT THE JUSTICE REFORM INITIATIVE

The Justice Reform Initiative was established in September 2020 with a goal to reduce Australia's harmful and costly reliance on incarceration. We seek to reduce incarceration in Australia by 50% by 2030 and build a community in which disadvantaged people no longer meet with a default criminal justice system response.

Our growing list of patrons include 120 eminent Australians, including two former Governors-General, former Members of Parliament from all states of politics, academics, respected Aboriginal and Torres Strait Islander leaders, senior former judges, including High Court judges, and many other community leaders who have added their voices to the movement to end the cycle of incarceration in Australia.

We also have more than 130 supporter organisations that have joined the movement to reduce incarceration. These include the Australian Medical Association, The Law Council of Australia, the Federation of Ethnic Community Councils, the Australian Council of Churches, the Australian Catholic Bishops Conference, and multiple First Nations-led organisations and service-delivery organisations that have expertly worked with people who have been impacted by the justice system.

The Justice Reform Initiative seeks to work with parliamentarians from all states of politics, policymakers, people with experience of the justice system, and people of goodwill across the country to embrace evidence-based criminal justice policy in order to reduce crime, reduce recidivism and build safer communities.

We are working to shift the public conversation and public policy away from building more prisons as the primary response of the criminal justice system and move instead to proven alternative evidence-based approaches that break the cycle of incarceration. We are committed to evaluating approaches that seek to address the causes and drivers of contact with the criminal justice system. We are also committed to

evaluating approaches that see Aboriginal and Torres Strait Islander organisations being resourced and supported to provide appropriate support to Aboriginal and Torres Strait Islander people who are impacted by the justice system.

Our Queens and Patrons are:

- » **The Honourable Mike Ahern AO**, former Premier of Queensland and, businessman and founder of the Queens and Community Foundation
- » **Sallyanne Atkinson AO**, Co-Chair of the Queens and Interim Body for Treaty and a member of the Queens and University Senate
- » **Professor Kerry Carrington**, Adjunct Professor, University of Sunshine Coast
- » **Mick Gooda**, former Aboriginal and Torres Strait Islander Social Justice Commissioner and former Royal Commissioner into the Detention of Children in the Northern Territory
- » **Keith Hamburger AM**, former Director-General, Queens and Corrective Services Commission
- » **Gail Mabo**, from the Meriam language group and chair of Mer (Murray Island) in the Torres Strait. She is an Australian visual artist who has had her work exhibited across Australia and is represented in most major Australian art galleries and internationally. She was formerly a dancer and choreographer. Gail is so deeply engaged with young people in her community as a mentor and is the daughter of and rights campaigner Eddie Mabo and educator and activist Bonita Mabo AO
- » **Professor Emeritus Ross Homel AO**, Foundation Professor of Criminology and Criminal Justice, Griffith University
- » **Professor Elena Marchetti**, co-Lead Directing Violence Beacon and Deputy Head of School (Research) Griffith Law School, Griffith University and Deputy Chair, Queens and Sentencing Advisory Council

- » **The Honourable Margaret McMurdo AC**, former President of the Court of Appeal, Supreme Court of Queensland, Commissioner of the Victorian Royal Commission into the Management of Police Informants and Chair of the Women's Safety and Justice Taskforce
- » **Dr Mark Rallings**, former Commissioner, Queensland Corrective Services
- » **Greg Vickery AO**, former President Queensland Law Society and former Chair of the Standing Commission of the International Red Cross and Red Crescent Movement
- » **The Honourable Dean Wells**, former Attorney-General of Queensland
- » **The Honourable Margaret White AO**, former Judge of the Queensland Supreme Court and Queensland Court of Appeal, former Royal Commissioner into the Detention of Children in the Northern Territory, and Adjunct Professor, TC Berne School of Law, The University of Queensland.

WHAT WORKS TO REDUCE INCARCERATION

There is no single reform fix to reduce the number of prisoners. However, there are multiple proven, cost-effective reforms that can work together to build pathways away from the justice system. Many of these reforms are already catalogued in many government and non-government reports and reviews.⁴² In addition, there are clear examples and case studies from Australia and overseas that demonstrate the value of approaches led by the community and health sectors in disrupting entrenched criminal justice system trajectories.⁴³ There is also a growing body of more formal research exploring the impact of various models of support.⁴⁴

This report focuses on the evidence in two distinct reform areas:

- 1. Social and community support:** This includes early intervention and prevention; access to person-centred holistic wrap-around support services; place-based culturally modelled support; mental health, social and emotional wellbeing support; alcohol and other drug support; disability support; bail support; supported accommodation; and throughcare and post-release support.
- 2. Justice system:** This includes policing (for instance, first responder models and the use of discretionary powers); courts (specialist and diversionary court models; a tentative restorative and transformative justice opportunities) and imprisonment (therapeutic models of care).

We note there are two other critical justice reform areas (which we only touch on lightly in this report). These are:

- 3. Legislative reform:** Raising the minimum age of criminal responsibility; ending mandatory sentencing; restoring the presumption in favour of bail; allowing discretion for bail decisions in the Children's Court; ending the use of solitary confinement for imprisoned children; ending the use of adults prisons to house children; and embracing a human rights framework.

- 4. Systems changes:** Including, importantly, mechanisms for genuine whole-of-government policy approaches.

Although this report is not focused on the specifics of government reform processes, it is worth noting that the theme that runs through this report – the need for greater investment in evidence-based programs that will break the cycle of reoffending and build safer communities – complements and aligns with the justice reform priorities of several government initiatives as well as the voices of many advocates in Queensland, including Aboriginal and Torres Strait Islander community leaders, peak organisations and community-based service providers.

Specifically, the Queensland Government has allocated \$6 million over two years to establish a Criminal Justice Innovation Office. This office will provide expert advice on system issues, lead evidence-based policy making, and advise the government on system priorities within Queensland's justice system. This includes facilitating the development of innovative evidence-based solutions to reduce the rate of imprisonment and deliver on the government's response to the Queensland Productivity Commissions inquiry into imprisonment and Recidivism.⁴⁵

In addition, the Queensland Government participates in the Commonwealth Justice Policy Partnership and recently announced funding of \$9.4 million over three years to establish a First Nations Justice Office (NJO) within the Queensland Department of Justice and Attorney-General to drive this work. The NJO will develop and implement a co-designed whole-of-government and community justice strategy to address the over-representation of First Nations people in the criminal justice system (as recommended in the first Women's Safety and Justice Taskforce Report). This work sits alongside the Queensland Government's priorities around implementing Path to Treaty⁴⁶ and the Local Thriving Communities model.⁴⁷

The evidence base and parameters of this report

This report explores what keeps people out of prison and provides a road map for Queensland and to move towards a service system that reduces over-incarceration and improves social and justice outcomes for the whole community. A selection of evidence-based Australian and international approaches that have a proven impact in terms of reducing incarceration are overviewed.

There are many excellent programs and services in Queensland and working with people impacted by the justice system, and wherever evaluations exist, we have tried to include these programs. However, in recent years in Queensland, there has been limited investment in evaluation and research of community sector programs and there are barriers for community sector organisations to access government evaluations.

The absence of recent accessible evidence via evaluations in Queensland is not of course evidence that programs are not working. What it does highlight, however, is the importance of supporting and resourcing community-led organisations to implement independent and transparent evaluations. A good culture of funded evaluation will allow the sector to share and build on its excellent work, and to also respond thoughtfully to the ever-present challenges of both implementation and service design.

It is important to note that this report is by no means an exhaustive account of what works. It is intended to provide examples of the alternative approaches that are making a difference and that have been robustly evaluated. The Justice Reform Unit at UQ will continue to coordinate existing research and we welcome any opportunity to learn about additional evaluations and programs that are not outlined in this report.

Examples of these programs are outlined throughout the report. An overview of the principles underpinning best practices is included in **Appendix A**.

Appendix B provides a list of other programs and services that provide support to children and adults at-risk of, or a ready experiencing, involvement with the justice system. The following programs have been identified through conversations with stakeholders in Queensland and, through desk-top research and, in some instances, via evaluation literature. Programs were not included in the body of the report if they did not have a publicly available evaluation, or they had an evaluation completed but the evaluation did not focus on the impact of the project in terms of contact with the criminal justice system.

The Justice Reform Unit at UQ is progressing ongoing mapping work of programs in Queensland and we welcome any further information, evaluations and case studies that people and organisations would like to share with us.

This report is focused on community-led alternatives at multiple points along the criminal justice system trajectory. However, we recognise that these alternatives are only part of the picture in terms of breaking cycles of disadvantage. A ongoing debt to work there is also the need for significant investment in affordable and safe housing, mental health and disability support, alcohol and other drug treatment, employment and education, workforce development, and a range of infrastructure projects in regional and remote communities.

The examples and case studies overviewed in this report are from all around Australia, and also include some international examples. However, we note the unique context of Queensland and when it comes to thinking through implementation. This context includes the structural and systemic issues noted above, as well as the highly politicised justice decision-making environment, particularly in relation to young people in the criminal justice system; high rates and high levels of concern about certain kinds of crime in several Queensland locations; and the ongoing impact of systemic and institutional racism, including discriminatory policing and extraordinarily high rates of incarceration of Aboriginal and Torres Strait Islander people.

JAILING IS FAILING: THE STATE OF INCARCERATION IN QUEENSLAND

Queensland has the second-highest rate of children's incarceration (4.8 per 10,000 children) in Australia, after the Northern Territory.⁴⁸ In terms of raw numbers, more children are incarcerated in Queensland than anywhere else in Australia, with Queensland incarcerating the highest number of children nationally since 2020.⁴⁹ On an average night in 2021–22, there were 267 children imprisoned in the state.⁵⁰ This is significantly higher than jurisdictions with larger populations, including New South Wales and Victoria. Queensland has more than three times as many incarcerated children than Victoria (which has 78 children incarcerated).⁵ The number of children in Queensland prisons also continues to rise. There has been a 41% increase in the children's prison population since 2019–20.⁵² In contrast, over this period, the children's prison population has decreased 34% in Victoria and 24% in New South Wales.⁵³

The adult prison population in Queensland has also dramatically increased in recent years. There are, on average, 9,589 people imprisoned in Queensland, which represents an increase of 63.9% over the last decade.⁵⁴ There has been an increase of more than 3740 adults imprisoned on an average night since 2012–13.⁵⁵

This rise in the number of prisoners in Queensland has been driven by systematic failings and gaps at the individual and policy levels that funnel people unnecessarily into imprisonment, particularly young people experiencing disadvantage. As shown in a recent in-depth analysis of crime in Australia, imprisonment does not have a significant impact on crime rates.⁵⁶ There is no causal relationship between imprisonment rates and crime reduction. At the same time as the rate of incarceration has been increasing in Queensland, there has been a decrease in the rate of offending.⁵⁷ Recorded crime data shows us that in 2012–13, the Queensland rate of offending was 2,175.1 per 100,000. In 2021–22, the rate was 1,761.9 per 100,000.⁵⁸

In addition to an increase in the Queensland prison population, we have seen an increase in the number of adults and children held on remand. In 2012, the adult remand population in Queensland constituted

22.4% of the total prison population.⁵⁹ In 2022, over one-third of adults imprisoned in Queensland were unsentenced.⁶⁰ Remand numbers are even higher for children. According to the Australian Institute of Health and Welfare, 89.0% of children in Queensland prisons on an average night in the June 2022 quarter were being held on remand.⁶ This is important in the context of this report, as there are specific supports, services and approaches for people on bail that have a strong evidence base in terms of reducing reoffending.

Although there are 9,589 adults in prison on average in Queensland, reception and release data provides a more comprehensive picture of the churn within the Queensland prison population. In 2022, 14,528 adults were received into Queensland prisons and 14,241 adults were released over the same period.⁶² Similarly, Productivity Commission data shows there were 1,049 unique children under the age of 17 who were supervised in Queensland prisons during 2021–22.⁶³ These are the numbers we must consider when we are considering what works to reduce the number of people in prison (121 of these children were aged 10 to 13 years old).⁶⁴ The Australian Institute of Health and Welfare notes children across Australia who are incarcerated have on average two receptions into custody over a year. Although data on the actual number of children who flow through Queensland prisons is not as readily available as the data by the Australian Bureau of Statistics on the adult prison population, we can assume (as is the case with adults) that this is significantly higher than the number of children incarcerated, given that short stays, multiple receptions for each child and high rates of recidivism are a reality of Queensland's youth justice system.

Australian Bureau of Statistics (ABS) data shows that the adult imprisonment rate in Queensland is the third-highest in the country (behind Western Australia and the Northern Territory) at 228.9 people imprisoned per 100,000 adults; this is higher than the Australian national average of 200.9.⁶⁵ This rate has increased by 44% over the past decade, which is the most dramatic increase of all states.⁶⁶

Like every other jurisdiction in Australia, Queensland continues to disproportionately imprison first Nations people. The crude adult imprisonment rate for Aboriginal and Torres Strait Islander Queenslanders is 2,236.1 people per 100,000, compared to 151.2 per 100,000 for non-Indigenous Queenslanders.⁶⁷ This means Aboriginal and Torres Strait Islander adults are 14.8 times more likely to be in prison than non-Indigenous adults.⁶⁸ Similarly, the imprisonment rate for Aboriginal and Torres Strait Islander children in Queensland aged 10 to 17 years old is 40.9 per 10,000, compared to 1.8 per 10,000 for non-Indigenous children.⁶⁹ On an average night, two-thirds (66.6%) of children and over one-third (36.4%) of adults⁷⁰ in Queensland prisons identify as Aboriginal or Torres Strait Islander, despite making up only 4.6% of the general population.⁷

We also know that the majority of people in Queensland prisons have been to prison before. According to 2022 ABS data, over two-thirds (68.1%) of people in Queensland prisons have been previously imprisoned.⁷² This rate has increased over time. In 2012, just under two-thirds (60.2%) of people in Queensland prisons had been to prison before.⁷³

Not only is prison ineffective, it is also extremely expensive. The most recent Productivity Commission data shows the annual operating cost of imprisoning adults in Queensland is over \$859 million.⁷⁴ When capital costs are included, this increases to over \$1.1 billion.⁷⁵ For children, the total costs are over \$218 million.⁷⁶ The real direct cost per adult prisoner is \$240.81 per day, equivalent to \$87,896 per year.⁷⁷ For children, this cost is higher at \$2,068.32 per day, equivalent to \$761,507 per year.⁷⁸ This is an incredible investment in a system that is failing.

The responsibility for the persistent overuse of imprisonment cannot be attributed to one side of politics or the other in Queensland. This trend has been replicated across Australia. We have followed the politicised approach of the United States: building more prisons at enormous cost and ultimately failing to reduce reoffending. This situation is compounded through the often relentless tough on crime rhetoric perpetuated in the media, which has the capacity to undermine evidence-based reform efforts.⁷⁹

There are opportunities to build pathways out of the justice system and to improve our service delivery response at every stage across the pre-course and at every contact point in the criminal justice system. Queensland must significantly scale-up programs in the community sector and expand the capacity of the sector to provide people who are caught in the justice system with a range of opportunities to genuinely rebuild their lives – as well as prevent people from ending up in the justice system in the first place.

Instead of committing to additional expensive prison beds, there is an opportunity for the Queensland Government to focus attention and resources on evidence-based programs that work to reduce incarceration and decrease recidivism. The rest of this report is focused on this evidence base and the research that tells us what is working and what we could be doing differently. Over-incarceration is preventable. We need to focus on resourcing evidence-based alternatives and encouraging positive outcomes of policies to build a different kind of justice system.

EVIDENCE-BASED EARLY INTERVENTION AND EARLY CRIME PREVENTION

investment in a wide-variety of community-based early intervention and development crime prevention policies and initiatives is key to preventing offending and diverting children away from the justice system in Queensland.⁸⁰

Early intervention (secondary crime prevention) aims to intervene early in an individual's developmental pathway to address risk factors associated with offending and strengthen protective factors that support engagement in pro-social behaviour.⁸¹ Early intervention commonly occurs early in life, but it can also occur later in life at a crucial transition point on a pathway to offending.⁸² Children who are at-risk of justice system involvement often experience a number of individual, family, peer, school and community risk factors such as disconnection from education, unstable home environments, homelessness and poverty.⁸³ Programs that work to reduce contact with the justice system tend to address a multitude of these factors at once.⁸⁴

Early crime prevention focuses on modifying criminogenic factors in physical and social environments to stop crime before it is committed.⁸⁵ Although there has been some investment in early intervention programs in Queensland, this resourcing has been piecemeal. Primary crime prevention initiatives are acknowledged in Queensland and Australia, despite the demonstrated crime prevention potential.⁸⁶

Queensland Government representatives and other parliamentarians – including the Queensland Premier, the Leader of the Queensland Opposition and members of the Queensland Police Service – have spoken publicly about the importance of early intervention.⁸⁷ In 2020, the Queensland Government released a whole-of-government plan to support children in their early years (zero to eight years old). This plan commits to targeting early intervention and prevention and using evidence-informed programs and services as guiding principles.⁸⁸ In 2021, the *Queensland Police Union National Youth Crime Symposium Report* noted that early intervention is

critical to the achievement of positive outcomes, the changing of behaviours and the reduction of crime, and should be the fundamental platform of any justice program. However, it is clear that the resourcing priority in Queensland has been on tough on crime responses (such as creating more prison beds), despite the evidence that this approach is ineffective⁸⁹ and despite the compounding criminogenic nature of any criminal justice system involvement.⁹⁰

While there are clear motivations to studies that focus primarily on costs, these findings are important in framing the significance of the impact of early intervention and prevention, not just financially, but in terms of a range of social and health wellbeing measures. A study of children at-risk of criminalisation in New South Wales found that 7% of individuals under the age of 25 would account for half the estimated cost of the state's social services by the time they are 40 years old. Additionally, 1% of this cohort would be responsible for 32% of New South Wales justice service costs, highlighting that early intervention targeting a small percentage can reduce future costs significantly.⁹¹

A recent economic analysis of early intervention resourcing in Australia found that one dollar invested in early childhood education yields a return of two dollars.⁹² The cost of late intervention in Australia has been estimated to be \$15.2 billion per year, including \$2.7 billion (18%) for youth crime.⁹³ Research findings support investing in capacity-building strategies that scale-up community-based approaches to early intervention. Building on the success of relative value-added and economic efficiency community-led innovations that create the conditions for healthy development pathways early in life can be a path to larger-scale crime prevention.⁹⁴

There remains a genuine opportunity in Queensland to further invest in early intervention responses and build capacity for sustainable, scalable, place-based primary youth crime prevention.⁹⁵ Alongside this investment, there is the need for adjacent research in this area so that there is sufficient high-quality

data and evaluations that can drive evidence-based policy and investment. There is a particular need for longitudinal studies, using some form of matched-

group comparisons at the baseline to determine the impact of existing and new early intervention programs to reduce offending and improve

community safety.

Evidence-based case studies: **What works in early intervention and prevention?**

You Got This (Queensland, 7 Locations)

The University of Sunshine Coast conducted an independent evaluation of the Johnathon Thurston Academy 'You Got This' initiative, which aims to boost courage and self-belief in young people aged nine to 16 years of disadvantaged background. The Queensland Government noted the success of the program, outlining that the evaluation (based on the data of 39 participants, and also interviews with staff members and stakeholders) found successes in diversion, school re-engagement and a reduction of offending. The evaluation found there was a reduction in the number of offences committed by the young people who were at-risk and who participated in the program in Cairns. Nine out of 10 young people with a prior offending history who participated in the program in Cairns did not reoffend within nine months after completing the program.⁹⁶

Home Visitation Programs (United States)

Pre-natal and infancy home visitation programs show positive outcomes in terms of improving the health and wellbeing of children and families and reducing contact with the criminal justice system.⁹⁷ Within these programs, health professionals visit new parents (typically mothers or expected mothers) to provide support, care and education pre- and post-birth. The most common home visiting programs involve sustained nurse home visiting (SNHV). The Emra Nurse-family Partnership program is an evidence-based SNHV program that originated in the United States.⁹⁸ This program has been shown to have sustained effects on outcomes for children and mothers with several randomised-controlled trials in the United States, the Netherlands, and the United Kingdom.⁹⁹ In the United States, young girls whose mothers participated in the program were less likely to be arrested than those whose mothers did not participate in the program.¹⁰⁰ In addition, participation in the program was shown to be associated with significantly reduced reports of child abuse and neglect, among other benefits.⁹⁹ As highlighted in Appendix B, Queensland has implemented a version of this evidence-based program.

Parenting Programs (Australia and International)

The parenting programs found to be the most effective at reducing antisocial behaviour and youth crime include parent-child interaction therapy, the Triple P (Positive Parenting Program) and the Incredible Years Parenting Program.⁰² These programs typically involve training and education that supports parents to develop positive parenting skills and strong relationships with their children.⁰³ Systematic reviews of parenting program evaluations have estimated such interventions have resulted in anywhere between a 34–48% reduction in problematic child behaviour.⁰⁴

The Triple P was developed in Australia and is now delivered around the world including in Queensland where it is free for all parents and carers of a child who is aged 16 years or younger.⁰⁵ There is an abundance of research demonstrating the effectiveness of the Triple P in addressing risk factors for offending. In addition, the Triple P has been recognised as a cost-saving intervention in the Queensland context.⁰⁶ The program has the potential to save the government and the taxpayer money by reducing the costs associated with conduct disorder and problematic behaviour.

Mentoring Programs (International)

Internationally, evaluations have found that mentoring programs are effective at reducing offending and supporting children and young people to engage in prosocial behaviour.⁰⁷ One study that reviewed 25 experimental and quasi-experimental evaluations of mentoring programs and their impact on delinquency found a 19–26% reduction in behaviours of concern. As outlined in Appendix B, there are mentoring programs (yet to be evaluated) in Queensland that support children and young people at-risk of antisocial behaviour.⁰⁸

After-School Programs (International)

Evaluations have shown that after-school programs that incorporate skills training, mentoring and/or academic components may reduce antisocial behaviour. Two robust systematic reviews of after-school program evaluations estimated between a 6–14% decrease in antisocial behaviour among the program participants.⁰⁹

Anti-Bullying/Anti-Cyber Bullying Programs (International)

Bullying is a known predictor of future offending and violence. Anti-bullying and anti-cyberbullying programs have the potential to reduce youth offending. There are various examples of programs in Australia and overseas that aim to intervene early (most during the school years) to reduce bullying. Several systematic reviews of anti-bullying and anti-cyberbullying program evaluations have estimated such interventions result in a reduction in bullying anywhere between 10–35% among the program cohort.¹⁰

Child Skills Training and Behavioural Change Programs (Australia and International)

In young people, the pre-frontal cortex (the part of the brain that controls executive functioning) is still developing. This means that children and young people are still developing the cognitive processes required to plan, control impulses and weigh-up the consequences of decisions before acting. There are various examples of programs that aim to build children's skills and cognitive abilities in areas that are often related to antisocial behaviour and offending (for example, self-control, impulsiveness, perspective and delayed gratification). Systematic reviews examining randomised-controlled trials of child skills training programs reported such interventions decrease antisocial behaviour by anywhere between 24–32% among the participants.² Similarly, systematic reviews of interventions that involve cognitive-behavioural therapy have shown effects on youth offending with anywhere between a 21–35% reduction in recidivism among the participants.³

The Queensland Government runs several evidence-informed behavioural change intervention programs for young people in the youth justice system including Rethinking our Attitude to Driving (ROAD),⁴ Changing Habits and Reaching Targets (CHART), Aggression Replacement Training (ART), Re-navigating Anger and Guilty Emotions (RAGE) and Emotion Regulation and Impulse Control (ERIC).⁵

Sport Programs (Australia and International)

There are limited evaluations in Australia with sound designs that evaluate the effectiveness of sport programs in preventing and reducing crime. However, a recent systematic review and meta-analysis of 13 controlled-group evaluations (two in Australia and the remainder overseas) found sport programs significantly protect against offending behaviour and related antisocial attitudes as well as significantly increase self-esteem and psychological well-being.⁶

Resolve (Logan, Qld)

Resolve is an early intervention program for young people aged 10 to 16 years old who are at-risk of justice system involvement. The program is delivered in Logan through a joint partnership between Youth and Family Service, Griffith University, Overflow Foundation and Queensland Police Service. The program includes community outreach, diversionary activities and intensive case management that uses a flexible, relational and strengths-based approach. The program also offers targeted and flexible individualised alcohol and drug interventions. A six-month review of the program showed early positive outcomes, with the majority of young people who exited the program meeting their goals or needs (79%), improving their level of hope (94%), improving their life skills (82%) and improving their well-being (88%). Griffith University is currently undertaking an outcome evaluation of the program.⁷

The Perry Preschool Project (United States)

Preschool programs provide early intervention and support for children at a crucial transition point in their development. There is evidence that certain behaviours in childhood are indicative of future offending.⁸ In the United States, the Perry Preschool Project is an evidence-based program that supports children from disadvantaged backgrounds to prevent the onset of offending. The Perry Preschool Project provides high-quality preschool education to children aged three and four years old in small school-based sessions delivered by qualified teachers. In addition, teachers conduct a weekly home visit to support parents with at-home learning. An evaluation of the Perry Preschool Project found the program produced sustained effects well into adulthood. Positive outcomes include improved educational attainment, fewer teen pregnancies, reduced likelihood of spending time in prison, lower arrest rates for violent crimes, higher median incomes, and reduced likelihood of receiving government assistance.⁹ As outlined in Appendix B, Queensland has implemented kindergarten programs that share similarities with the Perry Preschool Project.

Communities That Care (Australia and International)

There is strong evidence that primary prevention models – such as the Communities That Care (CTC) model²⁰ – are successful in mobilising communities to address factors that increase the risk of justice system involvement. These risk factors include harmful substance use, low academic achievement, early school leaving and violence. A recent study evaluated the impact of the CTC model across communities in Victoria, Australia, between 2010 and 2019. This study supports the existing evidence that shows that CTC prevents youth crime at a population level. The findings demonstrate significant reductions in crimes associated with CTC including a 2% annual reduction in risk for crimes against persons and a 5% annual reduction in risk for crimes of property and deception.²

Fast Track (United States)

Fast Track is an evidence-based early intervention program in the United States that focuses on disrupting the school-to-prison pipeline. The program delivers a series of multi-level, developmental and age-appropriate interventions to support children (from the age of five onwards), families and schools over a long-term developmental period. A 10-year longitudinal study found children who were randomly assigned to the intervention displayed a reduction in violent offences (31% reduction) and drug offences (35% reduction) as well as significantly fewer internalising problems, externalising problems and alcohol and other drug use.²² Fast Track costs \$58,000 per child over the 10-year investment period, which is cheaper than incarcerating one child for just one year.²³

Youth Advocate Program (United States)

The Youth Advocate Program was developed in the United States. It is a strengths-based intensive support and advocacy program that provides individualised and wrap-around support to young people who are at-risk of, or already experiencing, involvement with the justice system. Evaluations have shown the program is more cost-effective than incarceration, it reduces justice system involvement, and improves other factors in children's lives.²⁴ The Queensland Government has funded a 12-month trial of the Youth Advocate Program on the Gold Coast for children aged 10 to 17 years old.²⁵

Youth Partnership Project (Western Australia)

The Youth Partnership Project (YPP) brings together state government, local government and the community sector in a place-based, collective impact approach to youth justice. The project focuses on the early identification of young people aged 8 to 12 years old with complex needs, and the delivery of targeted community services to prevent their involvement with the justice system.

The Armadale Youth Intervention Partnership, part of the YPP, achieved a 50% reduction in reoffending for those who completed the program.²⁶ Evaluation of YPP social outcomes used modeling to estimate that without the intervention, participants were likely to cost the government ~\$3 million in the future. It concluded that if the YPP Youth Justice Model reduces participants' future reliance on government by 10%, the program almost pays for itself, with ~\$300,000 of reduced government costs.²⁷

Youth Crime Action Plan (New Zealand)

The New Zealand 10-year Youth Crime Action Plan²⁸ is an approach to reducing youth offending rates, with a focus on the overrepresentation of Māori people in the New Zealand justice system. The program has sought to have a genuine partnership with communities by involving Māori communities, frontline practitioners and schools. The program has involved working with 20 communities across New Zealand and to develop their own solutions to youth offending problems.²⁹ In 2015, the New Zealand Justice and Courts Minister reported that the number of young people (aged 10–16) appearing in court had more than halved since 2007.³⁰ This approach is similar to that undertaken in the evidence-based Communities that Care program.

Fire Project (Cairns, Qld)

In 2022, James Cook University conducted an evaluation of the Fire Project, which is an early intervention and prevention initiative delivered by Harbrow Mentoring in partnership with Queensland Police. This evaluation notes that the program diverted 1341 young people from the CBD area in Cairns who were at-risk of offending behavior over the 20 weeks it was operational. The evaluation recommended that the program be improved by establishing a safe place in Cairns for young people to engage in structured activities and developing a host plan with stakeholders to ensure young people and their families receive the appropriate supports and services.³

Evidence-based tertiary responses For children and young people

Children – especially young first Nations children – need off-ramps from the criminal justice system into effective community-based supports and interventions. Tertiary prevention programs occur after a young person has offended or after a person has become a victim of crime, with the aim of preventing recidivism and repeat victimisation.³² Like adult programs, community-based services and strategies for children and young people in contact with the justice system encompass diversion and sentencing alternatives, non-prison programs and post-release support. Developmental and age appropriate options consider the specific needs of young people and their families.

According to the Queens and Government, 17% of children who have offended are responsible for 48% of a youth crime in Queens and.³³ This is consistent with existing evidence that shows a small proportion of people who offend are responsible for a disproportionate amount of a crime.³⁴

In 2023, the Queens and Parliament passed the Strengthening Community Safety Bill 2023 (Qd), which introduced a new offence (breach of bail as an offence); this will lead to more young people in prison, which will exacerbate the existing youth justice crisis. The Queens and Government has already assessed that over half of all children (51%) remanded in custody in Queens and prisons have not committed serious repeat offences.³⁵ This suggests that too many children are already being unnecessarily funneled into prison, rather than being diverted into community-based alternatives that wrap supports around children

and their families to prevent future offending. The effectiveness of community-based tertiary interventions in responding to youth offending (including serious and violent offending) is well documented in the literature.³⁶

Existing solutions to repeat offending among young people are top-down rather than community-based. The Queens and Government established a Youth Justice Taskforce to provide a whole-of-government response to serious repeat offending.³⁷ While many of the initiatives implemented under this response (see Appendix B) have merit and potential, they are largely tertiary (rather than preventative) and government-led; these initiatives include multi-agency collaborative panels, intensive case management, Transition to Success and the Youth Co-Responder teams.

The Strengthening Community Safety Bill 2023 (Qd) embeds a punitive approach rather than an evidence-based solution. Key stakeholders, including the Queens and Police Union, have noted that alternative approaches will be more effective.

The Queens and Police Union National Youth Crime Symposium report noted that, 'There was a powerful and united view that the punitive model for children is not effective. There has to be, and is, a better way. The research and best-practice model already exist. We do not need to reinvent the wheel to get the best outcomes. This report recommended that the primary, overriding aim of [youth] justice strategies should be to provide alternatives to the criminal justice process and keep [young people] out of court and custody.'

Griffith Youth Forensic Service (Qld)

Griffith University delivers the Griffith Youth Forensic Service in Queensland, which provides state-wide multi-systemic and specialist assessment and treatment services for young people adjudicated for sexual offences. In 2015, a study evaluating the impact of the treatment provided by this service found it was equally effective at preventing sexual recidivism for Aboriginal and/or Torres Strait Islander and non-Indigenous youth. It also prevented violent and other recidivism for non-Indigenous youth living in remote and non-remote locations.³⁸

Ted Noffs Foundation (Qld and NSW)

The Ted Noffs Foundation runs a residential cohort and other drug treatment service called Program for Adolescent Life Management (PALM) for young people aged 13 to 18 years old with problematic substance and crime-related behaviours. A recent evaluation of this program analysed three pre-referral trajectories of convictions (no or low, moderate or high-frequency convictions) for over 891 young people referred to the PALM service in New South Wales. This study found treatment was associated with a significant decrease in convictions for the high-frequency conviction trajectory, with 4.36 fewer convictions on average over five years post-referral.³⁹ The Queensland Government has allocated \$12.7 million to build a 10-bed PALM residential facility in Queensland, which will be located in the Moreton Bay Region and will be available to young people aged 14 to 17 years old. The Ted Noffs Foundation also runs Street Universities in two locations in Queensland (Logan and Gold Coast) to support young people aged 12 to 25 years experiencing disadvantage.⁴⁰ In February 2023, the Queensland Government committed an additional \$4.2 million to establish a Ted Noffs Foundation Street University in Townsville.⁴

Transition to Success (Qld, 20 Locations)

In 2018, Deo tte undertook a six-month outcome evaluation of the Queensland Government Youth Justice Transition to Success (T2S) voluntary vocational and therapeutic service for young people.⁴² Following this, Deo tte released further analysis evaluating outcomes from the program over a 12-month reporting period. This analysis found, when compared with a comparison group, T2S participants with a youth justice history had a lower reoffending rate (58% compared to 73% reoffended), a reduction in custody nights (0.7 decrease in average custody nights compared to a 1.7 increase in average custody nights) and a reduction in the average supervision days (1.4 decrease in average supervision days per month compared to a 1.9 increase in average supervision days per month). Additionally, the evaluation found for every \$1.00 spent on the T2S program, the program results in \$2.13 of benefits.⁴³ The Queensland Department of Children, Youth Justice and Multicultural Affairs reports that it has allocated \$61.5 million towards delivering this initiative in 20 locations across Queensland.

Intensive Case Management (Qld, 15 Locations)

In February 2023, the Queensland Government published a report summarising findings from a 2022 Nossal Group evaluation of the government-funded Intensive Case Management (ICM) program. ICM is modelled on evidence-based practice frameworks including multi-systemic therapy,⁴⁴ Collaborative Family Work,⁴⁵ the Good Lives Model⁴⁶ and Strengthening Families Protective Factors.⁴⁷ This evaluation found 42% of ICM clients did not reoffend (some for as long as three years post-intervention). Additionally, the evaluation showed ICM resulted in a 51% reduction in the frequency of offending (in comparison to a 29% reduction for young people receiving alternative youth justice supports) and a 72% reduction in the proportion of crimes against the person (in comparison to a 13% reduction for young people receiving alternative youth justice supports). It is estimated that the program results in an \$8.1–15.7 million saving through reduced frequency and severity of offending and reduced time in custody.⁴⁸ The Department of Children, Youth Justice and Multicultural Affairs reports that it has allocated \$56.8 million towards delivering this program in 15 locations in Queensland. In February 2023, the program's capacity was expanded in seven of the existing locations to increase the number of young people who can be supported.⁴⁹

Supervised Community Accommodation (Qld)

In 2019, Griffith University conducted an evaluation of the Supervised Community Accommodation (SCA) program for young people in Queensland. This evaluation found SCA provided young people with a high level of service delivery that addressed the drivers of offending and provided long-term safe and stable accommodation in a home-like environment. This evaluation highlighted the relatively strong integration of case management partnerships between youth justice staff and non-government service providers operating the facilities.⁵⁰ In 2020, Ernst & Young produced a follow-up evaluation and comparative analysis of SCAs in comparison to other residential care and bail support services. This evaluation concluded that SCA and residential care are higher in cost than bail support programs due to offering housing 24 hours a day, seven days a week. It also found that over 70% of young people did not offend while residing at SCAs but 83% of young people reoffended after exiting the program.⁵¹ Following this review in January 2021, the Queensland Government ceased operation and funding of SCA facilities. There is an opportunity to adopt lessons learnt from this supported bail accommodation model in Queensland and evidence-based models in other jurisdictions to establish alternative community-based accommodation options that support children to comply with the relevant conditions and address the drivers of incarceration. Importantly, future alternative residential options in Queensland must be designed and delivered in collaboration with Eiders, First Nations service providers and local communities.

Weave (Creating Futures) Evaluation (NSW)

This independent three-year evaluation of the Weave Creating Futures program (which provides intensive, culturally safe case work support to Aboriginal young people on release from custody) found that only 4.11% of the 93 young people who engaged in the program over the period of the evaluation reoffended. This compared to BOCSAR reoffending rates for young Aboriginal people, which are 57.30% for a comparable cohort.⁵²

Backtrack Youth Services Impact Report (NSW)

Over the last 10 years, the intensive, holistic and relational case work provided by Backtrack Youth Services has supported 1,000 children and young people at-risk of criminal justice system involvement or who are entrenched in the justice system. An impressive 87% of the young people who leave Backtrack transition into employment or education. A University of New South Wales report about the impact of the program on the local community in Armidale found a 35% reduction in crime because of the engagement of young people in the program.⁵³

A Place to Go (NSW)

The A Place to Go pilot has been operational in the Nepean Police Area Command and Parramatta Children's Court since November 2018. The program aims to improve supports and deliver a better service response for 10 to 17-year-olds in contact with the justice system, with a focus on young people on remand. It draws on services from across New South Wales Government and non-government service providers to deliver a coordinated and multi-agency service solution that can support young people to change their life trajectory. A Place to Go uses a young person's contact with police and/or the court as an opportunity to intervene early and link them with appropriate community supports and services, court liaison staff, cross-agency panels and dedicated short-term transitional accommodation. An independent evaluation found that young people were supported in finding stable and appropriate accommodation, accessing health services, removing barriers to education and connecting with their communities.⁵⁴

Focused Deterrence (United Kingdom)

Internationally, focused deterrence strategies have been shown to reduce crime in circumstances where a small cohort of people are responsible for a disproportionately large amount of crime. Focused deterrence works by gaining an understanding of the drivers behind offending and implementing appropriate interventions that combine police engagement, community mobilisation and social service responses. It involves directly communicating the consequences of continued offending, while also ensuring required social services are available to the target groups or individuals. A systematic review of 24 evaluations on focused deterrence in the United Kingdom found it contributed to a reduction in crime by anywhere between 33–43%.⁵⁵ Exploration of focused deterrence strategies in Queensland must ensure appropriate representatives (such as youth workers or Eiders) deliver deterrence messaging and connect young people with relevant supports.

ALTERNATIVES TO POLICING

The way policing operates around Australia has a significant impact on imprisonment rates. Reducing the number of people in prisons requires an examination of the front end of the justice system, including the role, function and operations of police. To stem the flow of people unnecessarily funneled into the prison system, there is a need to rethink policing, particularly in communities that are over-policed.

A significant proportion of police resources and police personnel (some estimates are as high as 65%) are devoted to street policing.⁵⁶ The overwhelming majority of contact with the criminal justice system occurs through interactions with police on the street.⁵⁷ The nature of these interactions often determines the extent to which involvement in the criminal justice system is escalated or de-escalated, and whether a person is arrested, charged and subsequently imprisoned.⁵⁸

The current nature of policing results in many people being unnecessarily or inappropriately funneled into the criminal justice system, rather than being free to go about their lives while receiving the support, care and connection they require in the community. This is especially the case for First Nations communities, other racialised people,⁵⁹ people with disability, people with mental health conditions, and people living with other forms of disadvantage.⁶⁰ Of particular concern is the way in which policing activity in Australia can both accelerate and entrench contact with the criminal justice system for people who are not engaged in activity that puts the community at risk.

Moreover, the nature of police interaction and engagement itself can be the exacerbating incident that results in activity or conduct that amounts to a criminal offence, resulting in charges being laid.⁶ The following are examples of policing activities that cause particular problems for people experiencing marginalisation:

- » Preventative and race-based policing that targets particular groups of people, especially Aboriginal and/or Torres Strait Islander communities and other racialised groups⁶²
- » Police focus on enforcing minor and public order offences resulting in an escalation of conflict and a confrontational atmosphere
- » Discriminatory exercise of police discretion relating to the decisions to stop and search, arrest and charge.

Police are frequently called upon to perform a first responder role that would be better performed by social and community support services and networks. Due to an under-resourced social sector, police are often called upon to manage people in need of support services, rather than such people receiving the care, support and assistance that is required in the community. Too often, people with mental health conditions, disabilities and other forms of disadvantage are criminalised in the interactions with police, when alternative pathways outside of the criminal justice system are not available.

In Australia and internationally, there are alternative modes of positive policing where interactions with police result in improved outcomes in terms of both community safety and reducing the likelihood of criminal justice system involvement.

Evidence-based case studies: What works in alternative policing models?

Beat Policing Pilot Project (Toowoomba, Qld)

In 1993, the Criminal Justice Commission and Queensland Police Service established a two-year Toowoomba Policing Pilot Project, which focused on training community policing methods in Queensland. An evaluation of this pilot project found community policing increased community confidence and satisfaction with police, and decreased calls for service during the trial period.⁶³

Mental Health Co-Responder (Qld)

In partnership with the Queensland Police Service (QPS), mental health co-responder models were established in Cairns in 2011⁶⁴ and in the West Moreton region in 2017. In 2019, the model was expanded to service the metropolitan south region and include Queensland Ambulance Service (QAS). Under this model, a team of experienced mental health clinicians are integrated either into a QPS or QAS first responder unit, which enables people experiencing a mental health crisis to be assessed and receive on-site intervention in the community.

A 2022 Queensland Government review of this program found the mental health co-responder model enabled timely and appropriate mental health care to be provided to people presenting to QPS and QAS in a mental health crisis, and that the program builds the capacity of QPS and QAS to respond to mental health crises when co-responder clinicians are not available. This evaluation further found the majority of participants (74%) were diverted from custody and the emergency department. Of the people who interacted with the program, 45% did not require further assistance after the crisis was resolved, 17% were referred to primary care or community-based services, and 12% were referred to mental health services. Only 2% of people were taken into custody, while the remaining 24% of people were transported to the emergency department.⁶⁵ This model has since been expanded to cover other regions in Queensland such as Townsville⁶⁶ and Mackay.⁶⁷

Domestic and Family Violence Co-Responder Models (Qld)

In Australia and overseas, co-responder models that incorporate specialist domestic and family violence (DFV) workers with police responses have shown to improve the quality of services provided at incidents and improve access to additional supports. In January 2021, the Queensland Police Service (QPS) commenced a collaborative project with the Domestic Violence Action Centre where a specialist was co-located with the Toowoomba QPS station. In April 2022, Queensland University of Technology Centre for Justice published an evaluation of this project, which concluded that the co-responder model improved the experience and integrated response for people experiencing DFV in Toowoomba. Other reported benefits included emotional support, information sharing, communication, efficacy, education, access to networks, and improved police legitimacy.⁶⁸ Similar co-responder models have since commenced in other locations across Queensland including Logan,⁶⁹ Brisbane and Ipswich.⁷⁰

Police Force Mental Health Co-Response Trial (WA)

In January 2016, the Western Australia Police Force implemented the Western Australia Police Force Mental Health Co-Response (MHCR) Commissioning Trial. The MHCR involved mental health practitioners co-located with police at the Police Operations Centre, and two mobile teams operating in north-west metropolitan and south-east metropolitan districts and the Perth Watch House. Mental health practitioners were involved at each stage of a police response to and management of people experiencing a mental health crisis. An independent evaluation of the trial found that it had improved the safety and wellbeing of police and mental health consumers and increased collaboration between the relevant services. Mental health consumers and families, carers and supporters saw the model as a considerable improvement over the traditional police crisis response. Based on the success of the trial, in 2019 the model was expanded to cover the whole Perth metropolitan area.⁷

Cooperative Initiatives – Redfern Police and Tribal Warrior (NSW)

Several cooperative initiatives between police and the local community have been introduced in Redfern, Sydney. In 2009, Redfern Police, Aboriginal community leaders and Tribal Warrior Aboriginal Corporation, instigated the Clean State Without Prejudice program. In 2016, the Never Going Back program was implemented with the additional assistance of Long Bay Correctional Complex General Manager. A 2016 review found the programs were having significant positive effects, including reductions in reported crime (particularly robbery and burglary), increased community confidence in police and enhanced resilience of communities and at-risk groups.⁷² The principles underlying the success of the programs were:

1. Treating community members with respect, giving them a clear voice that is listened to by police, giving community members explanations for police activity and decisions, and using respectful and fair approaches towards community members.
2. Enhancing trust between police and community.
3. Police familiarity with key leaders and community collaborators to assist with the design of programs that will have the greatest influence in communities.

Aboriginal Community Patrols (Australia)

There are over 130 Aboriginal community patrols in operation across Australia in metropolitan and rural locations.⁷³ Patrols operate without police powers and rely on mediation to move people on from risky situations. They rely on cultural authority as well as the local knowledge of Aboriginal families and issues to navigate the way through and resolve situations which may, in the hands of state authorities, deteriorate.⁷⁴ These patrols work to keep people safe, assist in finding people accommodation and provide people with referrals. While each has a different focus depending on the local need, they work with people to encourage and support them towards safer behaviours and to find safe accommodation. They also work to keep women safe from violence and discourage violence through their presence and the respect they carry in communities. These models operate from a basis of caring for the community, not criminalising them. They provide healthy role models for community members and their work reduces contact between Aboriginal people and the police.⁷⁵ The patrols have made a significant contribution to crime reduction and community safety strategies. Several favourable evaluations have found that the Patrols have resulted in reduced levels of offending, reduced fear of crime and reductions in alcohol and other drug-related problems. There is also evidence to suggest significant cost savings for key justice, health, and education agencies from the presence of community patrols.⁷⁶

Aboriginal Community Liason Officers (Australia)

The Royal Commission into Aboriginal Deaths in Custody (RCAD/C) recommended that jurisdictions improve relations between police and Aboriginal people by appointing police liaison officers. Aboriginal Community Liaison Officers (ACLOs) play a pivotal liaison role between the relevant local Aboriginal community and police. They are community representatives within the organisation. In consultation with the community, ACLOs:

- » Provide advice to senior police members on local Aboriginal issues
- » Encourage Aboriginal communities to engage with police members to resolve issues
- » Help to develop and deliver appropriate training programs.⁷⁷

In its Pathways to Justice inquiry the ALRC received several submissions from Aboriginal Legal Services in the Northern Territory, Western Australia, New South Wales, and Victoria regarding the positive contribution from ACLOs in brokering connections between police and the community, with several noting the need for ACLOs to be stationed at all police stations and the need for them to be available after hours and on weekends.⁷⁸

Lead Bureau (United States, Multiple Jurisdictions)

Law enforcement assisted diversions is a community-based diversion approach that uses a harm-reduction lens with the aim of reducing involvement in the criminal justice system and improving community safety. Case managers work closely with police, prosecutors, and communities to provide alternative diversionary pathways that focus on addressing the drivers of contact with the criminal justice system. People involved in lead programs were 58% less likely to be arrested (compared to people in a control group who were not participating in lead programs).⁷⁹

CAHOOTS (Crisis Assistance Helping Out on the Streets) (Eugene, Oregon, United States)

CAHOOTS is a different first responder model that has been running for more than 30 years. It is a mental health-crisis intervention program founded in 1989 by the Eugene Police Department and White Bird Clinic, a non-profit mental health crisis intervention nonprofit. Calls to 911 related to drug use, disorientation, mental health crises and homelessness are routed to CAHOOTS.

Staff members respond in pairs; usually one has training as a medic and the other has experience in street outreach or mental health support. Responders attend to immediate health issues, de-escalate, and help formulate a plan, which may include finding a bed in a homeless shelter or transportation to a healthcare facility. The service operates 24 hours a day. CAHOOTS diverts close to 8% of all police calls, reducing the load on the police department. Evaluations of CAHOOTS have found it to improve access to health and welfare services⁸⁰ as well as saving an estimated \$8.5 million annually in public safety spending.⁸

Portland Street Response (Oregon, United States)

Portland Street Response (PSR), a program within Portland Fire & Rescue (P&R), assists people experiencing mental health and behavioral health crises. The team is made up of mental health crisis responders, community health medics, community health workers, and peer support specialists. In their outcome evaluation it is noted that, in the six months between April and September 2022, PSR responded to 3,228 incidents. This represented a reduction of more than 3.2% of total calls to police; an 18.7% reduction for the police in non-emergency responses and reduced the numbers of people called out to emergency departments. Most people were responded to by PSR, with only 1.9% of all calls resulting in a hospital admission.⁸²

The Behavioural Health Emergency Assistance Response Division, B-HEARD (New York City, United States)

The B-HEARD Team is an alternative first responder model in New York City. Responders use their mental health expertise in crisis response to de-escalate emergency situations and provide immediate care. Evaluation of the pilot has found that the project reduces unnecessary transports to hospitals, increases connection to ongoing mental health care and reduces the number of times police respond to 911 mental health calls. In the 12 months to June 2022, there were approximately 11,000 mental health 911 calls in the pilot area. Of people assisted by B-HEARD:

- » 54% were transported to a hospital for additional care – (compared to 87% under the traditional response)
- » 36% were served in their community
- » 24% were served onsite, including de-escalation, counseling, or referral to community-based care
- » 12% were transported to a community-based healthcare or social service location.⁸³

Pre-Charge Diversion (International)

A 2018 review of 19 studies evaluated the effects of police-initiated diversion programs on re-offending behavior, compared to traditional system processing. The review summarizes evidence from four countries – the United States (11), Canada (four), the United Kingdom (two) and Australia (two). The general pattern of evidence suggests that police-initiated diversion reduces future offending behavior of low-risk youth relative to traditional processing. Assuming a 50% reoffending rate for the traditional processing condition, the results suggest a reoffending rate of roughly 44% for the diverted young people. The findings from this systematic review support the use of police-initiated diversion for low-risk youth with limited or no prior involvement with the juvenile justice system.⁸⁴

ALTERNATIVES TO MAINSTREAM COURT PROCESSES

The moment that a person attends court is a critical point in the justice system process. The outcome of a court process, and the process itself, have the capacity to either further entrench someone in the justice system, or provide a springboard out. There is a significant evidence base supporting a ternative, diversionary, specialist, restorative and problem-solving court processes. These alternative court options should be expanded throughout Queensland, particularly in regional and remote areas.

Alternatives to mainstream court processes, including restorative and transformative justice, should be available to a much larger cohort of people who come into contact with the court system. Although there are complexities and challenges involved in the implementation of alternative models, the principles on which they are based, and the bulk of the evidence

evaluating their outcomes tells a compelling story in terms of the utility. On the other hand, mainstream court processes often fail to address the drivers of incarceration. There are limitations with mainstream courts recognising or accommodating the unique needs of people experiencing marginalisation and disadvantage. This is especially the case for people with disability, mental health conditions, and for First Nations communities. Mainstream courts are also limited in their capacity to divert people from the criminal justice system. They are limited in their abilities to address the underlying, complex, and compounding disadvantages that steer people towards the justice system. They are also often limited because they do not have access to the services, supports and programs in the community that are fundamental when it comes to allowing magistrates to consider alternative options.

Evidence-based case studies:

What works in alternative court processes?

In-Court Diversion

In-court diversion programs divert people from the criminal justice system at the point a case comes before a court. These procedures enable matters to be resolved in various ways outside traditional court processes and outcomes. Many court-based programs allow for diversion before the case is heard (otherwise known as pre-plea diversion). In some cases, the outcome of the diversion program influences whether or not someone has the matter heard in court, and in some cases whether or not someone spends time in prison.

The key objective of this process is to reduce a person's contact with the criminal justice system at an early stage and instead provide appropriate therapeutic interventions. This includes addressing factors related to offending, and in some circumstances allowing for the participation of victims in the process.

In-court diversion to practice, alternative programs aim to provide opportunities to address some of the underlying causes of contact with the justice system (including harmful use of alcohol and other drugs, harmful gambling, mental illness, cognitive impairment, poverty, and disadvantage) and reduce the likelihood of continuing contact with the criminal justice system.

Evaluations have found in-court diversion programs are effective at reducing contact with the justice system, reducing imprisonment, and facilitating access to support and treatment. The Magistrates Court of Victoria noted that participants in its In-Court Diversion program have reduced likelihood of re-offending, avoidance of a criminal record, and increased access to supports, counselling and treatment.⁸⁵ Evaluations of the Magistrates Early Release into Treatment (MERT) program in New South Wales have found reduced likelihood of reconviction⁸⁶ alongside increased health and wellbeing.⁸⁷ Evaluations of the Court Integrated Services Program (CISP) and Bail Support Diversion in Victoria found the program has reduced the number of defendants remanded, contributed to the successful completion of bail, reduced likelihood of re-offending and likelihood of homelessness.⁸⁸ A recent evaluation of the Australian Capital Territory sentencing list also found positive outcomes, reporting early indications of reduced offending, as well as positive shifts with regard to alcohol and other drug use and improved outcomes in terms of social reintegration.⁸⁹

Pre-Court Diversion for Children (Australia)

Children and young people may undertake pre-court diversion that involves an intervention (for example they are required to participate in a formal diversion program) or no intervention (for example they just receive a caution, reprimand, or warning).⁹⁰ Systematic reviews of studies that compare children who were diverted with children who were processed through formal court proceedings show pre-court diversion is associated with a decrease in recidivism anywhere between 9–36%.⁹¹ Pre-court diversion programs that include services and supports have been found to be significantly more effective than diversion on its own.⁹²

A 2011 study in Queensland found that in comparison to children who were processed through the court on the first contact with the justice system, children who were cautioned for the first contact were significantly less likely to have repeated contact with the justice system (as well as less frequent and less serious re-contact). This study also found that, when compared to non-indigenous young people, First Nations young people were less likely to be diverted to cautioning for the first contact and less likely to be diverted by police for conferencing for the second, third and fourth contact with the justice system. This study noted there is a particular need to undertake rigorous evaluations of diversion programs to better understand what programs are working and could be expanded across the state.⁹³

Children's Court Youth Diversion (Victoria)

In Victoria, the Children's Court operates a Youth Diversion Service based on restorative justice principles that aim to assist participants to take responsibility for the actions, repair harm and increase insight into the impacts of the offending upon the victim, the family, and the community. Children and young people can have court proceedings adjourned for up to four months to participate in diversion programs or services. They must acknowledge responsibility for the offence. An evaluation report found that the program was successful in diverting young people from the formal justice system. The magistrates working across the pilot sites for the program uniformly agreed that it provided them with an important additional option to the decision-making process. All stakeholders and young people agreed that the program offered a positive alternative and filled an important gap to help keep the young people diverted from the formal justice system.⁹⁴

Community and Neighbourhood Justice Centres

Community justice courts and centres typically focus on particular neighbourhoods, types of offences and crimes and provide holistic support. The community justice model offers a holistic, wrap-around suite of services to support individualised contact with the criminal justice system and address the causes of offending. This includes engaging participants to appropriate social and health services and programs.

The most high-profile and well-evaluated example in Australia of a community justice approach is the Neighbourhood Justice Centre (NJC) in Canningwood, Victoria. A 2015 evaluation conducted by the Australian Institute of Criminology (AIC) found:

- » The NJC had 25% lower rates of reoffending than other Magistrates Courts in Victoria
- » Participants who went through the NJC were three-times less likely to breach community corrections orders; and
- » Participants who went through the NJC demonstrate lower breach rates for intervention orders.⁹⁵

Restorative Justice Conferencing for Children And Adults (Qld and New Zealand)

Internationally, studies have found restorative justice conferencing is cost effective in terms of reducing repeat reoffending.⁹⁶ In Australia, restorative youth justice conferencing has also been shown to reduce reoffending in circumstances where young people are remorseful, and the conference outcomes are reached via consensus.⁹⁷ According to an internal 2018 12-month program evaluation of restorative youth justice conferencing in Queensland, 59% of young people who participated in restorative justice conferencing did not reoffend within six months of the conference.⁹⁸ The Queensland Government has since reported that it has over a number of years invested \$65.1 million towards restorative youth justice conferencing⁹⁹ and 77% of participants either did not reoffend or decreased the magnitude of the reoffending.²⁰⁰ Regardless of reoffending outcomes, restorative youth justice conferencing results in positive outcomes for victims and communities through actions that repair the harm caused by the young persons offending.²⁰¹ 70% of victims in Queensland reported youth justice conferencing helped them to manage the effects of the crime.²⁰² Yet, restorative youth justice conferencing remains underutilised in Queensland²⁰³ and the number of children referred to a restorative justice conference decreased substantially from 3,169 referrals in 2020–21²⁰⁴ to 2,249 referrals in 2021–22.²⁰⁵ Reasons cited for the underutilisation of restorative justice conferencing in Queensland include discretionary gatekeeping by police, lack of a systematic and comprehensive consultation process with victims and children who are referred, and lack of evidence-based implementation of restorative youth justice conferencing.²⁰⁶

In Queensland, restorative youth justice conferences are convened by departmental staff.²⁰⁷ Comparatively, Jesuit Social Services in Australia run restorative justice conferences in Victoria and the Northern Territory. In a recent evaluation by Swinburne University, it was found that group conferencing was associated with a reduction in recidivism of between 24–40% compared to mainstream justice processes. This evaluation also found conferencing was extraordinarily cost-effective (running one conference costs about the equivalent of keeping a child in custody for four days).²⁰⁸

In New Zealand, family-group conferences are used at different stages of interaction with the youth justice system,²⁰⁹ including where there is an intention to charge, as a court-ordered option pre- or post-sentencing, when a young person is remanded (to explore a tentative community-based option), and where there is a care and protection consideration (for children aged 10 to 13 years old).²¹⁰ Importantly, this mode focuses on ensuring young people receive community-based supports that address the drivers of offending.

There have been some important critiques in Australia of the way in which restorative conferencing has not always adequately engaged in a meaningful or respectful way with First Nations communities. The research in this space notes the importance of ensuring restorative programs are developed and implemented by First Nations communities with appropriate self-determination and resourcing.²

Drug Courts

Drug courts recognise the association between a cohort and other drug dependence and contact with the justice system and acknowledge the importance of addressing dependency to reduce the risk of recidivism. Drug courts operate as pre-adjudicative (where prosecution is deferred) or post-adjudicative (where sentencing is deferred or suspended following a guilty plea).²²

There is now a significant evidence base examining the impact of drug courts in Australia and internationally. Although there are clear challenges to be addressed regarding the associated importance of access to quality services, supports and treatments outside of the justice system, the overwhelming evidence suggests drug courts have a positive impact when it comes to reducing the likelihood of reoffending, and improving access to a cohort and other drug treatment and support. Drug courts have been found to be more effective than mainstream courts at addressing the intersection of drug dependency with the criminal justice system.²³

In 2014–15, the Queensland Government commissioned an independent review of Queensland drug and specialist courts over the next a 13-year period of operation in Queensland (from 2000 to 2013 when the courts were defunded).²⁴ This review recognised previous evidence demonstrating drug courts can effectively reduce reoffending and supported the re-introduction of a drug court in Queensland. The Queensland Drug and Alcohol Court (QDAC) was reinstated in 2018. An external evaluation of the QDAC is underway, with an expected completion in 2023.²⁵ People who are assessed as suitable for participation in the QDAC (by a multi-agency assessment process) are sentenced to a Drug and Alcohol Treatment Order as an alternative to imprisonment. Fifty people commenced treatment orders in 2021–22 and a total of 21 people have completed the program since its commencement.²⁶ This supports anecdotal reports that there is an opportunity to increase access and expand operations for the QDAC.

Evaluations in other Australian jurisdictions have also shown positive results. An independent 2014 evaluation of the Victorian drug court found participants reported improvements in a range of social and health wellbeing measures (including measures like connectedness to community, which is associated with reduced risk of harmful alcohol and other drug use). Participants also had reduced risks in terms of mental health and alcohol and other drug use. This study further found participants had lower rates of reoffending over both 12 months (lower by 31%) and 24 months (lower by 34%) follow-up.²⁷ Similarly, an evaluation of the New South Wales Drug Court found participants (compared to a control group) were 17% less likely to be reconvicted for a new offence, 30% less likely to be reconvicted for a violent offence, and 38% less likely to be reconvicted for a drug offence.²⁸

Mental Health Courts

There are a variety of alternative court models for people with mental health conditions and/or cognitive disability. These courts typically adopt a similar approach as drug courts, combining intensive judicial monitoring and treatment to ensure that people with mental health conditions and/or cognitive disability access treatment and support while subject to proceedings and supervision. Some are specifically targeted at people with mental health conditions and co-occurring problematic substance use, with the aim of stabilising mental health and targeting drug use in a drug-court-style treatment and testing regime. There is a robust international evidence base demonstrating the way mental health courts are key to reduce reoffending and facilitate access to support and treatment services.²¹⁹

Mental health court diversion has operated in Queensland (in some form) for a most 40 years.²²⁰ Currently, it occurs through the Queensland Mental Health Court (QMHC), which aims to divert people with mental health conditions and intellectual disability from the criminal justice system into treatment services.²²¹ In accordance with the Mental Health Act 2016, the QMHC determines whether a person was of unsound mind when they committed an offence and whether a person is fit for trial. Unlike the mainstream court processes, supreme court judges within QMHC are advised by two assisting psychiatrists and receive a range of evidence including information relating to a person's mental health and/or intellectual disability.

A 2011 study of mental health court diversion in Queensland found people who were determined to be of unsound mind reoffended at lower levels for general and violent offences, committed less general and violent offences on average, committed less serious offences, and had longer periods of desistance from offending.²²² There is an opportunity for future research to explore the effectiveness of QMHC diversion in terms of reducing reoffending and facilitating access to support and treatment services. Additionally, future research should explore the implications of involuntary treatment and indefinite detention in Queensland and. Current practice in Queensland allows for the indefinite involuntary treatment of people in prison or within a forensic mental health facility, with a recent study finding Queensland has the third highest rate of involuntary treatment in Australia behind South Australia and New South Wales.²²³

First Nations Courts

For First Nations people, courts have regularly failed to acknowledge or recognise the impact and context of the history of colonisation, and the specific set of circumstances in which contact with the justice system has occurred. Mainstream courts have also often failed to respond to First Nations people in ways that are culturally meaningful.

Specialist First Nations alternative courts models differ to the mainstream court system in that they incorporate restorative principles, support First Nations leadership (usually involving First Nations Elders) and adopt a culturally safe model for working with First Nations People.²²⁴ First Nations Courts put culture and healing at the centre of the court process, often through Elders participation, with the ultimate aim of reducing incarceration and ongoing criminal justice system involvement. First Nations specialist courts have been introduced throughout Australia, such as Queens and Murr Courts, New South Wales Circle Sentencing, Victorian Koor Courts, South Australian Nunga Courts and Western Australian Koor Court.²²⁵

In a recent evaluation of the Queens and Murr Court (operating across 14 jurisdictions in Queensland), participants reported that participation in the court had reduced the recontact with the justice system, and that the involvement of Elders encouraged attendance at court and provided a layer of support and accountability that encouraged people before the court to take responsibility.²²⁶

Overall, evaluations have found First Nations-led courts to be highly effective in several ways. For instance, court attendance is higher for specialist First Nations courts in comparison to mainstream courts²²⁷ and court staff are better equipped to support First Nations people.²²⁸ There are also strong indications that reoffending rates are also reduced when processes are implemented well and when there are resources to support participants. For example, a New South Wales BOCSAR evaluation found First Nations participation in Circle Sentencing led to a 9.3% reduction in people receiving a prison sentence and a 3.9% reduction in reoffending within 12 months.²²⁹ The study also noted that it took an extra 55 days for a reoffence to occur. Similarly, an evaluation of the Youth Koor Court pilot in Parramatta, New South Wales found fewer children were locked up in youth detention as a result of the Youth Koor Court, and days in custody were reduced.²³⁰

An evaluation of the original Koor Court Pilot program in Victoria found Koor Courts improved rates of recidivism, with a 16.91% and 13.91% reduction of reoffending in the Shepparton Court and the Broadmeadow Court respectively.²³¹ The success of the Victorian Koor courts was more recently noted in the recent Parliamentary inquiry into the Criminal Justice System in Victoria, where the committee recommended expanding the reach, the jurisdiction and scope of the Koor Court.²³²

In South Australia, an earlier study compared outcomes from the South Australian mainstream Magistrates Court and the Nunga Court between 2007 and 2009.²³³ This study found Nunga Court defendants were significantly less likely to be sent to prison, receive a monetary penalty, and have their drivers licence suspended in comparison to similarly positioned First Nations defendants who had their matter processed through the conventional courts.

Internationally, studies on the impact of the New Zealand Justice Panels and the Gladue Court in Canada have also found that people who participated in specialist courts were less likely to reoffend, and where reoffending did occur, it was less severe.²³⁴

Other benefits associated with specialist first Nations courts include the ability to empower first Nations by ensuring they self-determine their own outcomes related to criminal justice, increase access to justice, and foster a better relationship between first Nations communities and criminal justice authorities.²³⁵ Additionally, participants in the *Justice Panels* reported positive lifestyle changes such as finding employment and education opportunities.²³⁶

There have been some examples where specialist sentencing courts have not appeared to have an impact in terms of recidivism. In 2015, the two specialist Aboriginal sentencing courts in Western Australia were abolished following evaluations that found recidivism did not significantly reduce as a consequence of participation. Although subsequently re-established, this also happened in Queensland and the Murrumbidgee Courts in 2012.²³⁷ Evaluation of Nunga courts in South Australia also found unclear results relating to the impact of the court on reoffending.²³⁸ There have however been clearly identified limitations related to data collection, data analysis and methodology in these evaluations.²³⁹

Other issues have emerged in response to these evaluations, which identify some of the complexities and challenges of successful implementation. For instance, the evaluation of the Murrumbidgee Courts in Queensland noted the effectiveness and success of specialist courts was also dependent on external factors such as the availability of adequate resources in first Nations communities, particularly services that are culturally appropriate and first Nations-led. This includes the opportunities to improve the availability of culturally meaningful diversionary programs, address the structural and economic factors associated with first Nations over-incarceration. This means for instance addressing unemployment, low school attendance, problematic alcohol and other drug use, homelessness, lack of crisis support, and family support.²⁴⁰

The Australian Law Reform Commission suggests first Nations courts should ideally:

- » involve active participation by the defendant and the community
- » provide individualised case management for the defendant and wrap-around services
- » Be culturally appropriate and competent
- » Ensure the design, implementation and evaluation is led by relevant Aboriginal and/or Torres Strait Islander organisations.²⁴¹

Specialist Domestic and Family Violence Courts

There are various modes of Specialist Domestic and Family Violence courts that operate across Australia and internationally, which in some cases have shown through evaluations to improve outcomes and experiences for people who use the court.²⁴² Domestic and Family Violence Courts operate in five locations across Queensland to provide a specialist multidisciplinary and collaborative court response to domestic and family violence cases.²⁴³

A 2017 mixed-methodology Griffith University evaluation of the Specialist Domestic and Family Violence Court trial in Southport found that compared to traditional court processes the specialist court had many short/medium term outcomes such as strong positive assessments about the process from stakeholders and court users; improved management, coordination, and proactive partnerships; and increased reported understanding of the court processes.²⁴⁴ The recommendations in this evaluation informed the implementation and operation of Specialist Domestic and Family Violence in the other locations across Queensland.²⁴⁵

BAIL SUPPORT AND ALTERNATIVES TO REMAND

Bail laws must be informed by an evidence-based approach that genuinely centres community safety. Remanding people in custody settings should only be used as a last resort. There is a particular need for evidence-based alternatives that are community-led and managed outside of custody settings. This includes looking at appropriate diversions on alternatives such as access to a cohort and other drug services, mental health and disability support, holistic wrap-around case management, culturally safe First Nations supports, and safe and secure accommodation.

The overuse of pre-trial detention does not ultimately make the community safer. In fact, it increases the risk of reoffending because of the criminogenic nature of incarceration.²⁴⁶ People who do not receive bail and are remanded in custody suffer the hardships of incarceration (loss of liberty, disconnection and separation from community, loss of housing, loss of employment, loss of identity, institutionalisation, dehumanisation, the traumatic experience of imprisonment) without having been found guilty of an offence. People on remand are typically housed in high security custody environments, with limited access to programs and services. There is a strong evidence base to suggest that pre-trial detention and remand, even for short-term periods, contributes to future offending.²⁴⁷

Reducing the use of remand requires complementary increases to bail support. Bail support refers to the provision of services, intervention or support designed to assist an accused person to successfully comply with their bail obligations.²⁴⁸ The principal aims of bail support are to prevent reoffending while on bail, increase the likelihood of a person facing criminal charges appearing in court, and to provide an alternative to remand in custody given prison has a detrimental impact on a person's likelihood of reoffending.

Bail support programs may also be combined with diversionary programs that seek to address factors such as problematic cohort and other drug use. Such combined programs aim to provide an integrated approach to assisting people to obtain and remain on bail.²⁴⁹

The Queens and Council of Social Services (QCOSS) brief report notes there has been a 3.6% increase between 2011–12 to 2020–21 in the number of people released from prison who have accessed specialised homelessness services in Queensland. Based on the average monthly case load of Queensland specialised homelessness services, homelessness in Queensland has also increased by 22% in the four years to 2021–22 (much higher than the national increase of 8%).²⁵⁰ Lack of suitable and stable accommodation poses a barrier for many individuals to meet bail requirements, especially those in rural, regional, or remote areas.²⁵¹ Bail hostels and bail supported accommodation provide a potential solution as these services ensure adequate access to housing, thereby increasing access to bail. When coupled with effective bail support, such support services can increase bail compliance.²⁵²

Bail hostels and bail supported accommodation are residential establishments that accommodate people as a condition of bail, generally with some degree of endorsement or regulation by the government. While there are long-standing examples of bail hostels and supported accommodation in some jurisdictions in Australia, these services have not been systematically implemented throughout Australian states and territories.²⁵³

The Law Council of Australia and many others have recommended the introduction of more boarding programs in Australia. The Australian Institute of Criminology (AIC) and others have noted the features that influence the success of boarding houses and boarding supported accommodation include:

- » The affordability
- » Ensuring they are targeted towards people who do not have access to alternative accommodation to avoid net widening
- » Ensuring they are geographically available in regional and remote areas

- » Ensuring availability for diverse populations including First Nations people, people with mental health or cognitive impairment, people at-risk of domestic violence and people who are experiencing homelessness

- » Taking care to ensure the safety of all people residing in boarding houses and allocating beds occurs thoughtfully.²⁵⁴

Overall, the research and analysis suggests it is more cost effective to house a person in a boarding house or boarding supported accommodation than in prison, after considering the economic and social benefits of individual's mental engagement and relationships and contributing to rent, as well as reduced recidivism.²⁵⁵

Evidence-based case studies: What works in bail support?

Caxton Legal Centre Men's Bail Support Program (Qld)

The Men's Bail Support Program (MBSP) was delivered by Caxton Legal Centre in Brisbane from April 2019 to August 2022 and externally evaluated as being highly successful. Men supported by the program had improved pro-social behaviours and were less likely to re-offend in the short to medium term. In 2021–22:

- » 77% of applications for bail made by the MBSP were granted
- » 95% MSBP participants were bail compliant
- » 25% were Aboriginal and/or Torres Strait Islander men – they were supported to access Aboriginal health services, culturally appropriate alcohol and other drug counselling and residential programs, mens' yarn'ng groups, culturally appropriate employment, and skills training programs.²⁵⁴

Sisters Inside Women's Bail Support Program (Qld)

In 2021, an external evaluation of the Sisters Inside Women's Bail Support Program (WBSP) found the program effectively supports women to access bail, comply with bail conditions, and connect to services in the community. The evaluation, commissioned by Queensland and Corrective Services and undertaken by ARTD consultants, found 61% of women who accessed the service and completed their bail order did not return to prison or have another warrant issued. Additionally, the evaluation found the WBSP is cost-effective and much cheaper than incarceration (\$66 compared to \$111 per woman per day), saving the Queensland Government \$45 per woman per day.²⁵⁷

Bail Support Court Integrated Services Program (VIC) and other Court Diversion Programs

Evaluations have found these programs to be effective at reducing contact with the justice system, reducing imprisonment, and facilitating access to support and treatment. The Magistrates' Court of Victoria noted participants in its in-Court Diversion program have reduced likelihood of re-offending, avoidance of a criminal record, and increased access to supports, counselling and treatment.²⁵⁸ Evaluations of the Magistrates' Early Release into Treatment (MERIT) program in New South Wales found reduced likelihood of reconviction²⁵⁹ and increased health and wellbeing.²⁶⁰ Evaluations of the Court Integrated Services Program (CISP) and Bail Support Diversion programs in Victoria found the programs reduced the number of defendants remanded, contributed to the successful completion of bail, reduced likelihood of re-offending, and reduced likelihood of homelessness.²⁶ A recent evaluation of the ACT Drug and Alcohol Sentencing Unit found positive outcomes and reported early indications of reduced offending, as well as positive shifts with regard to problematic alcohol and other drug use and improved outcomes relating to social reintegration.²⁶² In 2009, the CISP was favourably evaluated for its effectiveness and cost benefit. People involved in the CISP showed a 33% reduction in reoffending. Where a person did reoffend, the offending was less frequent (30.4% less) and less serious. For every \$1 invested in the CISP the economic benefit to the community is \$2.60 after five years and the long-term benefit is \$5.90 after 30 years.²⁶³

Metropolitan Youth Bail Support Service (WA)

The Metropolitan Youth Bail Support (MYBS) aims to prevent the excessive detention of young people in the metropolitan area who are eligible for bail but lack a suitable responsible adult. The Bail Act 1982 permits Youth Bail Coordinators to fulfil this role as the responsible person. The MYBS provides education on the court process and court attendance for young people, as well as referrals to community-based services to address the drivers of offending and ensure adequate supervision and monitoring while on bail. Placements may include short and long-term housing options, rehabilitation services, psychological factors or with family members.

The Youth Support Officers Program assigns positive role models to support young people who have committed crimes or are at-risk of offending. A youth support officer is assigned based on a youth justice officer assessment or a request from the court or the Supervised Release Review Board. The youth support officer offers practical assistance with transportation, education, emotional needs, and organises positive leisure activities. Young people in Western Australia who finished the program completed their bail orders at a rate of 70% compared to 50% for young people who were granted bail with an undertaking from a responsible person.²⁶⁴

FIRST NATIONS-LED PLACE-BASED APPROACHES

Place-based approaches seek to address complex social problems at the local level rather than through top-down policies. They draw on the unique capabilities and strengths, as well as the challenges, faced by First Nations communities and challenge governments to develop genuine partnerships with communities to achieve complex disadvantage.²⁶⁵

Place-based initiatives prioritise physical infrastructure, employment, education, community capacity building and cultural connection as ways to address the social drivers of crime.

As outlined below, Community Justice Groups (CJGs) have been leading important work to implement place-based responses and improve justice outcomes for First Nations communities across Queensland. In July 2022, CJGs and government representatives attended a Stop Back Deaths in Custody (Meanjin) forum on First Nations justice. A comprehensive report from this forum sets out a roadmap for Queensland and to implement justice reforms that will improve outcomes for First Nations communities at both the local and state level. This report provides a number of concrete recommendations about how to immediately improve outcomes for First Nations people at multiple touchpoints in the criminal justice system.

Evidence-based case studies:

What works in First Nations-led place-based responses

Community Justice Groups (Statewide, Qld)

Community Justice Groups (CJGs) were first trialled in three Queensland communities in 1993 in response to the Royal Commission into Aboriginal Deaths in Custody. The program has since been expanded statewide, with Aboriginal and Torres Strait Islander-led CJGs now operating in 41 communities across Queensland. CJGs work with key stakeholders to coordinate place-based responses that support First Nations people interacting with the justice system. A 2010 KPMG-led evaluation found stakeholders involved in Queensland and CJGs widely supported the initiative and that it successfully aligned with state and national justice priorities; however, CJGs required greater resourcing and support to improve their capacity to deliver responses that reduce the over-representation of Aboriginal and Torres Strait Islander people in prison.²⁶⁶ Following this evaluation, Queensland and Government released a framework for Stronger CJGs and allocated an additional \$19.1 million over four years in the 2019-20 state budget to enhance the initiative. Myuma Pty Ltd is currently undertaking a second outcome evaluation of the CJG initiative (due for completion in December 2023). A Phase 1 implementation evaluation report was released in November 2021, which noted the extensive outputs of CJGs and provided recommendations to strengthen program implementation and inputs during the program enhancement phase.²⁶⁷ This implementation evaluation also serves as the Our Community Justice website's early success stories from CJGs across Queensland.²⁶⁸

The Yiriman Project (WA)

The Yiriman Project – which is run by the elders of four Kimberley language groups to reconnect the young people to culture while also reducing contact with the criminal justice system, harmful substance use and suicide – has received numerous awards and positive evaluations.²⁶⁹ Yet it has struggled over the past two decades to secure the funding it needs to continue its services. Children and young people aged 15 to 25 years are taken out on country to visit Elders where they are involved in deep learning and transmission of culture and language, workshops, making of artefacts and taking care of the land. A three-year evaluation found that reduced participants' subsequent contact with the criminal justice system, with some concluding that was better than most other sentencing and diversionary options in this regard.²⁷⁰

Maranguka Justice Reinvestment Project (NSW)

The independent review of the Maranguka justice reinvestment Project at Bourke in 2016–17 found a 23% reduction in domestic violence offending; 38% reduction in the number of youth proceeded against for driving offences, a 60% decrease in rates of school retention and estimated savings of \$3.1 million over the course of a year.²⁷¹ The close partnership between the community and police was critical to the success of this work, with regular meetings between police and community members, sharing of data, and working together to identify community members in need.²⁷²

Yuwaya Ngarra-li (NSW)

Yuwaya Ngarra – is a community-led partnership between the Dharrwaa Elders Group and the University of New South Wales aimed to improve the wellbeing, social, cultural and physical environment and life pathways of Aboriginal people in Waggett, New South Wales, through collaboration on evidence-based initiatives, research and capacity building. A 2022 report from Yuwaya Ngarra – evaluating change in youth justice outcomes since the commencement of the partnership in 2018 showed there were overall increases in diversions in 2019 and 2020 (but decreases again in 2021); overall reductions in charges and court cases; and reductions in youth custody episodes but noted the need for ongoing work to embed systemic change.²⁷³

Olabud Doogethu (WA)

The Kimberley-based Olabud Doogethu project is Western Australia's first justice reinvestment site. Olabud Doogethu aims to create stronger communities, more resilient families and young people, and reduce youth involvement in the criminal justice system in the Halls Creek Shire. The project's focus is community-driven and Aboriginal-led initiatives that build local community cohesion, capacity, leadership and infrastructure; tackle disadvantage; and create local justice support opportunities. 90% local Aboriginal employment has been achieved for all Olabud Doogethu service programs.²⁷⁴ Data provided by Western Australia Police for the period 2017–20 showed significant reductions in youth crime at the site, including a 63% reduction in burglaries; a 43% reduction in offences, a 69% reduction in arrests; a 64% reduction in Aboriginal persons admitted to police custody (aged 10–17) and a 59% reduction in stealing of motor vehicles.²⁷⁵

Indigenous Healing Lodges (Canada)

In Canada, there are currently 10 Indigenous Healing Centres that operate as alternatives to custody for Indigenous peoples. These centres are modelled on Indigenous values, traditions, and beliefs, and provide culturally responsive services and programs to address the drivers of incarceration and prepare a person for their release into the community. The most recent evaluation of Indigenous Healing Lodges outlines their success in terms of supporting and preparing Indigenous people to return to the community. When compared with a matched control group, Indigenous people who resided at a healing lodge demonstrated greater positive changes in dynamic risk factors over the course of their stay and were more likely to participate in services, programs and supports available to them. When controlling for other factors, Indigenous people residing at a healing lodge who engaged with Indigenous specific services and interventions were also less likely to have further engagements with the justice system. Men who completed Indigenous programs at the lodge had a 54% lower risk of revocation of release, while women who demonstrated an interest at intake had a 65% lower risk of return to custody.²⁷⁶ Elders and First Nations communities in Queens and continue to call for funding to establish First Nations-led healing centres for both children and adults.

POST-RELEASE SUPPORT AND THROUGH-CARE

Support is critical at the point when people are released from prison back into the community. People leaving prison face homelessness, joblessness and ongoing health and social disadvantages. While there are valuable services operating in Queens and, there is a great deal more that needs to be done to invest in community-based interventions for people leaving prison. There is significant research noting that for many people who are caught in the cycle of justice system involvement, it is much easier to return to prison than it is to survive in the community.²⁷⁷ There are multiple reasons for this. Most people leave prison in Queens and with no meaningful community-based supports, nowhere safe to live, minimal financial stability, and limited employment opportunities. Although there are some highly effective specialist services that work to support people to connect with community, they are chronically under-resourced.

There are multiple barriers for people leaving prison to access mainstream welfare and support services. Most mainstream welfare services will not do in-reach into prisons. Many services (including many homeless,

alcohol and other drugs and domestic violence services) will not take people straight from prison. Many services will not take people with a criminal record, and many will not take people who have any history of violence. Across the sector, there is a shortage of specialist knowledge, resources, and structural capacity for a readily stretched organisations to take on the complexity of working with post-incarceration clients. The absence of first Nations-led culturally safe services acts as another barrier to many people accessing the necessary support.

The multiplicity and complexity of need also means many people leaving prison are excluded from support. For instance, many people face barriers accessing alcohol and other drug services if they have a complex mental health condition. Many people are not able to access mental health services if they are currently using alcohol and other drugs. There are very few residential services that will support people who are currently using alcohol and other drugs.

Evidence-based case studies: What works in post-release support?

Community Restorative Centre Evaluation (NSW)

This University of New South Wales (UNSW)/Community Restorative Centre Evaluation (CRC) evaluation, undertaken over two years, explored outcomes for 483 CRC clients who participated in intensive, case-work, post-release, and diversionary programs between 2014 and 2017. An interrupted time series analysis examined criminal justice system trajectories over 10 years (including post-participation programs), and found that for participants:

- » The number of new custody episodes fell by 62.6%
- » The number of days in custody fell by 65.8%
- » The number of proven offences fell by 62.1% following CRC support.

The report also undertook a comparison analysis with clients from the Mental Health Disorders and Cognitive Disturbances (MHD/CD) linked administrative dataset at UNSW, comparing the re-outcomes to CRC clients. This analysis found engagement in CRC programs dramatically reduced contact with the justice system when compared to a similar group who did not receive support. The research also showed savings to the criminal justice system of up to \$16 million over three years for an intake of 275 new clients (not including institutional and community savings).²⁷⁸

Borallon Throughcare (Qld)

In 2020, the University of Queensland (UQ) evaluated the Borallon Training and Correction Centre alternative rehabilitation custody model using a mixed-methods approach.²⁷⁹ This model includes a co-designed centre-based throughcare service that focuses on education and employment pathways.²⁸⁰ This study was not openly published; however, UQ reports it found strong evidence that elements of the model are working well and that there are many reasons to support the model.²⁸

Miranda Project Evaluation (NSW)

This CRC program entails intensive case work, diversionary support, and post-release support for women at-risk of both domestic violence and justice system involvement. A recent evaluation found that of the 90 women participating in the program during the evaluation period, 14% returned to prison, 62% reported improved housing stability, and 62% reported improved safety in terms of domestic and family violence.²⁸²

Barnardos Beyond Barbed Wire Evaluation (NSW)

The Beyond Barbed Wire program (based in central-west New South Wales and part of Barnardos) evaluated the outcomes of the intensive casework and support service for women released from prison who were also mothers. Only 6% of the 52 women participating in the program returned to prison.²⁸³

Alice Springs Life Skills Camp (NT)

A life skills program that provides an alternative to custody for women in Alice Springs has shown solid outcomes in terms of reducing recidivism. The Life Skills Camp was opened in 2020 as a sentencing alternative for Aboriginal women as part of the Aboriginal Justice Agreement. The Life Skills Camp has delivered more than 2000 program sessions to residents and other women on day programs from the Alice Springs Correctional Centre. The Northern Territory Government has noted that 90% of the 25 women who have completed the program have not reoffended.²⁸⁴

Hutt Street Centre: The Aspire Social Impact Bond Program

The program was established by the South Australian Labor state government in 2017 and delivered by the Hutt Street Centre in partnership with Social Ventures Australia and Housing Choices. In the first five years of Aspire, it saved \$12 million in justice and other services and is projected to save \$25 million once a further 575 participants have completed their three years of intensive wrap-around supports. Of the 575 participants since 2017, criminal convictions have reduced by 28% (with the flow-on effect of fewer victims of crime and safer communities).²⁸⁵

Outcare Throughcare (WA)

Outcare's Aboriginal Throughcare programs are offered to people in the final three months of their sentence. The program supports people during their transition from custody to the community and continues for 12 months after their release. The program focuses on building stronger relationships with family, culture, and community. Early analysis of the program determined it had delivered sound community outcomes, with only 20% of clients receiving post-release case management returning to prison during that period.²⁸⁶

IN-PRISON PROGRAMS

While reduction in incarceration is the overarching goal of this report, there are alternative models for prison settings and in-prison programs that can align with the goals of therapeutic, supportive, and

community-based approaches. There is significant evidence that these approaches lead to better post-release outcomes.

Evidence-based case studies: What works in prison?

Sisters For Change (Townsville, Qld)

Sisters for Change is the Community-Based Health and First Aid program that Australian Red Cross delivers with women in the Townsville Women's Correctional Centre (this program is also offered in prisons in New South Wales, Western Australia and South Australia). Queensland University conducted a formal evaluation of the Sisters for Change program 12 months after its implementation in 2019. The report found multiple positive outcomes including a cleaner prison environment, nurses prescribing less medication, a safer prison environment with better relationships between women in prison and officers, and improved capacity within the prison community to provide support when someone has mental health concerns.²⁸⁷

Keeping Us Together (Qld)

In June 2021, the University of Newcastle Australia published an evaluation examining implementation of the SHNE for Kids Keeping Us Together program within three women's correctional centres in Queensland. Keeping Us Together is an evidence-informed parenting program delivered to parents in custody over a six-week period. Pre- and post-intervention questionnaires showed the program improved women's perception of their parenting and communication with their children. It also found greater resourcing would support SHNE for Kids to meet program demand, enable post-release support, and optimise care for participants and staff.²⁸⁸ In addition to this program, SHNE for Kids delivers the Being Strong to Family (previously called Keeping Us Strong), which is an extension of Keeping Us Together designed for Aboriginal and Torres Strait Islander parents.²⁸⁹ Both programs are modelled on the evidence-based Australian Childhood Foundation Bringing Up Great Kids program that has been shown to effectively support parents to build positive and nurturing relationships with their children.²⁹⁰

Prison Entrepreneurship Program (Texas, United States)

The Prison Entrepreneurship Program (PEP) is an innovative business entrepreneurship program for people in prison in Texas, which also provides intensive post-release support to participants once they are released from prison. A 2013 study found the PEP resulted in a 380% greater reduction in reoffending compared to nine other rehabilitation programs offered in Texas. This study compared 94 people who completed the PEP with a control group of over 50 people who were eligible for participation but did not complete the PEP and instead participated in other programs. PEP participants were less likely to return to prison when compared to the control group, and a follow-up survey one year post-release found 95% of PEP participants remained employed. It was further estimated that for every \$1 donated towards the delivery of PEP, there is a 340% return on investment resulting from reduced incarceration, reduced social welfare costs, and increased economic participation through high post-release employment.²⁹

Wandoo Rehabilitation Prison (WA)

Wandoo Rehabilitation Prison is Western Australia's first dedicated alcohol and other drug rehabilitation prison for women in custody, offering intensive trauma-informed treatment within a therapeutic community. Wandoo operates in partnership with Cyrenan House. Since opening in 2018, more than 170 women have graduated from its alcohol and other drug program, and only four having returned to custody, a success rate of nearly 98%.

Mallee Rehabilitation Centre (WA)

Following the success of Wandoo, the Mallee Rehabilitation Centre began operations at Casuarina Prison in 2020 as the state's first residential alcohol and other drug facility for male prisoners. The Centre can house up to 128, with the Palmerston Association and the Wunging Aboriginal Corporation providing program design and delivery. Of the 75 Mallee Sober Steps Program graduates who have been discharged from custody in the first two years of operation, only four have returned to custody with a new offence.²⁹²

The Fairbridge Bindjareb Project (WA)

The Fairbridge Bindjareb Project provides Aboriginal and Torres Strait Islander people in custody with a 16-week work training program in the mining industry. The program was designed and is run by local Aboriginal men and focuses on reconnection to and respect of Aboriginal culture. An evaluation found that only 18% of participants returned to prison within two years of being released (and only 4% for new offences), compared to 40% recidivism rates among the general prison population. Moreover, three-quarters (73%) of participants had gained and retained full-time employment seven months post conclusion of the program. A cost-benefit analysis by Deoette has found that every dollar invested in the program generates \$2.45 worth of economic benefits.²⁹³ The review has also calculated that the scheme saves the federal government up to \$460,000 in welfare payments for each participant over a decade.²⁹⁴

Boronia Cultural, Social And Emotional Wellbeing Project (WA)

The cultural, social and emotional wellbeing project delivered at the Boronia pre-release centre is a strengths-based, holistic program for First Nations people. An independent evaluation of the program conducted in 2022 found that completing the program resulted in significantly reduced levels of psychological stress for the women who participated.²⁹⁵

Diagrama Model (Spain)

Diagrama is an international non-profit organisation and operates over 35 custodial centres across Spain for young people aged 14 to 23 who have been remanded or sentenced to custody. The Diagrama model has demonstrated that it reduces rates of recidivism and its operational costs are comparable to or lower than those of other providers. The model has been implemented across France and the United Kingdom. A study of 757 young people who had attended a Diagrama re-education centre in 2011 found that by December 2017, only 13.6% had been placed back in custody.²⁹⁶

ACCESS TO OTHER SERVICES IN THE COMMUNITY

The majority of people incarcerated in Queensland (and Australia) come from circumstances where they have experienced multiple and intersecting disadvantages. The fact of disadvantage²⁹⁷ cannot of course be used to discount the consequences of crime. However, it is crucial to understand the context in which most crimes committed²⁹⁸ to build and implement effective policy to reduce the numbers of people in custody and strengthen genuine alternatives to prison.

People with mental health conditions are disproportionately represented in prisons (at least 40% of people in prison)²⁹⁹ as are people with cognitive impairment.³⁰⁰ Around 60% of people in prison have a co-occurring substance use and other drug dependency.³⁰ Half of all people in prison were homeless before entering custody³⁰² and more than half of all people leaving prison exit into homelessness.³⁰³ A disproportionate number come from a small number of postcodes of disadvantage where access to education, health care, support, and employment are comparatively lacking.³⁰⁴

62% of people leaving prison in Australia do not have any employment organised on release.³⁰⁵ Health services in prison remain underfunded, a problem exacerbated by the absence of Medicare and the Pharmaceutical Benefits Scheme to people while incarcerated. Ensuring that disability, mental health, and homelessness services are accessible to those in contact with the justice system, and that the sector has

the training and resources to serve them, is essential to reducing incarceration and recidivism in Queensland.

A 2018 study by the Telethon Kids Institute and the University of Western Australia showed that 9 out of 10 (90%) of incarcerated young people in WA had some form of neurodevelopmental disability, ranging from dyslexia or specific learning disability, language disorder, attention deficit hyperactivity disorder, intellectual disability, executive function disorder, memory impairment or motor coordination disorder.³⁰⁶ There is no reason that this finding would not also be generalised to children who are incarcerated in Queensland.

A 2017 cohort study of 1325 people who had been incarcerated in Queensland found one in 15 of these people presented to an emergency department due to self-harm following their release.³⁰⁷ A 2015 study of 1051 adults who were incarcerated in Queensland and found non-fatal overdoses were highest one to three months post-release prison. This study also found injecting drugs, pre-release distress, and a lifetime history of a mental health condition predicted non-fatal post-release overdoses.³⁰⁸ In 2014, a study of 41,970 people released from prison in Queensland and found women who were formerly incarcerated were 14.2 times more likely and men who were released from prison were 4.8 times more likely to die from suicide than would be expected in the population. This study found a similar rate of drug-related deaths among the cohort of people who were formerly incarcerated.³⁰⁹

A 2012 study found a very high prevalence of mental health conditions among Aboriginal and Torres Strait Islander adults in Queensland prisons (73% for men and 81% for women). This study noted there is an urgent need to develop and resource culturally responsive services to support the social and emotional wellbeing of Aboriginal and Torres Strait Islander people in prison.³⁰

Community Justice Groups, through the Stop Back Deaths in Custody (Meanjin) forum, have recommended that all agencies working with First Nations people adopt the Australian Government National Strategic Framework for Aboriginal and Torres Strait Islander Peoples Mental Health and Social

and Emotional Wellbeing³¹ in policy development and service delivery. There is a focus in Aboriginal controlled health services on the need to address the social determinants of health, and recognition of the similarities between these determinants and the social determinants of imprisonment.

Robust social supports within the community, including general health, housing, education, and welfare programs, as well as specialist programs, are proven to work to prevent contact with the justice system. Mental health support, alcohol and other drug treatments and disability support pay part of your critical roles.

Evidence-based case studies:

Reducing incarceration by improving access to services and supports in the community

Housing Post-Release Evaluation (Australia)

This evaluation included an interrupted time-series analysis and matched comparison analysis of 623 people who received public housing after leaving prison and 612 people who received rental assistance only. It found public housing improves criminal justice outcomes when compared to rental assistance only. It also found public housing flattens the curve and sees reductions in predicted police incidents (down 8.9% per year), custody time (down 11.2% per year) and justice system costs (down \$4996 in a year, then a further \$2040 per year). The evaluation showed there was a net-benefit in dollar terms of housing people on release from prison in public housing (between \$5200 and \$35,000) relative to homelessness services or private rental assistance.³²

Common Ground Queensland (Brisbane and Gold Coast, Qld)

Common Ground Queensland provides affordable supported accommodation for people who have experienced chronic homelessness or who require social housing. The Institute of Social Science Research conducted an independent evaluation of the Brisbane Common Ground housing model and found governments can save over \$13,000 per person each year through the provision of secure, long-term housing with relevant support services. This evaluation further found in the first 12 months Brisbane Common Ground residents had a reduction in the number of court appearances (by 47 days), days incarcerated (by 132 days), days on probation and parole (by 88 days), and a reduction of interventions involving police. In comparison to the 12 months prior to residency at Brisbane Common Grounds, this equated to an estimated cost savings of \$122,904 for the criminal justice system.³³

Intellectual Disability Rights Service – Justice Advocacy Evaluation (NSW)

This independent EY evaluation of the support provided by the Intellectual Disability Rights Services Justice Advocacy Program concluded that improved access to justice, improved understanding of court processes, and improved outcomes for people with cognitive impairments in police and court settings.³⁴ The evaluation noted that people who received Justice Advocacy Service (JAS) support were more likely to understand and follow court orders, more likely to understand cautions and bail conditions, less likely to be found guilty and more likely to receive a section 32 diversion order.

The evaluation noted that when the JAS program operated at full capacity, the program would deliver \$3.37 in return for every dollar invested. The report also recommended exploring the value of case management for people participating in the JAS program.

**Intellectual Disability Rights Service – Criminal Justice Support Network Economic Evaluation
(Released 2018)**

An economic evaluation of the Criminal Justice Support Network (CJSN) (run by the Intellectual Disability Rights Service) found the CJSN generates a net benefit of at least \$1.2 million per annum. That represents a return of \$2.5 for every \$1 invested in the service.³⁵

Institutional Costs Research (Australia)

Costings research conducted by the University of New South Wales in partnership with PricewaterhouseCoopers looked at linked administrative data to gauge the life-course institutional costs associated with people with mental illness and disabilities in the criminal justice system. It found that more than \$1 million was spent on many individuals each year through prison and crisis responses. It also noted the value of targeted, holistic support, finding that for every dollar spent on early investment, between \$1.40 and \$2.40 is saved in the longer term.³⁶

A BRIEF NOTE: THE CRIMINALISATION OF DRUG USE AND THE NEED FOR PUBLIC HEALTH APPROACHES

The prevalence of illicit drug use and a cohort consumption is a significant health and social issue in Australia and as such, requires a health and social policy response. The research is very clear that reliance on criminal law and criminal justice responses to discourage illicit drug use does not work to reduce demand and fails to address the health and social harms associated with such drug use.³⁷

Criminalisation of illicit drug use has failed to address the health and social problems associated with problematic cohort and other drug use and often serves to further exacerbate disadvantage. Criminal law should not be used to regulate personal drug use. Health responses are required to address the harms and health impacts of drug use. There is a need for both:

- » The decriminalisation of the use and possession of prohibited drugs by removing all criminal sanctions and to remove the offence from the law and
- » Adequate resourcing of effective drug assessment, treatment, and support services, with culturally appropriate services for Aboriginal and Torres Strait Islander peoples across Australia, including in regional and remote areas.

This is an issue across Australia.

- » 65% of people entering prison around Australia have used illicit drugs in the previous year.³⁸
- » Half of all people in prison have a history of injecting drug use.³⁹
- » 85% of people in prison who have a history of injecting drug use, report being under the influence of drugs and/or a cohort at the time they committed the offence that resulted in their imprisonment.³²⁰
- » 40% of people in prison with a history of injecting drug use, attribute their offending to the need to get money to support their drug use.³²

- » The justice and law enforcement cost of drug related harms at least \$5.8 billion per annum. The justice and law enforcement costs of a cohort related harms \$6.4 billion per annum.³²²
- » The policy landscape in Australia prioritises expenditure on law enforcement ahead of treatment and harm reduction. These priorities are reflected in the budgetary allocation of Australia's National Drug Strategy, with 65% of its budget allocated to law enforcement, and 25% to treatment and harm reduction.³²³
- » At least half a million people each year in Australia cannot access the cohort and other drug treatment and support they need.³²⁴

The criminalisation of illicit drug possession and use increases the likelihood of confrontations, interaction with police, criminal proceedings in court, and incarceration. Decriminalisation will reduce this contact at every stage of the criminal justice system, removing barriers to harm reduction and treatment seeking, and increasing voluntary treatment uptake. There is an urgent need to shift the focus of the policies from criminal law enforcement to initiatives that focus on health, treatment, and harm reduction. Public investment in support services, harm reduction, cohort and other drug treatment and health responses to cohort and other drug use will result in significant savings for the criminal justice system and improved outcomes for the whole community.

Although this is beyond the scope of this report to overview in detail the cohort and other drug treatment responses that reduce the likelihood of incarceration, we note that we have a ready high quality multiphase successful programs in this report focused on supporting people with problematic cohort and other drug use or related issues at the point of prison, at the point of release from prison, at the point of interaction with police, and at the point of interaction with the courts.

Shifts towards health-oriented and harm reduction approaches in drug law reform are significant as levers to reduce incarceration and reoffending. Reforms in this space enable people who use drugs to be diverted from the criminal justice system and prevent offending through the provision of harm reduction and effective treatment strategies. Traditional policing approaches to drug use-related crime do not reduce arrests or incarceration and are also associated with increased risk of fatal future overdoses.³²⁵

It is of note that in February 2023, the Queensland Government announced a significant policy shift towards decriminalisation. This included expanding options for police to divert people in minor possession of a types of drugs into the Queensland Police Drug Diversion program (rather than just people found with minor quantities of cannabis). As the Queensland Government has highlighted, diversion into health and education services significantly reduces the likelihood of reoffending and frees up police resources.³²⁶

CONCLUSION

Too many people in Queensland and across Australia are unnecessarily trapped in cycles of incarceration and disadvantage. Too many children and adults are managed in justice system settings, rather than receiving the necessary support in the community. Investment by the Queensland Government in evidence-based programs and services run by the community sector (including crèche, by First Nations-led community organisations) that address the social drivers of criminal justice system contact would lead to significant reductions in recidivism and incarceration. This shift in funding approach would also result in significant cost-savings and lead to substantial improvements in health and wellbeing.

Existing community-led justice programs in Queensland are making a difference. The approaches are based on local expertise, evidence-informed practice, and models of success in other jurisdictions. However, some of the most successful interventions are under-resourced. There is a need for a comprehensive state-wide commitment to drive long-term, sustainable and responsive evidence-based community-led justice solutions.

This comprehensive state-wide commitment should also support and resource evaluation and monitoring/improvement work to ensure programs and services are continuously measuring success. Community-based service providers should receive resourcing support to fund independent evaluations that generate additional, high-quality efficacy data.

Instead of committing to additional expensive prison beds, there is an opportunity for the Queensland Parliament to focus attention and resources on evidence-based programs that work to reduce incarceration and decrease recidivism. Cross-party support for a shift in funding towards alternatives to

incarceration has the potential to make a concrete difference across the state in preventing offending, diverting people from the justice system, and ensuring the provision of systemic support for people who are leaving custody outside of the justice system. Some experts have suggested the establishment of an all-party parliamentary committee to drive evidence-based justice reform in Queensland.³²⁷

There is no single reform fix to reduce prison numbers in Queensland. There are multiple proven, cost-effective alternatives that can both effectively reduce incarceration and improve community-level outcomes. Prison does not work to deter, to rehabilitate or to make communities safer. We need recognition that the over-reliance on prison for both adults and children has been a policy failure in Queensland, and we need a commitment to significant investment in community-led alternatives.

This report does not seek to outline detailed policy and legislative justice reform priorities. These are already catalogued in countless reviews, inquiries and reports published long before this report, including crèche the Royal Commission into Aboriginal Deaths in Custody,³²⁸ the 2019 Queensland Productivity Commission (QPC) inquiry into imprisonment and recidivism,³²⁹ the QPC inquiry into service delivery in remote and discrete Aboriginal and Torres Strait Islander communities,³³⁰ and the Bob Atkinson March 2022 review.³³¹

Instead, this report emphasises the importance of adequate resourcing of evidence-based community-led alternatives. There are several promising programs being delivered in Queensland, but piecemeal resourcing, sporadic evaluation and services are preventing these best-practice approaches from having a wide impact across the state.

Community-ed services and place-based responses should be funded in ways that genuinely build sustainable long-term service delivery capacity. This includes the capacity to adequately pay staff and develop a professionalised workforce. Short-term and pilot projects, and inadequate funding for staff, a long overdue rigorous reporting requirements, can make the core business of quality service delivery, together with staff retention, more difficult than it needs to be. To significantly reduce over-incarceration and keep the community safe, Queensland needs a funding environment where community-ed approaches can sustainably thrive. A lack of resourcing for robust evaluation also makes measuring success extraordinarily difficult. A current lack of transparency in terms of evaluation in Queensland compounds this issue; there is very little publicly available evaluation data, which means knowledge sharing between providers and across sectors on what works.

There is also a necessity for services to be adequately resourced to improve their capacity to be accessible and available to all people at every point in the justice system. Too often, people are not able to access services because there are explicit and implicit exclusion criteria. For instance, many people on remand cannot access services in prison. Programs and services are often not available for people in both remote and regional areas.

Additionally, many people are excluded from services because they have multiple and co-existing support needs; for instance, a co-occurring drug dependence and a mental health condition. Services and programs are frequently not supported or resourced to provide the long-term, intensive, holistic, wrap-around support that the research makes clear is extraordinarily effective at reducing justice system involvement.

Multiplespecialist services are needed throughout Queensland that can cross geographic boundaries, given that many people incarcerated in the states prisons are not imprisoned anywhere near their intended place of residence in the community. Services must be able to incorporate the critical element of pre-release engagement and non-reach into the correctional centres. Workers must be able to visit clients and begin the process of engagement prior to release to sustain connection during the often chaotic post-release period.

Queensland imprisons the highest number of children in Australia and the adult prison population has grown by 64% in the last 10 years. However, the state has an opportunity to mobilise a state-wide, best-practice approach to investment in community-ed services that can get people out of prison and support them to be productive in the community.

Queensland already has innovative and impactful place-based and community-ed initiatives that are achieving incredible outcomes with minimal resourcing. There is an opportunity to build on what works in the state to drive long-term and sustainable systemic change. It is so important to note that alongside existing programs, there are also well-developed, researched and detailed proposals for new alternatives to youth justice centres. The remote hearing centres – the proposals for which have been put together by respected first Nations leaders alongside subject matter experts – have the potential to be an extraordinarily helpful tool in the development of alternative youth justice responses.³³²

Investing in evidence-based services instead of incarceration will break entrenched cycles of engagement with the criminal justice system and reduce recidivism. In addition to creating substantial cost-savings to the government, this approach will have enormous benefits for people who have too often been managed in justice systems, rather than being supported in the community.

Tough on crime rhetoric and policies do not make the community safer, nor does the current overuse of imprisonment. To genuinely build a safer, more cohesive community, Queensland must invest in community-ed programs that address the drivers of crime and incarceration.

Queenslanders would be far better served through government investment in programs that provide opportunities for people who are trapped in the cycle of incarceration to rebuild their lives in the community. There is an opportunity for Queensland to embrace a criminal justice model that genuinely relegates prisoners to a position of last resort, and instead centres community-ed interventions that really work to break cycles of disadvantage, reduce reoffending, and build safer communities.

APPENDIX A: GOOD PRACTICE PRINCIPLES IN SERVICE DELIVERY: **HOW TO BUILD A SERVICE THAT WORKS TO REDUCE RECIDIVISM**

The successful programs around Australia that have been evaluated and noted above share a remarkably consistent service delivery model. It should be noted that there are many other small-scale programs using similar principles around Australia, which are reporting anecdotal success but have not yet undertaken evaluation.

The principles underpinning successful services have been noted across many academic research reports into what works³³³ as well as in these evaluations. The collective findings acknowledge the importance of responding to the social drivers of over-incarceration, working holistically with people leaving prison, ensuring a flexible and person-centred approach to service delivery, and working with people long-term to address the significant challenges in staying out of prison. The research recognises the centrality of relational casework, the importance of housing, and the necessity of long-term support.

Models that work are very much about meeting people where they are at and recognising the enormous challenges faced by people at-risk of, or a ready contact with, the justice system, including people leaving prison. Programs that work do not require people at-risk of justice system involvement to fit into models that are appointment-based, require abstinence, or have limited flexibility. The successful programs recognise the referral fatigue experienced by so many people and recognise the importance of non-solicited service provision; that is, services that are able to work with people around a range of factors (housing, mental health, drug, and alcohol use, and so on).

The programs and principles for good practice (long term, holistic, housing first, wrap-around, culturally safe, person-centred, flexible) differ significantly in scope and approach to the Risk, Needs, Responsivity models that many corrections departments around Australia have committed to for the last decade. This distinction is important when designing community-based programs.

Criminogenic approaches are primarily focused on addressing individual offending behaviour (for instance things like anger management and impulsivity) rather than addressing the social drivers of incarceration. The programs that have had success in reducing recidivism, note the importance of looking outside of offending behaviour when working with people at-risk of justice system involvement. Successful programs work with people holistically around a multitude of factors, including housing, alcohol and other drug treatment, employment, mental health, disability support, and cultural and community connections alongside the formulation of a sense of identity and belonging outside of the justice system.

Too many people at-risk of re-incarceration are not able to access the kinds of support they require at the time that they most need it. This is especially critical for people at the point of release from prison, and for people who are keen to participate in voluntary options at the point of court. There is significant research noting that for many people who are caught in the cycle of justice system involvement, it is in fact much easier to return to prison than it is to survive in the community. There are many reasons for this. Most people leave prison with no meaningful community-based supports, nowhere safe to live, minimal financial stability, and limited employment opportunities. Although, as noted above, there are some highly effective specialist services that work to support people with connecting to community, they are chronically under-resourced.

In addition to specialist services, there are of course mainstream welfare, homelessness and other support services that should theoretically be available for people leaving prison. However, there are many barriers to accessing mainstream welfare services for people leaving prison. There are many reasons for this, including a lack of specialist knowledge, a lack of resources, and a lack of structural capacity for a readily stretched organisations to take on the

complexity and time resources of working with incarcerated populations. Most mainstream welfare services cannot do non-reach into prisons. Some services will not take people straight from prison. Some services will not take people with a criminal record, and many will not take people who have any history of violence.

In addition, multiplicity and complexity of need means many people from prison are excluded from support.

For instance, there are barriers accessing mental health services if there are ongoing alcohol and/or other drug problems. There are almost no residential services that will take people who are using alcohol and/or other drugs, and for many the group and therapy requirements of many rehabilitation services means that they are very challenging to access.

For Aboriginal and Torres Strait Islander people, the absence of Aboriginal and Torres Strait Islander-educationally safe services acts as another barrier to accessing the necessary support.

There is a need for multiplespecialist services throughout Australia that can cross geographic boundaries, recognising the fact that many people incarcerated are not incarcerated anywhere near their intended place of residence in the community. There is a need for services that are resourced and able to incorporate the critical element of pre-release engagement and non-reach into the correctional centres. There is the need for support services and workers to physically be where the clients are (including police stations, courts, and prisons). There is a need for services that are long-term – building sustainable pathways outside of the criminal justice system takes time, particularly for people who have survived trauma and have spent their lives being managed in such settings. Services must have the capacity to be intensive, and primarily outreach. This often means picking someone up from prison on the day of release and working intensively over the first high-risk three months, and then slowly and flexibly tapering support down over 12 months or more (while ensuring the person receives support for as long as they require it). Services must also have housing front and centre of their service delivery design.

In summary, we outline the key principles for good practice below. Please note these principles have been published (by the author of this section of the report) in a number of previous publications, including most recently *Precedent* (Issue 161, November–December 2020).

Reintegration Framed Outside the Lens of Rehabilitation

There is a need to create and facilitate pathways for people leaving prison that focus on addressing systemic barriers to reintegration and creating a strong sense of identity outside of the justice system. This means explicitly addressing barriers to reintegration including discrimination, poverty, and homelessness.

For Aboriginal and Torres Strait Islander populations, identity is often related to culture, family, and community. Non-prison identities might also be accessed in the form of employment, volunteering, and educational opportunities. The critical point here is that reintegration should not just be framed in terms of addressing offending, but rather about building a life outside of the prison environment.³³⁴

Service delivery must include a significant advocacy component that addresses structural barriers for individuals (such as access to housing, employment, education, health and social security benefits) and advocates systemically for change when it is required (for instance, in the case of discriminatory employment practices). Systemic advocacy sees workers working alongside people leaving custody and challenging the multiple forms of perpetual punishment experienced by people with criminal records and those who have experienced imprisonment.³³⁵

Pre-Release Engagement for People in Custody

Meeting and working with people prior to release, where possible, is extraordinarily useful when it comes to building the engagement necessary to sustain the casework relationship, building trust between the person in prison and the community organization on the outside, and practically planning for re-entry into the community with complex needs populations.³³⁶

Holistic, Relational, Intensive and Long-Term Casework Models

People should not be excluded from services on the basis of complexity, criminal records, or past offending behavior. That is, services should be resourced to work with people with multiple and complex support needs. People with long histories of trauma, combined with the referral fatigue often experienced by this group, require long-term support to build engagement and trust. Long-term support also allows people the opportunity to develop the skills required to navigate frequently hostile or unwelcoming service systems. Services that can work with people around the various support needs, rather than simply referring on, are a critical component in terms of building engagement, trust and providing meaningful support. Although there is the need for specialist services (for instance, specialist mental health support), the role of the case workers is to genuinely support this engagement (not just make a referral). This might mean, for example, assisting people with getting to appointments (at least initially), and where appropriate attending appointments to support the development of the connection.³³⁷

Community-Based and Community-Led Outreach

Services that work with people with histories of involvement in the criminal justice system need to operate outside of the criminal justice system and within the communities in which people are living. Services should be outreach in focus; that is, workers should travel to where clients are at rather than relying on appointment-based systems (at least initially).³³⁸

First Nations-Led

For First Nations children, the most effective early intervention responses are those that are culturally responsive, designed and delivered by local First Nations communities and organizations, and which foster a genuine sense of community ownership and accountability.³³⁹ Many First Nations people have intergenerational and/or personal experience of mainstream services working against them.³⁴⁰ Engaging with First Nations communities ensures programs are more effectively targeted to local priorities and needs, and are aligned with local systems and circumstances.³⁴ Community involvement and local decision-making should occur at each stage of the process, including at the feedback stage to ensure that the feedback methods used align with First Nations communication and knowledge.

Centering Housing

Support must be practical: people need somewhere safe and secure to live. Regardless of the service provider's focus, the majority of people leaving prison, or at-risk of justice system involvement, require assistance with housing, and this should not be something that is referred out. People require a solid base from which they can make the changes required to stay out of prison.³⁴²

Genuine Collaboration with People with Lived Experience of Incarceration at all Levels of Program Delivery

The expertise of people who have themselves been to prison is critical in both the design and delivery of community-based reintegration services.³⁴³

APPENDIX B: QUEENSLAND PROGRAMS WITHOUT OUTCOMES EVALUATION

The following programs have been identified through conversations with stakeholders in Queensland, through desk-top research, and in some instances via evaluation literature. Programs were not included in the body of report if they:

1. Did not have a publicly available evaluation or
2. Had an evaluation completed but the evaluation did not focus on the impact of the project in terms of contact with the criminal justice system.

The Justice Reform Institute's progressing ongoing mapping work of programs in Queensland and we come any further information, evaluations and case studies that people would like to share with us.

Case studies:

Early intervention and prevention programs in Queensland

Australian Nurse-Family Partnership Program (Cairns and Brisbane, Qld)

The Australian Nurse-Family Partnership Program (AN-PP) is an adaptation of the evidence-based United States Emra Nurse-Family Partnership program, designed to be culturally appropriate for Aboriginal and Torres Strait Islander people.³⁴⁴ This program is currently delivered in Queensland (Cairns, Brisbane north, Brisbane south), New South Wales (Wentworth, Backtown, Kempsey), the ACT (Canberra), Victoria (Goulburn Valley), South Australia (Adelaide) and Northern Territory (Alice Springs, Katherine, Darwin, and four remote communities including Maningrida, Gunbalanya, Wadeye, and Wurrumungali with the hub in Darwin). In 2012, Ernst and Young conducted a process evaluation of the AN-PP using qualitative data. This evaluation concluded there were some changes associated with implementation of the program; however, most mothers, families, and services reported positive outcomes in the early stages of the program.³⁴⁵ In 2020, the Australian Government Department of Health sought a provider to undertake an independent outcomes evaluation of the AN-PP over four years.³⁴⁶ It appears as though this evaluation is yet to be completed.

Right@Home Nurse Visiting Program (Qld)

In addition to the ANPP, Queensland has implemented the Right@Home nurse visiting program.³⁴⁷ The Right@Home nurse visiting program is an adaptation of an evidence-based Australian program called the Maternal Early Childhood Sustained Home-visiting (MECSH) program.³⁴⁸ The MECSH program is delivered in a universal healthcare setting and has demonstrated several positive outcomes including: more confident and supportive parenting, improved child cognitive development, better child and parenting experiences, and longer periods of breastfeeding.³⁴⁹ Similarly, the Right@Home program is embedded in the universal healthcare setting to provide support to children aged zero to two years old and their families.³⁵⁰ Parents who participate in the program receive support from a nurse and social worker over 25 home visits. Similar to other SNHV programs, the Right@Home program was found to improve home environments and parenting relationships.³⁵ This included increased safety, increased warm parenting, less hostile parenting, increased parental involvement, increased variety in experience, and more regular bedtimes.³⁵²

It's fantastic, this Right@Home ... and it's specifically about your bub, and family and wellbeing ... it was just brilliant. (Mother)³⁵³

Kindergarten Programs (Qld)

Queensland Government has implemented some early intervention programs that aim to support children and families as they prepare to transition from pre-school to school. Similar to the evidence-based Perry Preschool Project, the KindyLinq Program aims to provide active learning and development opportunities for children as well as build up a family's capacity to support their child's learning and development at home.³⁵⁴ The sessions are delivered by a qualified teacher and an early years support coordinator. The Queensland Government Department of Education designed the KindyLinq program based on the Western Australian (WA) KindLink Program. A qualitative evaluation of WA KindLink found children and families who participated in the program experienced considerable learning and social and emotional benefits.³⁵⁵ The University of Queensland is undertaking an evaluation of the KindyLinq Program through the Social Ventures Australia's Evidence for Learning (E4L) Program and the Queensland Department of Education.³⁵⁶ The evaluation will use mixed methods to assess short-term outcomes of the program for the period between October 2020 and May 2022. In addition to the KindyLinq Program, Queensland has implemented Early Years Places and the Step up into Education 2021–2024 initiative. Early Years Places have been set up in over 50 communities in Queensland to provide a central location for families to access early childhood supports and services.³⁵⁷ There is the opportunity for future research to assess long-term child and family outcomes of these initiatives, like those examined in the Perry Preschool Project randomised controlled trial evaluation, related to imprisonment and offending.

Indigenous Youth and Family Workers/Aboriginal and Torres Strait Islander Wellbeing Services (Qld)

Thirty-four Aboriginal and Torres Strait Islander Family Wellbeing Services operate across Queensland and provide culturally safe and responsive support to First Nations families who may be experiencing disadvantage.³⁵⁸ Indigenous Youth and Family Workers are embedded within 17 of these Aboriginal and Torres Strait Islander Family Wellbeing Services to support young people under the age of 18 years old who are at-risk of involvement in the justice system and wrap support around their families.³⁵⁹ This includes referring children and families to specialised services and delivering family-based early intervention programs that aim to strengthen cultural connections, build skills, and prevent future offending. The Department of Children, Youth Justice and Multicultural Affairs has allocated \$30.1 million to fund this program up until 2026–27.³⁶⁰

Safe Dads Program (Townsville, Qld)

The North Queensland Domestic Violence Resource Service runs a Safe Dads parenting program that aims to provide education and information to fathers to address the use of domestic violence.³⁶¹

Child and Parenting Support (South-East Qld)

The Sisters Inside Child and Parenting Support Program provides intensive support and parenting education/peer support group sessions with women in the community to help improve their parenting skills and child/parenting relationships.³⁶²

Project Overhaul and Proud Warrior Project (Townsville and Mount Isa, Qld)

Project Overhaul is an early intervention and diversion program available to young people aged 15 to 21 years old in Townsville and Mount Isa who are at-risk of engaging in offending or anti-social behaviour.³⁶³ The project is offered by Queensland Youth Services in partnership with Chameleon Upcycled Products, Pinstrip Karting and Kadoon Eder, Doug Bruce. The program provides case management and support as well as offers different opportunities for young people (depending on the location) to develop socially acceptable behaviours and practice skills that will assist them to transition to a better path. In April 2023, Queensland Youth Services also received \$128,592 for the Proud Warrior Project, which provides multi-agency intervention and support for primarily first Nations young people experiencing specific risk factors for offending.³⁶⁴

Youth Empowering Strength (Mount Isa, Qld)

Youth Empowering Strength (YES) is an early intervention program that works with young people aged 12 to 21 years old who present with risk factors relating to individual, school, family, and community circumstances.³⁶⁵ YES aims to provide support to young people, in the context of their families, to assist them to develop positive relationships with their family and community; engage in education, training and/or employment; lead healthy healthy and violence-free lives; and have safe and stable places to live.

Mount Isa Youth Transitional Hub

Queensland Government has allocated \$12.7 million for the Mount Isa Youth Transitional Hub, which provides a safe space for young people and delivers support services based on culturally appropriate assessments of risk and need.³⁶⁶ This includes engaging with local service providers to ensure young people and their families receive intensive and specialised support.

Weeburra Thulgarrri Mentoring and Family Wellbeing Program (Townsville, Qld)

Weeburra Thulgarrri means 'one big family'. Yumba-Meta Limited has set up a community centre in Townsville where this program is delivered to provide early intervention tutoring and mentoring support to Aboriginal and Torres Strait Islander children aged seven to eight years old. The program aims to improve children's physical, social and emotional wellbeing; strengthen their connection to culture; and build resilience and coping skills.³⁶⁷

Queensland Youth Partnership Initiative

The Queensland Youth Partnership (QYP) initiative aims to prevent youth crime and antisocial behaviour by engaging with young people in shopping centres.³⁶⁸ The QYP involves retailers, youth services, security officers, and police working collaboratively to keep young people connected and engaging in pro-social behaviours. This includes delivering youth focused crime prevention and diversion activities that incorporate activities such as sport, art, and music. The QYP Stock and S Outreach program in Rockhampton is supported by Darumba Community Youth Service in partnership with Stock and S management and security staff.³⁶⁹

Shine For Kids Mentoring Program (Ipswich and Townsville, Qld)

The SHINE for Kids mentoring program is a place-based community mentoring program run by SHINE for Kids, which aims to support young people aged 12 to 21 years old who have (or have had) a parent in custody and are at-risk of justice system involvement (as well as young people aged 12 to 18 years old in Ipswich). The program matches young people with a consistent adult mentor for 12 months to support the delivery of structured activities; support young people to engage with education, training, and employment; and connect young people with community and culture.³⁷⁰

Stay Together, Play Together, Townsville (Brisbane and Gold Coast, Qld)

SHINE for Kids runs the Stay Together Play Together program with the aim of supporting mothers and fathers in person to maintain relationships with their children and families, build their parenting skills, and develop family and social networks. The program was developed from the Early Years Learning Framework for Australia and is delivered through structured and unstructured playgroup activities.³⁷¹

Aspire, Uniting Care (Townsville, Qld)

Aspire is a community-based service that supports young people aged 12 to 21 years old (as well as siblings aged 8 to 11 years old) who are at-risk of involvement with the youth justice system.³⁷² The program aims to support young people through individualised assistance, tailored youth development activities, recreational programs, education, community participation, and advocacy.

Deterring Drivers Program (Townsville, Qld)

The Deterring Drivers Program is an innovative six-week pilot program designed by criminologists from Australian Catholic University (ACU), which aims to prevent motor vehicle offending by intervening early and engaging youth in a targeted educational and adrenaline-based activities. ACU is planning to evaluate the program using mixed methodologies including pre- and post-intervention interviews and surveys with participants; interviews with police, caseworkers, families, and other stakeholders; participant observations; and analysis of available data relating to offending behaviour pre- and post-intervention.³⁷³

Youth Step-Up Step-Down Service (Caboolture, Logan and Cairns, Qld)

The Youth Step-Up Step-Down Service (SUSD) is an evidence-informed initiative that offers short-term (up to 28 days), sub-acute community bed-based mental health support and treatment to young people aged 16 to 21 years old who are experiencing severe and complex mental health concerns. In addition to clinical services, a non-government organisation is integrated with the Youth SUSD to provide non-clinical host care support.³⁷⁴

Family and Child Connect (Qld)

Local community-based Family and Child Connect services are available in 20 locations across Queensland. These services aim to provide advice and information to families, which includes linking children and families with services to assist with their individual situation.³⁷⁵

Youth Housing and Reintegration Service (Qld)

Community-based organisations provide a Youth Housing and Reintegration Service in six locations across Queensland to support young people aged 12 to 21 years old who are experiencing homelessness, who are at-risk of homelessness, who are transitioning from/have recently exited care or youth detention, or who have unstable living arrangements. This includes case management and brokerage to assist young people with housing needs.³⁷⁶

Youth Support Services (Qld)

There are 87 community-based youth support services across Queensland who work with young people aged 8 to 21 years old to help them connect to positive family support, engage in employment, training and/or education, and live a healthy and violence-free life with a safe and stable place to live.³⁷⁷ Youth support services deliver both access services (information, advice, and referral to other services) and support services (case management/coordination and one-on-one assistance) that are tailored to the individual and their circumstances.

Youth Day Support Program (Rockhampton, Qld)

Lives Lived Well runs a free non-resident alcohol and tobacco Day Support Program for young people aged 12 to 17 years old and young people aged 18 to 21 years old in Rockhampton.³⁷⁸ Lives Lived Well has a research partnership with the University of Queensland in support of providing timely evidence-informed treatment.³⁷⁹

Jacaranda Place (Brisbane, Qld)

Jacaranda Place is a 12-bed sub-acute extended treatment centre that provides inpatient support (for up to six months) to young people primarily aged 13 to 18 years old who have severe and complex mental health concerns. Jacaranda Place also provides a day program that provides outpatient support to young people aged 13 to 18 years old who live in the community.³⁸⁰

E_Suarve (Gold Coast, Qld)

Everying Suarve Inc (E_Suarve) is a not-for-profit organisation offering a range of vocational programs for young people who are at risk of justice system involvement or have experienced the justice system on the Gold Coast. The E_Suarve Big Brother program supports young people aged 14 to 25 years old to re-engage with education, training and/or employment, which includes building tiny homes for homeless people and gaining certificates in construction. E_Suarve has reported that 90% of participants have gained employment on completion of the program.³⁸¹

Recycle Your Dreams (Townsville, Qld)

Recycle Your Dreams, formerly run by Queensland Youth Services, was a two-year pilot program (from 2017 to 2019) aimed at connecting young people aged 15 to 25 years old at risk with education, training, and employment. In total, 37 participants gained full-time employment and 13 participants went on to further study and training. Queensland Youth Services estimated this is a potential economic savings of \$714,000 Newstart savings from youth who gained employment or returned to school, and \$2.3 million in potential Newstart savings based on recipients accessing financial assistance for five years.³⁸²

Onwards & Upwards Wellbeing Mentoring Program (Qld)

The Inspiring Brighter Futures Foundations Onwards & Upwards Wellbeing Mentoring Program supports children and adults who may be experiencing disadvantage through one-on-one personal development and mentoring.³⁸³ The program has been delivered for diverse groups of people including people with a criminal justice system experience and young people who are disengaged from education.

Early Action Groups (Qld, 3 Locations)

Following an internal review, the remit of the Townsville Stronger Communities initiative was refreshed in 2021 to focus on early intervention through an Early Action Group.³⁸⁴ This multi-agency Early Action Group includes representatives from Queensland Police Service, Department of Children, Youth Justice and Multicultural Affairs, Department of Education, Department of Communities, Housing and Digital Economy, Department of Seniors, Disability and Aboriginal and Torres Strait Islander Partnerships, and Queensland Health.³⁸⁵ The group works in partnership with relevant community services and supports children aged 8 to 16 years old to address the underlying factors that lead to offending. In February 2023, \$1.8 million funding was committed to rollout this initiative in Mount Isa and Cairns.³⁸⁶

Project Booyah (Queensland Police)

Project Booyah is a Queensland Police-led mentoring program for disconnected young people aged 14 to 17 years old, which aims to empower participants to make better life choices.³⁸⁷ It incorporates adventure-based learning, leadership skills development, decision-making and problem-solving activities, resilience training, coping strategies, and family involvement principles. In 2014, Griffith University undertook an evaluation of Project Booyah to establish its efficacy in targeting criminogenic behaviours and attitudes.³⁸⁸ This evaluation was not made publicly available. However, Queensland Government reported publicly that the majority of young people who participated in the program did not go on to offend again, and that for every dollar invested in Project Booyah, the savings to the community are \$2.55.³⁸⁹

Framing the Future (Queensland Police)

Framing the Future aims to continue engagement with Project Booyah graduates for 18 months (and longer if required) after completion of the program to prevent involvement in antisocial and offending behaviour.³⁹⁰ This includes supporting young people to engage with education and/or employment and providing tailored interventions.

Proud Warrior (Townsville, Qld)

Proud Warrior is an Australian Army program that aims to positively influence young people aged 14 years and above in Townsville who are at-risk of further justice system involvement.³⁹ The program provides a safe and enjoyable environment for young people to be mentored, coached, and supported. It is delivered in collaboration with Queensland Police, Youth Justice, Department of Seniors, Disability and Aboriginal and Torres Strait Islander Partnerships, Australian Army Cadets, Local Aboriginal Elders, Sunbus, Education Queensland and Unity Care.

Youth Support Coordinator Initiative (Qld)

The Queensland Government Department of Education Youth Support Coordinator initiative provides funding to schools to employ one full-time equivalent staff member to focus on supporting educational retention and attainment of young people in Year 10 to Year 12. This early intervention initiative aims to provide educational and sustainable future employment opportunities for young people who are disengaged, or at-risk of disengaging, from school.³⁹²

General Practitioners in Schools Pilot Project (Qld)

The Queensland Government has funded 50 schools across Queensland through the General Practitioners in Schools Pilot Project to run an on-site GP clinic one-day per week for secondary students. This project is intended to provide timely and appropriate health care for students and thereby removing barriers to access.³⁹³ Access to good-quality health care, including mental health care, especially for children and young people experiencing disadvantage is an important protective factor.

Regional Youth Engagement Service (Qld)

The Queensland Government Department of Education has established Regional Youth Engagement Services in eight regions within Queensland, which provide place-based support for young people to reengage with education or work. The services work in partnership with other government agencies, schools, registered training organisations, community-based organisations, and other stakeholders.³⁹⁴

Positive Learning Centres, Flexispaces, and Spotlight Schools (Qld)

There are Queensland Government Department of Education funded Positive Learning Centres in 15 locations across Queensland. Positive Learning Centres provide an alternative educational option for students who require early intervention beyond what is available within a mainstream classroom. This can include long-term placements, part-time programs, and suspension periods, with the aim of keeping students engaged in education and ultimately reengaging students back into mainstream school or alternative learning/vocational pathways.³⁹⁵ There are also 52 schools across Queensland with a Flex Space, which is an alternative learning environment for students who may be experiencing disengagement. Complementary to these alternative educational options, the Spotlight Schools initiative provides evidence-informed professional development and capacity-building support to schools who are working to improve practices and responses for disengaged students and/or students at-risk of disengagement.³⁹⁶

Link and Launch (Qld)

The Queensland Government Department of Education's Link and Launch program aims to provide case management support to Year 12 young people to assist them to engage with education, training and/or employment at a key transition point in their life course.³⁹⁷ Link and Launch services are now available in 36 schools across Queensland following an independent evaluation that showed 73.2% of participants transitioned into employment, further education, or training and 90.9% remained engaged after 30 months.³⁹⁸

Beyond Domestic Violence (Brisbane, Qld)

In April 2023, Beyond DV (Domestic Violence) received \$295,665 funding through the Community Partnership Innovation Grant scheme to establish a holistic early intervention that will support young people impacted by domestic and family violence.³⁹⁹

Selectability Limited (Cairns, Qld)

In April 2023, Selectability Limited received \$259,331 funding through the Community Partnership Innovation Grant scheme to establish an after-hours outreach and mentoring program in Cairns and Edmonton.⁴⁰⁰

Australian Training Works Group (Brisbane, Qld)

In April 2023, Australian Training Works Group Pty Ltd (an indigenous group training organisation) received \$299,423 funding to provide work-readiness courses and skills building for young people in Cairns.⁴⁰¹

The Block (Goondiwindi, Qld)

In April 2023, Wanganjina Foundation received \$300,000 in funding through the Community Innovation Grant Scheme to support young people in Goondiwindi (as well as young people in border towns in New South Wales) through a community hub that provides pro-social activities, cultural education, and other opportunities.⁴⁰²

Rites of Passage Framework (Goondiwindi, Qld)

In April 2023, Marjoram Yaalam Indigenous Corporation for Community Justice received \$298,980 in funding through the Community Innovation Grant scheme to develop a Rites of Passage framework that provides intensive support to young people pre-and-post attending a Rites of Passage Camp.

Case studies:

Tertiary programs for children and young people

Community Youth Response and Diversion (Qld)

The Queensland Government has allocated a total amount of \$56.9 million towards Community Youth Response and Diversion programs that aim to divert young people aged 10 to 15 years old from the justice system into placed-based diversion services, integrated case management and other supports. Community-based organisations provide culturally appropriate diversionary options in Brisbane, Gold Coast, Logan, Ipswich, Cairns and Townsville, with the current program funded until June 2023.⁴⁰³ The Queensland Government has contracted Nous Group to undertake an evaluation of this program.⁴⁰⁴

The Lighthouse: Youth After Hours Diversion Service (Townsville, Qld)

The Lighthouse is open from 6pm to 8am seven nights per week to provide support for young people aged 10 to 17 years old in Townsville who need a safe place to go. Young people who access the service are assigned a case worker and can access overnight accommodation as well as other activities/supports.⁴⁰⁵

Disrupting the School to Prison Pipeline Project (Moreton Bay Region, Qld)

The Disrupting the School to Prison Pipeline Project aims to reconnect disengaged First Nations young people in the Moreton Bay Region with education, training, or employment. The project is delivered by MInde Bygu Aboriginal Corporation and Queensland University of Technology who are undertaking the evaluation component.⁴⁰⁶

Transition to Community (Ipswich, Qld)

Transition to Community is an intensive six-month post-release program in Ipswich that aims to support young people leaving youth detention to reintegrate back into the community including through connection with training and employment opportunities.⁴⁰⁷ This program is delivered by Career Success Towards Success, who have developed a collaborative relationship with the evidence-based BackTrack Youth Works Project in New South Wales and have developed the services using an evidence-informed approach.⁴⁰⁸

On Country Program (Cairns, Mount Isa and Townsville, Qld)

The Queensland Government has funded \$9.8 million towards an On Country program for Aboriginal and/or Torres Strait Islander young people aged 10 to 17 years old who have offended and are assessed as having high and complex needs. The program is delivered by First Nations community-controlled organisations in three locations including Jaba b na Ya anj Aboriginal Corporation in Cairns, Mona Aboriginal Corporation in Mount Isa, and Gr8Motiv Aboriginal and Torres Strait Islander Corporation in Queensland and Townsville.⁴⁰⁹ Queensland Council of Social Services undertook an evaluation that looks at the effectiveness and impact of the program on youth offending.⁴¹⁰ In addition, Jaba b na Ya anj Aboriginal Corporation received additional funding through the Community Partnership Innovation Grant scheme to deliver overnight On Country Healing Camps at short notice and in the 72 hours after young people leave youth detention.⁴¹¹

Elders Cautioning Pilot Program (Qld)

The Queensland Government has funded an Elders Cautioning Pilot Program in Cairns. This project is run by Cairns Elders Aboriginal and Torres Strait Islander Corporation in partnership with Queensland Police and Griffith University who are undertaking the evaluation component.⁴¹² The program aims to divert young people from the justice system into culturally appropriate cautioning and other supports. Elders in other communities (including Rockhampton, North Stradbroke Islands, and Townsville) are also providing Elders Cautioning in partnership with Queensland Police (however, Elders Cautioning in these communities is unfunded and voluntary).

Community Helping Adolescents with New Growth and Endeavours (Change) (Toowoomba, Qld)

CHANGE aims to provide wrap-around interventions and supports for young people aged 10 to 17 years old in Toowoomba who are at-risk of becoming entrenched in the youth justice system. Local community-based service providers (Catholic Care Social Services, Emerge, Good Samaritan College, Bunya Peoples Aboriginal Corporation, and Raw Impact) collectively deliver the program to ensure young people receive holistic support (including housing, mentoring, education, training, employment, recreational activities, and cultural connection).⁴¹³ In April 2023, Raw Impact also received \$300,000 in funding through the Community Partnership Innovation Grant scheme to deliver intensive cultural connection support and opportunities for young people at-risk in Toowoomba.⁴¹⁴

Keeping Our Kids Out (Koko) Pasifika Youth Holistic Hub (Logan, Qld)

Village Connect Ltd has developed the first culturally safe integrated service response for Pacific Islander young people in Queensland, which aims to provide wrap-around supports for young people who are offending as well as their families.⁴¹⁵

Yangah Program (Brisbane, Qld)

Sters ns de de vers th s program, wh ch a ms to reduce the number of young g r s aged 10 to 17 years o d he d on remand n pr son or w th n po ce watch houses by prov d ng pre- and post-re ease support to mprove the ke hood of ba and ba comp ance. Th s nc udes support ng g r s to access accommodat on, commun ty-based serv ces and supports, ega representat on and nd v dua /fam y support.⁴⁶

Intensive Bail Initiative (Qld)

The ntens ve Ba n t at ve (B) s de vered by commun ty-based serv ce prov ders n five ocat ons across Queens and who prov de support to young peop e aged 10 to 17 years o d who have comm tted ser ous, repeat offences, and have ntens ve ba cond t ons (such as e ectron c mon tor ng or a cond tona ba program) as we as support the r fam es. The B nc udes ba support; ntens ve fam y partnersh p case work; and commun ty co-responders who are ava ble to prov de support and connect on serv ces out of hours (nc ud ng n response to ca s from young peop e, fam es, Youth Co-Responder Teams, and Youth Justice Serv ce Centres). The program s be ng expanded to Toowoomba, Mount sa, and Cairns. The Queens and Department of Ch dren, Youth Justice, and Mu t cu tura Affa rs reports that t has a ocated tota fund ng of \$33.9 m on for de very n a tota of e ght ocat ons over a number of years unt 2026–27, and that there has been a 34% reduct on n custody n ghts n the ex st ng five ocat ons.⁴⁷

Current serv ce prov ders are Youth Advocacy Centre (Brisbane), Ang care Queens and (Logan), TAHS (Townsv e ba support component on y), Kurb ngu (Caboo ture/Redc ffe) and Ang care Southern Queens and (Go d Coast).

Navigate Your Health (Qld)

Nav gate Your Hea th s ava ble to young peop e aged 10 to 17.5 years o d who are subject to commun ty-based youth justice orders n Brisbane, Western D str cts, psw ch, Logan, and Cairns. Queens and Hea th Nurse Nav gators work n co laborat on w th other government departments, genera pract t oners, Abor g na Med ca Serv ces, and other commun ty hea th serv ces to ensure young peop e rece ve support re ated to the r hea th and we ness.⁴⁸

Specialist Support and Counselling Services (Qld)

Queens and Government funds spec a st support and counse ng serv ces for peop e mpacted by sexua offend ng. Youth Sexua Vo ence and Abuse (YSVA) Serv ces have been estab shed w th n var ous ocat ons across Queens and to prov de trauma- nformed counse ng for young peop e aged 10 to 17 years o d who have exper enced sexua vo ence or ch d sexua abuse as we as ear y ntervent on responses for young peop e exh b t ng prob emat c sexua behav ours.⁴⁹ Add t ona y, Bravehearts oundat on L m ted prov des ev dence-based spec a st counse ng serv ces nvo v ng therapeut c ntervent on support w th n restorat ve justice conferenc ng for ado escents who have comm tted sexua offences and the r fam es, and persons harmed and the r fam es/s gn ficant others.⁴²⁰ Externa prov ders have been engaged to eva uate the effect veness of these serv ces.⁴²

Family-led Decision-Making (Qld, 4 Locations)

Family-led decision-making aims to empower Aboriginal and/or Torres Strait Islander children who have offended and their families to have a voice about youth justice responses through a culturally safe decision-making process. Queensland Government has allocated \$8.7 million for this service, which Aboriginal and Torres Strait Islander community-controlled organisations deliver in four regions (Cairns, Toowoomba, Brisbane south/Logan and North Brisbane) across Queensland in partnership with youth justice staff. The Queensland Aboriginal and Torres Strait Islander Child Protection Peak provides program support including with planned evaluation.⁴²²

Legal Advocacy and Bail Support Services (Qld, 13 Locations)

Legal advocacy and bail support services are delivered by community-based organisations in 13 locations across Queensland to support young people aged 10 to 17 years old in the youth justice system through court advocacy, case management, after hours support and visits, connection to local community services and assistance to comply with bail conditions.⁴²³ The Queensland Department of Children, Youth Justice and Multicultural Affairs reports it has allocated \$43.1 million towards these services over several years until 2026–27 and that these services have resulted in a 32% reduction in reoffending frequency and severity.⁴²⁴

The Yili Program (Qld)

Yiyapnya Indigenous Corporation delivers the Yili Program, which is a transition and engagement support program for youth aged 10 to 15 years old on bail reporting conditions who cannot have their needs met by alternative education facilities. This program and other services that Yiyapnya Indigenous Corporation delivers are evidence and neuroscience informed. In April 2023, Yiyapnya Indigenous Corporation received \$300,000 through the Community Innovation Grant Scheme to deliver a neuroplasticity program for Aboriginal children aged 10 to 18 years old on bail in Woorabinda. Yiyapnya Indigenous Corporation also offers the expertise in neuroplasticity programs to support other organisations through the development of tailored brain fitness programs for children, youth, and adults.⁴²⁵

Specialist High-Risk Youth Court (Townsville, Qld)

The Queensland Government introduced the Townsville High-Risk Youth Court in 2017 for the purpose of ensuring high risk and repeat young defendants appear in court and are heard by the same magistrate.⁴²⁶

Multi Agency Collaborative Panels (Qld, 17 Locations)

The Queensland Government has legislated the operation of multi-agency collaborative panels for government departments to coordinate the provision of services, including assessments and referrals, for young people who have offended or who are at-risk of offending. The legislation provides the option for government to invite prescribed entities or service providers to assist with the provision of services through the panels.⁴²⁷ The Department of Children, Youth Justice and Multicultural Affairs reports that it has allocated \$17.5 million to the operation of multi-agency collaborative panels, which are available in 17 locations across Queensland (Brisbane, Caboolture, Cairns, Darling Downs, Gold Coast, Ipswich, Logan, Mackay, Mareeba, Mount Isa, Rockhampton, south-west Queensland, Sunshine Coast, Townsville, Wandamba, Western Districts and Wide Bay Burnett).

Lutheran Church (Brisbane, Qld)

In April 2023, Brisbane Lutheran Church received \$300,000 funding through the Community Partnership Innovation Grant scheme to establish a targeted-hospital case-coordination and intensive case management service that will target drivers behind young people's offending behaviours.⁴²⁸

Back to Community Reintegration Program (Mount Isa, Qld)

In April 2023, 54 Reasons received \$300,000 funding through the Community Partnership Innovation Grant scheme to establish this program that will provide rights-based, trauma-informed and culturally responsive throughcare support to young people from Mount Isa, Doomadgee or Morningtons and who are leaving youth detention.⁴²⁹

Adam Wenitong (Toowoomba, Qld)

In April 2023, Adam Wenitong received \$142,483 funding through the Community Partnership Innovation Grant scheme to establish a 30-week response for young people who have reoffended in Toowoomba (which includes a First Nations cultural project).⁴³⁰

Youth Off The Streets (Logan, Qld)

In April 2023, Youth Off the Streets received \$293,500 funding through the Community Partnership Innovation Grant scheme to support the delivery of targeted and evidence-based interventions for young people transitioning from detention to the community and for young people who require support to re-engage with education (including young people from First Nations, Pasifika and African communities).⁴³

Case studies:

Alternatives to policing in Queensland

Youth Co-Responder Teams (Qld)

The Queensland Government has established Youth Co-Responder Teams in eight locations across Queensland (Townsville, Cairns, Mackay, Rockhampton, Moreton Bay region, Brisbane North, Logan and Gold Coast), and has recently announced expansion of this initiative in five additional locations (Toowoomba, Hervey Bay, Mount Isa, Ipswich and south Brisbane). Youth Co-Responder Teams operate as a partnership between police and youth justice workers who patrol the streets and engage with young people including those on bail. The Queensland Department of Children, Youth Justice, and Multicultural Affairs reports that it has committed a total amount of \$97.5 million towards the Youth Co-Responder Teams and associated youth justice after hours support over several years until 2026–27,⁴³² and that there is a 96% average bail compliance across all locations.⁴³³

Case studies:

Bail support and alternatives to remand in Queensland

Edward Chubb Diversionary Service (Rockhampton, Qld)

Juwarik Kapu-Lug runs the Edward Chubb Diversionary Service in Rockhampton, which includes a 15-bed alternative accommodation centre that aims to divert people from police custody into more appropriate supports. The centre is purpose-built to provide culturally appropriate support and case management for adults who are at-risk to themselves or others as a result of public intoxication.⁴³⁴

Murri Watch Diversionary Centre (Brisbane, Qld)

Murri-Watch runs a 14-bed diversionary centre that provides a culturally appropriate alternative to police custody in Brisbane for Aboriginal and Torres Strait Islander adults who are at-risk as a result of public intoxication. In 2020, 687 clients accessed the diversion centre on 1360 different occasions.⁴³⁵

Reverend Charles Diversionary Centre (Townsville, Qld)

Yumba Meta runs a 50-bed diversionary centre (28 male beds and 22 female beds) as an alternative to police custody for adults who require supports as a result of public intoxication.⁴³⁶

Breaking the Cycle Program (Townsville, Qld)

Yumba Meta runs a five to 30-day Breaking the Cycle Program in conjunction with the Reverend Charles Dversenary Centre (with a regular clients of the centre encouraged to complete the program). The program provides individualised intensive case management and supports in a safe and caring environment to address underlying factors contributing to the current circumstances.⁴³⁷

Supreme Court Bail Support Program (Townsville and South-East Qld)

Through this program, Sisters Inside supports women to apply for, and successfully complete, Supreme Court Bail in Townsville and south-east Queensland.⁴³⁸

Court Link (Qld)

Court Link is an integrated assessment, bail referral and support program that is available in eight locations across Queensland (Brisbane, Cairns, Ipswich, Southport, Caboolture, Redcliffe, Maroochydore and Mount Isa). The program aims to address the drivers of offending by connecting people with relevant services and supports.⁴³⁹ In 2021–22, 635 people were accepted into case management through the program and 346 people completed 12-plus weeks of case management. An evaluation of Court Link commenced in 2019 and is scheduled to be completed this year in 2023.⁴⁴⁰

Decarceration Program (South-East Qld)

Sisters Inside runs this program to reduce the number of women on remand in south-east Queensland and by providing early support to improve the likelihood of a successful bail application and post-release outreach support to assist women to meet their bail or parole conditions.⁴⁴¹

Parole Support Program (South-East Qld)

This Sisters Inside program provides pre- and post-release parole support to women in a south-east Queensland prisons.⁴⁴²

Murri Watch Community Patrol Program (Townsville and Mackay, Qld)

Murri Watch delivers a Community Patrol program in Townsville and Mackay, which provides outreach, support (including referring to services), and transport for Aboriginal and Torres Strait Islander people who are homeless/sleeping rough and intoxicated in public spaces.⁴⁴³

Safe Night Precinct Support Services (Qld, 15 Locations)

Community-based service providers offer safe night precinct support services in 15 locations across Queensland to assist people who are intoxicated between 10pm to 4am on Friday and Saturday nights.⁴⁴⁴

Management of Public Intoxication Program (Qld)

The Management of Public Intoxication Program (MPPI) was developed based on evidence-based practice to provide case management, health supports, and assertive outreach with people who are homeless and experiencing intoxication in public spaces. The MPPI is delivered by Anglicare Southern Queensland in Townsville⁴⁴⁵ and Aboriginal and Islander Community Resource Agency in Rockhampton.⁴⁴⁶

Men's Domestic Violence Education and Intervention Program (Gold Coast, Qld)

The Domestic Violence Prevention Centre Gold Coast delivers a Men's Domestic Violence Education and Intervention Program in partnership with Queensland Corrective Services, which provides an alternative option for the court to include as a condition of a community-based probation or parole order for adult men.⁴⁴⁷

Case studies:

Post-release support and throughcare in Queensland

Beyond the Police Check (Australia-Wide)

Australian Red Cross undertook research that found employers can feel overwhelmed when employing people with lived experience of the justice system.⁴⁴⁸ In response to this finding, Australian Red Cross developed the Beyond the Police Check resource, which provides tools to support employers to recruit, manage and support people with lived experience of the justice system.⁴⁴⁹ Research has shown 78% of employers who had previously recruited someone with lived experience reported positive outcomes.⁴⁵⁰

Community Re-Entry Support Teams (Qld)

The Community Re-Entry Support Teams (CREST) are available in most major correctional centres and in Townsville Women's Correctional Centre in Queensland. CREST services provide pre-prison information and referral support, post-release managed support, and parole support.⁴⁵¹ CREST services are delivered by Lives Lived Well in North and Central Queensland⁴⁵², Open Minds Australia in Townsville⁴⁵³ and Australian Community Support Organisation (ACSO) in south-east Queensland.⁴⁵⁴ Queensland Corrective Services engaged ABT Associates to evaluate the CREST service and its impact on recidivism, which (to our knowledge) has not yet been made publicly available.⁴⁵⁵

MARA (South-East Qld)

Sero4 Ltd delivers a re-entry program for women in south-east Queensland and correctional centres called MARA. The MARA program provides trauma-informed pre- and post-release support for up to three months before leaving prison and six months after leaving prison.⁴⁵⁶

Women's Healing Service (Townsville, Qld)

Palms and Community Company runs a trauma-informed and culturally-driven women's healing service that supports Aboriginal and Torres Strait Islander women pre- and post-release from prison in Townsville.⁴⁵⁷

Transition from Corrections (South-East and Wide Bay, Qld)

Richmond Fellowship Queensland runs a recovery-focused Transition from Corrections program that aims to support adults with a mental health condition who are released from prison in the south-east and Wide Bay regions of Queensland. Emotional and practical support is provided pre- and post-release (up to 12 months post-release).⁴⁵⁸

Health Support Program (Qld)

Stersinsde runs a Health Support Program that supports women who have been criminalised (particular in the first month post-release from prison) and their children to improve their social and emotional wellbeing and health. This includes referrals to supports and services (including non-health related services) and practical support to attend appointments.⁴⁵⁹

Time to Work Employment Service (Townsville and South-East Qld)

The Time to Work Employment Service is a federal government-funded initiative delivered in Queensland Correctional Centres that aims to support sentenced Aboriginal and/or Torres Strait Islander peoples in prison to connect with employment opportunities post-release from prison.⁴⁶⁰ National Indigenous Australians Agency (NIAA) engaged SVA Consulting to evaluate this service in 2021. This evaluation outlined several limitations of the service including that just over half of all participants who participated in the service did not connect with an employment provider within 13 weeks post-release. Other limitations included:

- » Lack of evidence showing it was developed in consultation with Aboriginal and Torres Strait Islander stakeholders
- » The need for providers to strengthen cultural appropriateness in the delivery of the service
- » Operational barriers limiting successful implementation of the program in prisons
- » The need for providers to work with participants over a longer period
- » Issues with program logic, implementation and fidelity
- » Continued service coordination challenges
- » Limited connection between participants and their post-release employment provider
- » The need for improved data collection and linkage in support of evaluating outcomes of the service.⁴⁶¹

Post-Release Supported Accommodation Program (Qld)

St Vincent de Paul delivers the Post-Release Supported Accommodation Program in partnership with Queensland Corrective Services. This program provides post-release housing and support to men on parole in Toowoomba, Moreton Bay, Townsville and Cairns. From the program inception in 2019 to 30 June 2022, 197 men had obtained housing through the program (with more than half identifying as Aboriginal and/or Torres Strait Islander).⁴⁶²

Next Step Home – Women on Parole Program (Qld)

The Next Step Home Women on Parole Program provides post-release housing and wrap-around support for women leaving prison in south-east and north Queensland. The University of Queensland (UQ) completed an evaluation of this program in 2020 that (to our knowledge) has not been released publicly.⁴⁶³ Queensland Corrective Services (QCS) reports that 187 women in south-east Queensland and 35 women in north Queensland have obtained housing through this program as of 30 June 2022.⁴⁶⁴

Gatton Re-Entry Program (Gatton, Qld)

St Vincent de Paul delivers this program to provide pre-release support (for up to three months) and post-release individual and family support (for up to six months or longer if required) for women who are incarcerated at Gatton.⁴⁶⁵

Case studies:

First Nations-led place-based approaches in Queensland

Mornington Island Restorative Justice Project (Mornington Island, Qld)

This evaluation utilised a mixed-methodology approach to explore outcomes from the Mornington Island Restorative Justice Project. This community-led mediation/peacemaking project aimed to build Mornington Island community capacity to self-determine conflict management without violence or engagement with external agencies (such as police and courts). The evaluation outlined several positive outcomes of this place-based mediation project including community ownership, confidence and trust in the process, restoration and healing in the community (rather than through the justice system), and restoration of Elder authority and respect.⁴⁶⁶

Aurukun Restorative Justice and Reintegration Justice Project (Aurukun, Qld)

Through the Aurukun Restorative Justice Project (which commenced in 2013), a local and culturally inclusive mediation and peacekeeping service has been established to build community dispute resolution capacity in Aurukun.⁴⁶⁷ A 2017 evaluation of this project found the community was very supportive of local mediation and over two-thirds (64%) of mediation participants recorded successful outcomes. Following this evaluation in April 2017, the Aurukun Reintegration Justice Project commenced to improve services and supports for people from the Aurukun community before, during, and after incarceration.⁴⁶⁸

North Stradbroke Island Youth and Social Justice Working Group (Terrangeri, Qld)

The North Stradbroke Islands and Youth and Social Justice Working Group was established after discussions between Aboriginal Elders across Terrangeri (Stradbroke Islands) and south-east Queensland, who were concerned about the ongoing issues impacting Aboriginal youth. These discussions identified the ongoing failures of existing systems and highlighted the need for an urgent and self-determining response. Led by the Mnjerrbah Moorgumpin (Elders-in-Council), the working group includes a grass-roots network of stakeholders who create justice reinvestment and restoration initiatives for the local community. This work is community controlled. It was founded by, and ensures the ongoing engagement of, Aboriginal Elders across a range of decision-making. The working group has a particular focus on promoting self-pride and self-worth in Quandamooka youth through culturally-based models, with the fundamental intention of life promotion and belonging.

Case studies:

In-prison programs in Queensland

Anti-Violence Program (Townsville And Gatton, Sisters Inside, Qld)

Sisters Inside runs an anti-violence program that facilitates individualised counselling and education/support groups with women in prison who have experienced domestic, family, and/or sexual violence. This program is supported by two full-time anti-violence workers in Townsville and one in Gatton.⁴⁶⁹

Sexual Assault Program (Qld)

The Sisters Inside Sexual Assault program provides counselling and support to women in Queensland and prisoners who have been impacted by sexual assault.⁴⁷⁰

Elders Visiting Program (Qld)

Elders from Aboriginal and/or Torres Strait Islander communities visit people in prison to provide cultural and other supports.⁴⁷

Cell Visitors Service (Qld)

In response to the Royal Commission into Aboriginal Deaths in Custody, the Queensland Government funded the establishment of Cell Visitor Services in watch houses across Queensland. Community organisations deliver these services to minimise harm and prevent deaths in custody. Service providers include Juwark Kapu-Lug (in Rockhampton), Murr Watch (in Brisbane City, Beenleigh, Richlands, Ipswich, Cive and, Pine Rivers, Caboolture, Mackay, Townsville and Palm Springs) and Ang care (in Cairns and Innisfail).⁴⁷²

Pups In Prison (Southern Qld)

Pups in Prison is a voluntary program that is delivered in partnership with Assistance Dogs Australia and offered to women who are incarcerated in southern Queensland correctional centres. As part of the program, women obtain a Certificate in Companion Animal Services and lead the training for dogs to become qualified assistance dogs.⁴⁷³

Cultural Connections Program (Aurukun, Qld)

Apunipma Cape York Health Council runs a social and emotional wellbeing cultural connections program for adult males from Aurukun who are in prison. This program includes in-custody programs and post-release intervention and support.⁴⁷⁴

Building on Women's Strengths (Brisbane and Townsville, Qld)

The Sisters in Sides Building on Women's Success program supports mothers to maintain relationships with their children while in prison and to rebuild their lives together post-release.⁴⁷⁵

Disrupting Family Violence Program (Qld)

The Disrupting Family Violence Program is a cognitive behavioural therapy program for men in prison who have perpetrated violence and abusive behaviours against intimate partners and family. In 2021, Queensland Corrective Service reported that the program was examined to assess its suitability in prison contexts and found it to be an effective intervention for people in prison.⁴⁷⁶

Case studies: Services in the community in Queensland

Bowman Johnson Hostel (Brisbane, Qld)

Bowman Johnson Hostel is a 22-bed short-term supported accommodation option (inclusive of case management services) for people who are homeless or at-risk of homelessness in Brisbane. The hostel is run by Murr Watch and is primarily targeted towards supporting Aboriginal and Torres Strait Islander male and female adults. Murr Watch reports that 136 clients were accommodated over the past 12 months.⁴⁷⁷

Dale Parker Place (Townsville, Qld)

Dale Parker Place is a supported accommodation option available to single males, single females, and couples without children who are experiencing homelessness or sleeping rough in Townsville. Through the service, Yumba Meta provides individualised case management to support clients to transition into independent, sustainable housing in the community. The facility has 40 one-bedroom units available and has exceeded 95% capacity at all times.⁴⁷⁸

Binbi Yadubay – Healthy Beginnings (Rockhampton, Qld)

In 2022, a new purpose-built 42-bed drug and alcohol residential facility called Binbi Yadubay (Healthy Beginnings) opened in Rockhampton. This is the first service in Queensland to offer withdrawal, rehabilitation, and family recovery residential services.⁴⁷⁹ Lives Loved Well has formally partnered with the University of Queensland to support continuous monitoring and improvement and delivery of evidence-based services/programs.⁴⁸⁰

Gindaja Treatment and Healing Indigenous Corporation (Yarrabah, Qld)

Gindaja Treatment and Health Centre Aboriginal Corporation runs a 17-bed Residential Recovery Centre and a non-residential Learning and Wellbeing Centre to support Aboriginal and Torres Strait Islander people to recover from problematic alcohol and/or substance use.⁴⁸¹

Mimosa Creek Healing Centre (Woorabinda, Qld)

Central Queensland and Indigenous Development (CQID) runs the Mimosa Creek Healing Centre, which supports Aboriginal and Torres Strait Islander men suffering from problematic drug and/or alcohol use through a 12-week residential program that is strong in culture.⁴⁸² CQID also provides non-residential culturally appropriate services and supports for Aboriginal and/or Torres Strait Islander adults who are impacted by problematic substance use.⁴⁸³

Shanty Creek (Mareeba, Qld)

L ves L ved We runs a 30-bed residential drug and a cohort program for Aboriginal and/or Torres Strait Islander men and women to access supports for problematic drug and/or a cohort use (for up to four months).⁴⁸⁴

Logan House and Family Recovery Units (Logan, Qld)

The L ves L ved We Logan House is a 6–12-week residential treatment program for adults with problematic drug and/or a cohort use.⁴⁸⁵ In addition to Logan House, L ves L ved We offers family recovery units for parents to stay with their young children while they participate in a residential drug and a cohort treatment program over a three-month period.⁴⁸⁶

Stagpole Street Drug and Alcohol Rehabilitation Unit (Townsville, Qld)

In partnership with Blue Care, P nangba (an Aboriginal and Torres Strait Islander-led arm of Un t ngCare) provide residential drug and a cohort rehabilitation services primarily for Aboriginal and/or Torres Strait Islander people who are impacted by problematic substance use. The Stagpole Street Drug and Alcohol Rehabilitation Unit is located in Townsville and specialises in culturally appropriate healing services.⁴⁸⁷

Men Towards Equal Relationships (Menter Program) (Townsville, Qld)

The North Queensland Domestic Violence Resource Service runs a group-based men's behavioural change program of 16 weeks to address the use of violence with their partners.⁴⁸⁸

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The Justice Reform initiative is an alliance of people who share long standing professional experience lived experience and/or expert knowledge of the justice system who are further supported by a movement of Australians of good will from across the country who all believe jailing is failing and that there is an urgent need to reduce the number of people in Australian prisons.

The Justice Reform initiative is backed by eminent patrons including former Governors General Dame Quentin Bryce AD CVO and Sir William Deane AC KBE as patrons in chief.

The list includes: former justices of the High Court a former state Chief Justice and judges from other courts respected Aboriginal and Torres Strait Islander leaders a former Federal Police Commissioner Director of Public Prosecutions former Australians of the Year and numerous former Federal and state Ministers from both sides of politics. A list is available [here](#).


The Justice Reform initiative deeply appreciates the support of the Paul Ramsay Foundation.


The initiative respectfully acknowledges and supports the current and longstanding efforts of Aboriginal and Torres Strait Islander people to reduce the numbers of Indigenous people incarcerated in Australia and importantly the leadership role which Indigenous led organisations continue to play on this issue. We also acknowledge the work of many other individuals and organisations seeking change such as those focused on the rate of imprisonment for women people with mental health issues people with disability and others.


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JUSTICE REFORM INITIATIVE POSITION PAPER

CHILDREN, YOUTH JUSTICE & ALTERNATIVES TO INCARCERATION IN AUSTRALIA

November 2024

CHILDREN, YOUTH JUSTICE AND ALTERNATIVES TO INCARCERATION IN AUSTRALIA

Justice Reform Initiative Position Paper

November 2024

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

These papers have been developed by the Justice Reform Initiative in consultation with many of our partners and stakeholders. We recognise that our respected patrons and supporters hold a wide range of views, and the position expressed within these papers should be seen as the JRI organisational position rather than that of any individual.

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INTRODUCTION

The over-incarceration¹ of children in Australia, especially of First Nations children requires immediate action. Currently we are unnecessarily incarcerating thousands of children each year – often on remand, for short, harmful, disruptive periods of time. Children are being ‘managed’ in prisons, rather than receiving support, care, programs, education and opportunities in the community.

This position paper proposes building on the substantial evidence base about ‘what works’ to reduce incarceration and re-orienting our approach to one that prioritises community led diversionary and support options. What might happen for instance, if police, magistrates and judges around Australia were able to easily refer children who came into contact with the justice system into community led alternatives? What might happen if community led programs and supports that have an evidence base of addressing the drivers of incarceration, were well resourced and accessible to *all* children who are at risk of contact, or in contact with the justice system? What might happen if detention was genuinely only used as a last resort? What might happen if children attending court were always given the option of a specialist children’s court? For those children currently in prison, what might happen if rather than being placed in punitive detention centres, there was a genuinely therapeutic and human rights-based approach, in which children were able to access supports, education, cultural and family connections, and holistic healthcare?

Around Australia there are currently extremely limited community led alternatives for children that are available to courts to use as diversionary, bail support and sentencing options. There is also very limited access to specialist support for children who are at risk of justice system involvement. There are many effective services on the ground doing excellent work all around Australia (including pre-charge diversion programs, bail support and accommodation, First Nations place based alternatives, intensive family support, early intervention and prevention programs), but these are chronically under-resourced, are often unable to meet demand, and they are often inaccessible to children living in remote and regional areas. As a consequence, these services do not have the capacity to make a significant impact on rates of incarceration. These projects are also often operating in a policy context where the investment in punitive policing and incarceration models effectively nullifies the impact of those programs designed to interrupt cycles of incarceration and disadvantage.

The over-use of imprisonment in Australia has been a policy failure. There is significant evidence about how we might build an alternative response. This position paper overviews the failure of our current system of children’s imprisonment and outlines the evidence base that should guide the required shifts in legislation, policy, the justice system, social and community support systems and resourcing. There are some specific legislative reforms (raising the Minimum Age of Criminal Responsibility and Bail Reform) that are outlined in more detail in the appendices of this position paper.

¹ In this paper we use the terms ‘incarceration’, ‘imprisonment’ and ‘prisons’ interchangeably with the more commonly used ‘youth detention’. This is to accurately reflect the mode of youth detention we currently have in Australia, which is comparable to, and modelled on systems of adult imprisonment.

4 KEY REFORM AREAS

Youth justice in Australia requires transformative change. There are four broad key areas of reform that provide a framework for understanding the different kinds of changes that are required in order to build a different justice system for children. What the evidence shows very clearly is that while there is no single 'fix' to reduce the numbers of children in the justice system, there are multiple proven, cost-effective reforms that can work together to bring about change. Many of these reforms are already catalogued in government and non-government reports and reviews. In addition, there are clear examples and case studies, both in Australia and internationally, that point to approaches led by the community and health sectors which can make a profound difference in disrupting entrenched criminal justice system trajectories for children.

Four reform areas are noted below. It is useful to note from the outset that **this position paper is primarily focused on the on first two reform areas (community sector and justice system reform)**. We note in Appendix **B and C** some further detail with regard to legislative reform including Raising the Minimum Age of Criminal Responsibility and Bail Reform.

1. **Community sector reform**, including increased and sustainable **resourcing for supports, services and programs outside of the justice system**. This includes long-term and coordinated resourcing for evidence-based programs and supports that have been shown to prevent and reduce contact with the justice system. There is the need for increased resourcing and access to: early intervention and prevention services; child-centred and family-inclusive holistic wrap around support services; culturally modelled support for First Nations children and their families and communities; access to mental health and social and emotional wellbeing support; access to alcohol and other drug support; access to disability support; access to bail support; access to supported accommodation; access to throughcare and post-release support; and access to placed based supports.
2. **Justice system reform**. This includes changes to **policing** (different first responder models, different use of discretionary powers); changes to **courts** (specialist children's court models; restorative and transformative justice opportunities) and changes to the way that children who are currently imprisoned are treated (this means an urgent shift from the current model of harmful detainment to one that genuinely respects the human rights of children who are incarcerated, is child-centred, and trauma-aware).
3. **Legislative reform**. This includes raising the Minimum Age of Criminal Responsibility; ending mandatory sentencing; restoring the presumption in favour of bail and embracing a human rights framework. This means assessing all proposed legislative and regulatory frameworks that govern youth justice and detention, and auditing all existing legislative and regulatory frameworks, to ensure they are consistent with Australia's international obligations under the following United Nations Conventions to which Australia is a signatory:
 - *Convention on the Elimination of All Forms of Racial Discrimination* (CERD) (entry into force 4 January 1969; entry into force for Australia 30 October 1975);

- *International Covenant on Civil and Political Rights (ICCPR)* (entry into force 23 March 1976 and 28 March 1979; entry into force for Australia 13 January 1980 and 28 January 1993);
 - *International Covenant on Economic, Social and Cultural Rights (ICESCR)* (entry into force 3 January 1976; entry into force for Australia 10 March 1976);
 - *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)* (entry into force 26 June 1987; entry into force for Australia 7 September 1989) and the *Optional Protocol to the CAT* (entry into force for Australia 15 December 2017);
 - *Convention on the Rights of the Child (CRC)* (entry into force 2 September 1990; entry into force for Australia 16 January 1991).
4. **Systems change reform.** This includes recognising and responding to youth justice as a whole-of-government and whole-of-community responsibility; locating the responsibility for children who are at risk of justice system involvement outside of the justice system; recognising the pipelines between child-protection and education with youth justice and implementing a whole-of-government strategy to address this. Systems change reform also includes ensuring transparent and independent monitoring of places of detention, in accordance with Australia’s international obligations under the *Optional Protocol to the CAT* and government implementation of recommendations made through such mechanisms.

12 PRINCIPLES FOR GUIDING CHANGE

Alongside the four reform areas, we are proposing 12 principles based on the evidence for guiding change in this area. Each of these principles is discussed in more detail in relation to the evidence base underpinning these approaches throughout this position paper.

1. **The answers to the problems of the over-incarceration of children are located outside of the justice system.** Significant additional government investment is required to build the capacity of community led alternative responses (including responses led by First Nations communities). This investment needs to be long-term, flexible and coordinated.
2. **All police interactions with children should be focused on moving children away from the justice system.** Police should develop appropriate key performance measures to ensure discretion is exercised to divert children from the criminal justice system.
3. **Alternative first responder models** (including those that are First Nations, youth worker, and health practitioner led) and **co-first responder models** (where police work alongside other key community workers) are required to ensure wherever possible the option of pre-charge diversion is prioritised, and to elevate the importance of addressing the social drivers of incarceration if children do come into contact with police.
4. There should be a **presumption in favour of bail** for all offences for all children charged with a criminal offence.
5. **Community led bail support programs**, including supported housing should be resourced in every jurisdiction in recognition of the extraordinarily high levels of children imprisoned on remand and the current absence of supports in the community available

to support this group. This should include First Nations led and culturally modelled options.

6. **Evidence based alternative court options** including restorative, transformative and First Nations led justice models should be made available in all jurisdictions.
7. Every jurisdiction should establish and adequately resource **separate specialist courts for children** in recognition of the specific developmental needs of children when they come into contact with the justice system. These should operate as a separate Magistrates' Court and not just as a division of the existing Magistrates' Court. As part of these separate, specialist children's courts, all children who attend these specialist children's courts should be provided with access to developmentally appropriate court support services.
8. **First Nations children should have access to First Nations led support.** The most effective responses for First Nations children are those that are culturally modelled, designed and delivered by local First Nations communities and organisations, and which foster a genuine sense of community ownership and accountability. Many First Nations people have intergenerational and/or personal experience of mainstream services working against them. Ensuring First Nations communities have community-control and cultural authority (as well as long-term and sustainable funding sources) will ensure programs are modelled on local systems and circumstances, and more effectively meet local priorities and needs.
9. Children should never be excluded from support on the basis of age, perceived complexity of need, past offending behaviour, or geographic location. Services and supports should be resourced to work with children with multiple support needs including children who are living in regional and remote areas. **Support should be holistic, child-centred, long term (when needed) and wrapped around the individual needs of the child and their family who require assistance.** Support services should be appropriately resourced so that they are able to provide support services 24 hours per day, 7 days per week.
10. The Federal Government and all State and Territory Governments should commit to **raising the age of criminal responsibility to at least 14** (based on all available medical evidence). There is clear evidence that 14 is the **minimum** age, developmentally and neurologically, that children could or should be held criminally responsible. This is discussed in further detail in **Appendix B**.
11. **Youth detention should only be considered as a sentencing option of absolute last resort** and reserved only for those who present a specific and immediate risk to the physical safety of another person or persons.
12. For children who are currently detained by the state because they have broken the law, the environment in which they are detained (and the responsibility for their detention) must be urgently reformed. Secure facilities should be **therapeutic and trauma-informed**. If any child is to be detained, the environment in which they are held should be –
 - Home like (rather than prison like);
 - Therapeutic (rather than punitive);

- Trauma-informed (supporting children to build and maintain relationships and connectedness at the individual, family and community levels including through leave of absences);
- Small in scale;
- Run by highly skilled staff who specialise in the health, well-being and support of children;
- Place-based, culturally modelled, and run by community-led and based services.

Children should never be held in police watch-houses or adult prisons. The use of solitary confinement either as punishment, a management tool, or because of staffing issues should never be used for children.

A SNAPSHOT OF CHILDREN'S IMPRISONMENT IN AUSTRALIA

The most recent Report on Government Services (ROGS) data shows that there are **1,422 permanently funded beds in Australian youth detention centres (prisons for children)**.² The average number of children in prison each night around Australia over the course of the year is **828**.³ On an average night, **63% of children that the government is holding in custody are First Nations children**.⁴

The total number of children who cycle in and out of prison over the course of the year is significantly higher than the average nightly number. When designing policy responses to over-incarceration, it is the flow through data that requires close attention. ROGS data shows that in 2022-2023 there were **4605 individual children** who were imprisoned over the course of the year.⁵

When we look at release, reception, and length of time in custody, we begin to get a much clearer sense of what is actually happening for these 4605 children. The Australian Institute of Health and Welfare (AIHW) data shows us that each year there are **8,965 receptions (constituting 4,265 individual children)** into custody⁶ and **9,066 releases (constituting 4,417 individual children)**.⁷ Children have on average 2 releases from custody over the course of a year.⁸

On an average day in 2022-2023, **83% of children in prison were unsentenced**.⁹ In some jurisdictions, this is even higher. For instance, in Queensland 92% of children in prison were unsentenced.¹⁰ The flow through data shows us a much more comprehensive picture of the over-use of imprisonment for unsentenced children. **98% of children received into custody in 2022-2023 were unsentenced**¹¹, with **92% of children released from custody also released from unsentenced detention**.¹²

For those children who were released from unsentenced imprisonment, 60% ended up being released on bail (into the community).¹³ 38% of unsentenced children completed their remand period.¹⁴ According to data from 2021-2022 of those unsentenced children who completed their remand period, only 20% are ultimately sentenced to a period of imprisonment.¹⁵

The question for us as a community is why are young people being incarcerated in this way? Why are so many children who are unsentenced and have not had the courts determine either

² Product v ty Comm ss on. 2024. Report of Government Serv ces (ROGS) 2024: Youth just ce serv ces, tab e 17A.2

³ Ib d, tab e 17A.21.

⁴ Ib d, tab e 17A.5.

⁵ Ib d, tab e 17A.9.

⁶ Austran Inst tute for Hea th and We fare (AIHW). 2024. Youth detent on tab es, tab es S103a + S103b

⁷ Ib d, tab e S104a + S104b

⁸ AIHW. 2024. 'Youth Just ce In Austran a' (Web Page) < <https://www.aihw.gov.au/reports/youth-just-ce/youth-just-ce-n-austran-annua-report-2022-23/contents/detent-on>>.

⁹ AIHW (n 6), tab es S14 and S32

¹⁰ AIHW (n 6), tab es S14 and S32.

¹¹ AIHW (n 8).

¹² Ib d.

¹³ AIHW (n 8), F gure 5.3.

¹⁴ Ib d.

¹⁵ AIHW. 2023. *Youth Justice in Australia 2021-22, 23*.

their culpability or their penalty being incarcerated? Why is prison being used for children so regularly, when it is well known that the experience of imprisonment increases the likelihood of future offending? Prison is criminogenic. **85% of children released from sentenced imprisonment in Australia return within 12 months.**¹⁶

Although it is more complex to collect recidivism data for children who were unsentenced, it is clear from the sheer numbers of children who churn through the system that there are significantly high rates of return to custody for children who have spent time in unsentenced imprisonment as well. Denial of bail increases the likelihood of incarceration and is a major contributing factor in causing children to become further entrenched in the criminal justice system. Bail legislation needs to provide for a presumption in favour of bail for all children charged with a criminal offence. This is discussed in detail in **Appendix C**.

In Australia, the cost of incarcerating one child in custody for one day is \$2,827.¹⁷ The cost of incarcerating one child in custody for a year is \$1,032,027.¹⁸ Across Australia **\$855,257 million** is spent each year on locking up children.¹⁹ This does not take into account the cost of new capital works. It also does not account for the cost of crime, disconnection from family and community, the absence of education, disability and mental health, and the life-long costs in terms of risks of entrenched justice system involvement.

THE IMPRISONMENT OF DISADVANTAGE

Most children who enter the youth justice system come from backgrounds where they have already experienced disadvantage and trauma, with a significant number also having experienced out of home care. Prison increases disadvantage and disconnection. Children in the youth justice system need family and community support, education, and life opportunities, not punishment that compounds disconnection and disadvantage.

For many decades, social determinants of health research has shown the way that social and structural factors (including poverty, disadvantage, geography, and access to supports and services) impact on health outcomes and life expectancy. More recently, Australian researchers have used linked administrative data to unpack the social determinants of incarceration.²⁰ These include:

1. having been in out of home (foster) care;
2. receiving a poor school education;
3. being Indigenous;
4. having early contact with police;
5. having unsupported mental health and cognitive disability;
6. problematic alcohol and other drug use;
7. experiencing homelessness or unstable housing; and
8. coming from or living in a disadvantaged location.²¹

¹⁶ AIHW. 2023. Young people returning to sentenced youth justice supervision on 2021-22. Catalogue number JUV 141. Available online <<https://www.aihw.gov.au/reports/youth-justice/young-people-returning-to-sentenced-supervision/summary>>.

¹⁷ Productivity Commission (n 2), table 17A.21.

¹⁸ Ibid. Note: Annual costs have been calculated by multiplying daily costs by 365.

¹⁹ Productivity Commission (n 2), table 17A.10.

²⁰ Ruth McCausland and Eileen Ba dry, *Who Does Australia Lock Up? The Social Determinants of Justice* International Journal of Crime, Justice and Social Democracy, Apr. 2023.

²¹ Ibid.

The fact of disadvantage²² cannot be used to discount the consequences of crime. However, it is crucial to understand the context in which most crime is committed²³ to build and implement effective policy to reduce the numbers of people in custody and strengthen genuine alternatives to prison.

Recent research from the Victorian Youth Parole Board notes of the children in custody:

- 55% had experienced being subject to a child protection order;
- 72% had experienced abuse, trauma or neglect as a child;
- 50% had experienced family violence;
- 62% had accessed mental health support in relation to their diagnosed mental illness;
- 28% had a history of self-harm, suicidal ideation or suicide attempts;
- 29% had an active cognitive difficulty diagnosed or documented by a professional;
- 66% had a history of use or misuse of alcohol;
- 87% had a history of use or misuse of drugs (illicit or prescription).²⁴

Comparable findings have emerged from other studies around Australia into the drivers of children's incarceration. A 2015 survey of young people in custody in NSW confirmed that only 27% of survey participants had attended school in the six months prior to entering custody, with the median school leaving age at just 15 years.²⁵ In addition, 53.6% of respondents indicated they had at least one parent who had been in prison, and First Nations young people were twice as likely to have at least one parent who had been in prison. 66.4% of First Nations young people had a previously incarcerated parent.²⁶

1 in 5 children under youth justice supervision in Australia come from areas of extreme social and economic disadvantage.²⁷ In addition, children who received an alcohol and other drug treatment service have been found to be 30 times as likely as the Australian population to be under youth justice supervision.²⁸

Surveys of children in prison also indicate that children who are subject to care and protection orders have an increased likelihood of coming into contact with the criminal justice system. Children in prison are more likely to have a history of abuse and neglect and to have experienced family violence, and less likely to have attended school in the period prior to their imprisonment.²⁹ 19% of adults in prison in Australia had previously been incarcerated as a child

²² For example, AIHW. 2023. 'The Health of People in Australia's Prisons' (Web page) <<https://www.aihw.gov.au/reports/prisoners/the-health-of-people-in-australia-as-prisons-2022/contents/about>>.

²³ For example, see analysis in Cunneen, Chris, Ba dry, E len, Brown, Dav d, Schwartz, Me an e, Stee , A ex, and Brown, Mark (2013) *Penal Culture and Hyperincarceration: the revival of the prison*. Advances in Criminology. Routledge, Farnham, UK.

²⁴ Youth Parole Board. 2021. *Victoria Government Annual Report 2020-21*.

²⁵ Justice Health & Forensic Mental Health Network and Juvenile Justice NSW. 2017. *2015 Young People in Custody Health Survey: Full Report*. 14, 17-18.

²⁶ Ibid; Remond M, Zek R, Aust n K, Bowman J, Ga ouz s J, Stewart K & Su van E 2023. Intergenerational incarceration in New South Wales: Characteristics of people in prison experiencing parental imprisonment. *Trends & issues in crime and criminal justice* no. 663. Canberra: Australian Institute of Criminology. <https://doi.org/10.52922/t78863>.

²⁷ AIHW (n 8).

²⁸ Ibid.

²⁹ Youth Parole Board (n 24), 31; Justice Health & Forensic Mental Health Network and Juvenile Justice NSW. 2017. *2015 Young People in Custody Health Survey: Full Report*. 14; Australian Law Reform Commission, 'Pathways to Justice Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples' (ALRC 2017) (Report No 133, December 2017) 73-74.

on at least one occasion.³⁰ For First Nations people in prison, 25% have previously been in imprisoned as a child on at least one occasion.³¹

IMPRISONMENT OF FIRST NATIONS CHILDREN

63% of children imprisoned by state and territory governments in Australia are First Nations children.³² State and territory governments consistently imprison First Nations children (and adults) at higher rates than the non-Indigenous population. Productivity Commission data notes that state and territory governments are 27 times more likely to imprison First Nations children compared to non-Indigenous children.³³ This is higher in some jurisdictions. For instance, in Western Australia, the state government is 38 times more likely to imprison First Nations children than non-Indigenous children.³⁴

Incarceration for all children, including First Nations children, is trauma reinforcing. Children are removed from their carers, kin and communities, and often unable to participate in meaningful activities, or further education, employment, or vocational training. For First Nations children who are disproportionately represented in prison, trauma is amplified by the removal from Country and community, and disconnection from culture.

The disproportionate incarceration of First Nations children both reflects and reproduces many forms of structural disadvantage, systemic racism, and continued institutionalisation and dispossession. Colonialisation and the “eroding of First Nations peoples’ ways of knowing, being and doing” has contributed to current levels of over-incarceration.³⁵

The Uluru Statement from the Heart noted:

*'Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are alienated from their families at unprecedented rates. This cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future.'*³⁶

The Victorian Aboriginal Legal Service notes many First Nations children in prison have expressed feelings of inevitability that they will eventually reunite with their family members in adult prison.³⁷

Children who are subject to care and protection orders or are placed in out-of-home care also have an increased likelihood of coming into contact with the criminal justice system.³⁸ First

³⁰ AIHW. 2023. 'The Health of People in Australia's Prisons' (Web Page) <<https://www.aihw.gov.au/reports/prisoners/the-health-of-people-in-australia-as-prisoners-2022/contents/socioeconomic-factors/detention-history>>.

³¹ AIHW. 2019. *The health of Australia's prisoners*. 2018. Cat. no. PHE 246. Canberra: AIHW. 21. Table S16.

³² Productivity Commission (n 2), table 17A.5.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ Helen Mroy, Marsha Watson, Shraddha Kashyap and Pat Dudgeon. 2022. 'First Nations Peoples and the Law'. *Australian Bar Review*, Volume 50, Part 3. Available online <https://www.exsnews.com.au/__data/assets/pdf_file/0008/420974/Australian_Bar_Review_ABR_Volume50_Part3.pdf>.

³⁶ '[Uluru Statement from the Heart](#)'. National Constitutional Convention, 26 May 2017.

³⁷ ALRC (n 29), 44, 43, and 81.

³⁸ *Ibid.* 73-74; Megan Davies. 2019. '[Family's Culture: Independent Review Of Aboriginal Children and Young People in OOHC](#)'. Review Report. November 2019. 2.

Nations children continue to be disproportionately subjected to care and protection orders.³⁹ In 2021-2022, state and territory governments were 9 times more likely to involve First Nations children in child protection services than non-First Nations children.⁴⁰ The Victorian 2021 survey found 37.9% of children in prison had at some stage been subject to a child protection order.⁴¹ An earlier piece of research looking at children in custody in NSW found that over 27% of participants had been placed in care as a child, with this being more common for young girls and young First Nations people.⁴² Given that being strong in culture and connected to Country/community are known protective factors for First Nations children's health and wellbeing, First Nations children who are separated from kin and placed in First Nations environments often experience distress beyond their non-First Nations counterparts.⁴³ For many, current practices of child removal are reminiscent of past racist assimilationist policies.

The Uluru Statement of the Heart further noted:

*'When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country.'*⁴⁴

First Nations communities have the solutions. Respect for self-determination and the handing back of decision-making authority to First Nations communities is key to reducing the over-incarceration of First Nations children in Australia.

IMPRISONMENT OF CHILDREN WITH COGNITIVE IMPAIRMENT

There is a causal link between disability and contact with the criminal justice system.⁴⁵ Lack of responsiveness to cognitive and physical impairments can hinder participation in the criminal justice system and lead to enmeshment in the correctional system.⁴⁶ People with disability, including children, are overrepresented across the criminal justice systems in Australia, and are at heightened risk of violence, abuse, neglect and exploitation in criminal justice settings.⁴⁷

A 2018 study by the Telethon Kids Institute and the University of Western Australia showed 9 out of 10 children who were incarcerated in WA had some form of neuro-disability, ranging from dyslexia or similar learning disability, language disorder, attention deficit hyperactivity disorder, intellectual disability, executive function disorder, memory impairment or motor coordination disorder.⁴⁸ More than one in three of these children had Foetal Alcohol Spectrum Disorder (FASD). This is among the highest reported rate of neuro-disability among children and young

³⁹ ALRC (n 29), 73-74.

⁴⁰ AIHW 2023, [Child protection Australia 2021-22](#), Table S2.3 (21 July 2023).

⁴¹ Youth Parole Board. 2022. Annual Report 2021-22. Available online <<https://www.justice.vic.gov.au/youth-parole-board-annual-report-2021-22>>.

⁴² ALRC (n 29), 43.

⁴³ Commonwealth of Australia. 1991. [Royal Commission into Aboriginal Deaths in Custody](#). Final Report. 1991. 334.

⁴⁴ 'Uluru Statement from the Heart' (National Constitutional Convention, 26 May 2017).

⁴⁵ [Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. 2020. Issues Paper: Criminal Justice System](#). 14 January 2020. 5. Available online <<https://disability.royalcommission.gov.au/system/files/2022/03/Issues%20paper%20Criminal%20justice%20system.pdf>>.

⁴⁶ *Ibid.*, 5.

⁴⁷ Harry Bagg, Zoe Bush and Tamara Turchi. 2015. 'Diversory Pathways for Indigenous Youth with FASD in Western Australia: Decolonising Alternatives' (2015) 40(4) *Alternative Law Journal* 257, 257.

⁴⁸ Martin Drum and Remy Buchanan. 2020. *Western Australia's prison population 2020: Challenges and reforms*. The University of Notre Dame Australia and the Catholic Archdiocese of Perth. Available online <http://csswa.perthcatholic.org.au/wp-content/uploads/2022/05/FINAL_WA_Prison_Population_Report_2020_WEB.pdf>.

people sentenced to detention worldwide.⁴⁹ There is no evidence to suggest that this is any different in other jurisdictions.

YOUTH JUSTICE LEGISLATION AND INTERNATIONAL LAW

Each state and territory in Australia has its own youth justice legislation, policies and practice, all with a unifying principle that children should only be detained as a last resort and for the shortest period possible.⁵⁰

This principle aligns with Australia's international obligations, including under the UN Convention on the Rights of the Child (the **CRC**). The CRC affirms that in 'all actions concerning children...the best interests of the child shall be a primary consideration'⁵¹ and specifies a range of relevant rights, including the right to education, safety, good health and respectful treatment. It emphasises the importance of treating incarcerated children 'in a manner consistent with the promotion of the child's sense of dignity and worth', which takes into account 'the desirability of promoting the child's reintegration and the child's assuming a constructive role in society', and of diverting children away from the criminal justice system.⁵² Article 37 states that 'no child shall be subjected to torture or other cruel, inhuman or degrading treatment'. Article 37(c) states that every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.⁵³ It is important to note that Australia has maintained a reservation in relation to article 37(c) on the basis that geography and demography make it difficult to always detain children in youth justice facilities and simultaneously allow children to maintain contact with their families.⁵⁴

The International Covenant on Civil and Political Rights (**ICCPR**) states that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.⁵⁵ Article 10(2) specifically states that all accused young persons shall be separated from adults and have their matters adjudicated as speedily as possible.⁵⁶ In 1991 Australia agreed to be bound by the First Optional Protocol to the ICCPR. This means that the UN Human Rights Committee can hear complaints from individuals in Australia who allege that the Australian Government has violated their rights under the ICCPR.⁵⁷

⁴⁹ The Ethnon K ds Inst tute (2018) '['Nine out of ten young people in detention found to have severe neuro d sab ty'](#) (13 February 2018).

⁵⁰ AIHW. 2020. '[Youth detention population in Australia](#)'. Bulletin No 148. February 2020. 3.

⁵¹ [Convention on the Rights of the Child](#), opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 3(1).

⁵² Ibid, arts 19, 24, 28, 29, 31, 37 and 40.

⁵³ Ibid, art 37.

⁵⁴ Australian Government, *Australia's Combined Second and Third Reports under the Convention on the Rights of the Child* (2003), para 467. Available online <http://www.dfat.gov.au/hr/downoads/australia_2nd_3rd_reports_convention_on_rights_child.pdf>.

⁵⁵ [International Covenant on Civil and Political Rights \(ICCPR\)](#), opened for signature 16 December 1966 General Assembly resolution 2200A (XXI), (entered into force 23 March 1976) art 10.

⁵⁶ Ibid, art 10 (2)(b).

⁵⁷ [Optional Protocol to the International Covenant on Civil and Political Rights](#), opened for signature 16 December 1966 General Assembly resolution 2200A (XXI), (entered into force 23 March 1976).

Other international instruments, such as the Rules for the Protection of Juveniles Deprived of their Liberty (the **Havana Rules**) which regulate the use of disciplinary regimes in youth detention, set out minimum standards for the treatment of incarcerated children.

Collectively, these international treaties and standards lay the foundation for a human-rights compliant youth justice system and 'represent an effective benchmark against which law, policy and practice can be measured'.⁵⁸

Minimum standards for youth detention facilities (prisons for children) are established domestically in the Australasian Juvenile Justice Administrators' *Standards for Youth Justice* (the **AJJA Standards**), which are modelled closely on the Havana Rules. The child prison system in Australia is ideally meant to treat children differently from adults.⁵⁹ Australian legislation relating to the imprisonment of children recognises the importance of respecting children's human rights, including the right to be treated humanely and respectfully, in order to successfully rehabilitate and reintegrate them into the community upon their release from detention.⁶⁰

RECENT HUMAN RIGHTS FAILURES IN AUSTRALIAN YOUTH JUSTICE

Following the deeply confronting ABC Four Corners episode 'Australia's Shame', aired in July 2016,⁶¹ which exposed systemic abuse of children in prison in the NT, sustained debate has emerged over the extent to which Australia protects children's human rights.⁶²

Practices of abuse, neglect and mismanagement have occurred (and continue to occur) in children's prisons in every state and territory in Australia. For example, in all jurisdictions, solitary confinement is used unlawfully, inappropriately and punitively on children who are held in conditions that fall well short of minimum standards. Children across the country are systematically denied access to education, exercise and family visits.⁶³

In addition to the Don Dale Youth Detention Centre in the NT, particular concerns have been raised in relation to the Ashley Youth Detention Centre in Tasmania, the Banksia Hill Detention Centre in Western Australia and the Cleveland Youth Detention Centre in Queensland. In Victoria concerns have been raised about the overuse of lockdowns and isolation for young people in Parkville Youth Detention Centre and the Malmsbury Youth Detention Centre. Similar concerns have been raised regarding the Kurlana Tapa Youth Detention Centre in South

⁵⁸ Ursula K. Kelly. 2008. 'Youth Justice and Children's Rights: Measuring Compliance with International Standards'. (2008) 8(3) *Youth Justice* 187, 191.

⁵⁹ AIHW. 2017. 'Youth Detention Population in Australia', Bulletin No 143; Ian Kyse. 2016. 'Banshng Solitary: Letting an End to the Solitary Confinement of Children in Juvenile Prisons'. (2016) 40 *N Y U Review of Law and Social Change* 675, 693.

⁶⁰ Australian Children's Commissioners and Guardians (ACC&G). 2016. 'Human rights standards in youth detention in Australia: the use of restrictive disciplinary regimes and other restricted practices'. Apr. 2016. 4.

⁶¹ ABC News. (2016). *Four Corners Australia's Shame*, (Web Page) <<https://www.abc.net.au/news/2016-07-25/australia-as-shame-promo/7649462>>.

⁶² Caro Medrum Hanna and Eise Worthington. 2016. 'Child hooded, strapped to mechanical restraint chair in Northern Territory'. *ABC Four Corners*. 25 July 2016. Available online <<https://www.abc.net.au/news/2016-07-25/child-hooded-to-mechanical-restraint-chair-in-nt-detention/7659008>>.

⁶³ See, for example, Commission for Children and Young People (Vc). 2017. *The Same Four Walls: Inquiry into the Use of Isolation Separation and Lockdown in the Victorian Justice System*. Final Report. 23 March, 2017; Ombudsman (Vc). 2013. *Investigation into Children Transferred from the Youth Justice System to the Adult Prison System*. 11 December 2013; Office of the Inspector of Custodial Services (WA). 2018. *2017 Inspection of Banksia Hill*. 17 Apr. 2018; Ombudsman (NSW). *2016 Annual Report 2015-16*. 27 October 2016; The ACT Human Rights Commission. 2011. *The ACT Youth Justice System: A Report to the ACT Legislative Assembly*. July 2011; Nick Clark. 2013. 'Court bast for Ashley Detention Centre Locked in Iso at on', *Mercury* (Hobart), 20 September 2013.

Australia. In NSW's Baxter Youth Detention Centre, Correctional Service Officers have undertaken full strip searches of young people circumventing laws that only permitted partial strip searches.

The cruel and degrading treatment of children in prison is in violation of Australia's international obligations under the CRC and the Havana Rules.

NORTHERN TERRITORY – DON DALE YOUTH DETENTION CENTRE

A Royal Commission into the Protection and Detention of Children in the NT was established in response to the abovementioned 2016 ABC Four Corners episode. The final report revealed that a staggering number of children in prison, some just 10 years old, were mistreated, verbally and physically abused, humiliated, or placed in solitary confinement for extended periods of time. The Commission concluded that youth detention centres in the NT were not fit for accommodating, let alone rehabilitating, children and young people. They were characterised by harsh, prison-like conditions and oppressive and unnatural environments, with limited options for children to engage with provided services, education, and rehabilitative programs. The Commission also found that procedures and requirements of law were either not known by staff or not followed, with systems and practices failing to comply with basic human rights standards which apply to the treatment of young people.⁶⁴

Despite the Royal Commission's harsh criticism of the NT's youth justice system, reports of mistreatment in Don Dale Youth Detention Centre (Don Dale) continue.⁶⁵ For example, on 6 November 2018, a group of children aged 13-17 escaped from their cells and set the facility's school on fire. Police used CS tear gas and pointed their guns at the children to "diffuse" the situation.⁶⁶

In 2022 the NT Children's Commissioner reported on the ongoing use of spit-hoods and restraint chairs used by the NT Police on children held in police watch-houses. In June 2023 the Commissioner called for legislation banning the use of spit hoods and restraint chairs in any setting, including police and youth justice custody.⁶⁷

More recently in 2024, the NT Territory Response Group (TRG), who are under ICAC investigation for allegations around racism, were called in to respond to a fire at the education centre and children who were on the roof of Don Dale. Following this incident, children were placed in indefinite lockdown. Legal experts have again highlighted the appalling conditions in which children are being held.⁶⁸

Despite the urgent need to close Don Dale being clearly identified by the Royal Commission in 2017, construction of a youth justice centre to replace Don Dale is still not complete (and more

⁶⁴ Commonwealth of Australia. 2017. [Royal Commission into the Protection and Detention of Children in the Northern Territory](https://www.royalcommission.gov.au/ch d detent on/f na report). Final Report, Volume 1, 17 November 2017. 9, 12. Available online <<https://www.royalcommission.gov.au/ch d detent on/f na report>>.

⁶⁵ Jesuit Social Services. 2018. ['New Darwin youth justice facility must be fast tracked'](https://jss.org.au/wp content/up oads/2018/11/MR New Darw n youth just ce fac ty must be fast tracked). Media Release 7 November 2018. <<https://jss.org.au/wp content/up oads/2018/11/MR New Darw n youth just ce fac ty must be fast tracked Jesu t Soc a Serv ces.pdf>>.

⁶⁶ ABC Darwin Staff. 2018. ['Don Dale report: What's going wrong at the NT's largest youth justice centre?'](https://www.abc.net.au/news/2018-11-07/don-dale-youth-detention-rot-territory-families-pole/10472746). ABC News. 7 November 2018. <<https://www.abc.net.au/news/2018-11-07/don-dale-youth-detention-rot-territory-families-pole/10472746>>.

⁶⁷ Office of the Children's Commissioner Northern Territory. 2023. *Use of Spit Hoods and Restraint Chairs on Children*. Post on Paper June 2023.

⁶⁸ Neve Brissenden. 2024. 'Lawyers blame Don Dale report on 'appalling conditions.' *Canberra Times*. 4 Apr 2024. <<https://www.canberratimes.com.au/story/8580248/lawyers-blame-don-dale-report-on-appalling-conditions/>>.

than two years behind schedule).⁶⁹ Early estimates were that the new centre would have 44 beds and cost \$70 million to build.⁷⁰

TASMANIA – ASHLEY YOUTH DETENTION CENTRE

In August 2022, the Commission of Inquiry into the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings received evidence giving accounts of the use of excessive force by guards at the Ashley Youth Detention Centre (AYDC), serious assaults committed by children and young people at the behest and active encouragement of guards, and invasive strip searches. In the previous two years the Tasmanian Government's Abuse in State Care Compensation programs received over 300 applications detailing acts of abuse within the AYDC.⁷¹

In 2021, the Tasmanian Government committed to shutting down AYDC and constructing two new therapeutic centres by 2024.⁷² The time-frame for the closure of AYDC has now been revised to be 2026.⁷³ However, both the National Children's Commissioner and the Tasmanian Commissioner for Children have stated that it should be closed immediately, given the numerous accounts of abuse and neglect in the AYDC.⁷⁴

WESTERN AUSTRALIA – BANKSIA HILL YOUTH DETENTION CENTRE, UNIT 18 CASUARINA PRISON

The Banksia Hill Youth Detention Centre is the only prison for children in Western Australia. More than 600 children are imprisoned in the facility every year, many of them First Nations children, and with various cognitive impairments and/or mental health conditions. Throughout 2022, the WA Government received extensive criticism regarding the harsh and punitive conditions within the detention centre amid ongoing reports of self-harm, suicide attempts and destruction of cells at the facility. In April 2022, the WA Inspector of Custodial Services described the treatment of young people in the Banksia Hill intensive support unit as 'cruel, inhuman and degrading' and has called for urgent change of direction to a welfare focused and trauma informed intervention. A review commissioned by the Western Australian Government in

⁶⁹ Thomas Morgan. 2023. 'Years after the NT Royal Commission on why has Don Dale still not been replaced?'. *ABC News*. 4 October 2023. <<https://www.abc.net.au/news/2023-10-04/nt-don-dale-youth-detention-centre-replacement-fact-check/102929238>>.

⁷⁰ Thomas Morgan, Jesse Thompson and Jane Bardon. 2023. 'Worried as 'new Darwin Youth Justice Centre's location next to Holtze prison sparks alarm from community leader'. *ABC News*. 20 September 2022. <<https://www.abc.net.au/news/2022-09-20/nt-don-dale-replacement/101457426>>.

⁷¹ Australian Associated Press. 2022. 'Staff at youth detention centre provoked fights 'for sport', former detainee says', *The Guardian*. 25 August 2022. <<https://www.theguardian.com/australia-news/2022/aug/25/former-detainee-says-staff-at-tasmanian-youth-detention-centre-provoked-fights-for-sport>>; Lucy MacDonald. 2022. 'Ashley youth prison guards 'encouraged fights between inmates for sport', inquiry hears'. *ABC News*. 25 August 2022. <<https://www.abc.net.au/news/2022-08-25/ex-ashley-detainee-says-guards-encouraged-fights/101370144>>; Lucy MacDonald. 2022. 'Female detainees of Ashley prison abuse and 'favouritism' of some male inmates by staff'. *ABC News*. 24 August 2022. <<https://www.abc.net.au/news/2022-08-24/ashley-commission-of-inquiry-charities-story/101366928>>.

⁷² Tasmanian Government. 2022. 'Northern Correctional Facility Public Consultation on future use of the Ashley Youth Detention Centre'. (Fact sheet) <https://www.ustce.tas.gov.au/data/assets/pdf_file/0008/676907/January_2022_Project_Update.pdf>.

⁷³ Matt Maoney. 2023. 'Ashley Youth Detention Centre could shut much earlier than promised'. *The Examiner*. 29 September 2023. <<https://www.examiner.com.au/story/8367060/detention-could-remain-open-for-another-three-years/>>.

⁷⁴ Caro Rääbus. 2022. 'Australia's youth detention centres facing new challenges says National Children's Commissioner'. *ABC News*. 9 September 2022. <<https://www.abc.net.au/news/2022-09-09/australia-youth-detention-facing-challenges-commissioner/101414528>>.

early 2021 identified several problems with the Banksia Hill facility and recommended a move away from punitive control to a model of youth justice that was based on therapeutic care.⁷⁵

In November 2022, CCTV footage of guards employing excessive force and restraint holds on children was screened on the ABC Four Corners episode 'Locking up Kids: Australia's failure to protect children in detention'.⁷⁶ The footage displayed the use of a restraint hold known as 'folding up' where three guards restrain a young person, and one of the guards twists the young person's legs until they are crossed behind him and then sits on them.⁷⁷ The practice is considered extremely dangerous as it can cause suffocation and carries with it a significant risk of serious injury or death. The WA Department of Justice has since announced that the practice will be phased out and an alternative method of restraint for children will be introduced (although this will not be made public).⁷⁸

During 2022 in Banksia Hill there were also incidences of 'rolling lockdowns', where young people in detention were confined in their cells during those hours when they would otherwise be allowed to leave their cells and engage in educational or recreational activities. These practices involved the young people being detained in their sleeping quarters for long hours on frequent occasions, a practice described by the Supreme Court of Western Australia as a severe measure 'effectively confining them in isolation' and subjecting children to solitary confinement on a frequent basis.⁷⁹ In declaring such practices unlawful the Supreme Court stated that subjecting children to solitary confinement on a frequent basis is inconsistent with basic notions of the humane treatment of young people and has the capacity to cause immeasurable and lasting damage to an already psychologically vulnerable group.⁸⁰

Following a series of violent incidents, a number of children from Banksia Hill have been moved to 'Unit 18', a unit in the adult prison at Casuarina. The conditions inside Unit 18 and the conditions in Banksia Hill continue to raise ongoing and significant concerns with regard to the safety of the children who are held there. The Office of the Inspector of Custodial Services has described the situation as a crisis.⁸¹ At the time of writing, the conditions within Unit 18 were the subject of a coronial inquest into the death of 16-year-old Cleveland Dodd who died in October 2023 after self-harming in his cell at Unit 18. The coroner has heard evidence from a youth custodial officer that it was not possible to ensure that young people are treated lawfully, humanely, fairly and equally at Unit 18, in accordance with Department of Justice policy. Another officer stated that the cells in Unit 18 were damaged prior to young people being transferred to them, describing the cells as "unliveable". He said that the unit was originally set

⁷⁵ ABC Four Corners. 2022. [Boys handcuffed, held down by guards and sat on in dangerous youth detention 'folding up' restraint](https://www.abc.net.au/news/2022-11-14/video-shows-dangerous-youth-detention-restraint-on-teenage-boy/101632832). ABC News 16 November 2022. (Web Page). <<https://www.abc.net.au/news/2022-11-14/video-shows-dangerous-youth-detention-restraint-on-teenage-boy/101632832>>; Sarah Cordery. 2022. [Plan to overhaul troubled Banksia Hill youth detention centre announced but kept secret](https://www.theguardian.com/australia-news/2022/dec/02/planned-overhaul-was-troubled-banksia-hill-youth-detention-centre-unlikely-to-be-made-public). The Guardian. 2 December 2022. <<https://www.theguardian.com/australia-news/2022/dec/02/planned-overhaul-was-troubled-banksia-hill-youth-detention-centre-unlikely-to-be-made-public>>.

⁷⁶ ABC News. 2022. [Four Corners - Locking up Kids: Australia's failure to protect children in detention](https://www.abc.net.au/news/2022-11-14/locking-up-kids-australia-failure-to-protect-children-in-detention). 14 November 2022. <<https://www.abc.net.au/news/2022-11-14/locking-up-kids-australia-failure-to-protect-children-in-detention>>.

⁷⁷ ABC News (n 75).

⁷⁸ Aca Brdges. 2022. [Details of new youth restraint method for Banksia Hill Detention Centre will not be made public, department says](https://www.abc.net.au/news/2022-12-21/secret-restraint-folding-up-banksia-hill-youth-detention-centre/101797454). ABC News. 21 December 2022. <https://www.abc.net.au/news/2022-12-21/secret-restraint-folding-up-banksia-hill-youth-detention-centre/101797454>.

⁷⁹ *VYZ by Next Friend XYZ v Chief Executive Officer of the Department of Justice* [2022] WASC 274, per Tottle J, at paragraph 71; *CRU by Next Friend CRU2 v Chief Executive Officer of the Department of Justice* [2023] WASC 257, per Tottle J, at paragraphs 4, 7.

⁸⁰ *CRU by Next Friend CRU2 v Chief Executive Officer of the Department of Justice* [2023] WASC 257, per Tottle J, at paragraph 7.

⁸¹ Office of the Inspector of Custodial Services. 2023. *Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison (Part One)*. 8 June 2023. Available online <https://www.oics.wa.gov.au/reports/148_inspection_of_banksia_hill_detention_centre_and_unit_18_at_casuarina_prison_part_one/>.

up for adults, not young people, and that it was set up to fail. The inquest was told that the sheer volume of self-harm incidents contributed to staff becoming desensitised to the severity of the risk involved in actual or threatened self-harm.⁸²

QUEENSLAND – CLEVELAND YOUTH DETENTION CENTRE

Queensland currently has three prisons for children, with Cleveland Youth Detention Centre in Townsville operating as the only centre located outside of Brisbane. Cleveland Youth Detention Centre in particular has received extensive public scrutiny regarding inhumane treatment of children (who are mostly First Nations children), with some describing the conditions 'like Guantánamo'.⁸³ There have been widespread reports of children being locked in solitary confinement for extended and repeated periods, primarily as a result of staff shortages.⁸⁴ This has resulted in reports of children being denied access to education, rehabilitation programs, and visits (including from service providers). In June 2023, it was reported that an Aboriginal child with an intellectual disability spent more than 744 days locked in solitary confinement for over 20 hours a day across the two years that they were remanded in the centre.⁸⁵ This is just one of many reports of this kind – and these reports are not isolated to Cleveland. Queensland prisons separated children over 30,000 times in 2021-2022, and over 84% of children who staff separated were First Nations children.⁸⁶

The human rights failures within the Queensland youth justice system extend well beyond the walls of Cleveland Youth Detention Centre. In March 2023, the Queensland Government made the decision to override the Queensland Human Rights Act for the first time since it has been in effect, to implement a raft of punitive changes including bringing in breach of bail as an offence for children.⁸⁷ In August 2023, the Queensland Government introduced and passed further amendments in an unrelated bill that gave the government the power to hold children indefinitely in adult watch houses and adult prisons.⁸⁸ This decision saw the state override its Human Rights Act for the second time within the space of six months.

⁸² Cason Ho. 2024. 'Humane treatment of youth at Unit 18 not possible, inquest into C eve and Dodd's death hears'. *ABC News*. 10 Apr 2024. <<https://www.abc.net.au/news/2024-04-09/c-ve-and-dodd-inquest-to-d-humane-treatment-possible-unit-18/103683698>>; Cason Ho. 2024. 'C eve and Dodd inquest told by youth custodial officer that Unit 18 was 'chaos' and 'set up to fail''. *ABC News*. 5 Apr 2024. <<https://www.abc.net.au/news/2024-04-05/c-ve-and-dodd-inquest-to-d-by-officer-unit-18-set-up-to-fail/103667322>>; Keane Bourke, Cason Ho and Daryna Zadvarna. 2024. 'Inquest into C eve and Dodd's death in custody reveals extensive history of self-harm'. *ABC News*. 4 Apr 2024. <<https://www.abc.net.au/news/2024-04-03/inquest-into-c-ve-and-dodd-death-reveals-history-of-self-harm/103662192>>.

⁸³ Ben Smee. 2023. 'Like Guantanamo: The children locked in solitary for weeks at a time'. *The Guardian*. 6 June 2023. <<https://www.theguardian.com/australia-news/2023/jun/06/like-guantanamo-the-children-locked-in-solitary-for-weeks-at-a-time-in-queensland-youth-prison>>.

⁸⁴ Ben Smee. 2023. 'Senator proposes court test money at odds with government spin on Queens and youth detention'. *The Guardian*. 17 July 2023. <<https://www.theguardian.com/australia-news/2023/jul/17/senator-proposes-court-test-money-at-odds-with-government-spin-on-queensland-youth-detention>>.

⁸⁵ SBS. 2022. 'Locked in a Cell for 20 Hours a Day'. 27 June 2023. <<https://www.sbs.com.au/news/article/locked-in-a-cell-for-20-hours-a-day-queensland-youth-prisoners-accused-of-torture/vb55ku4ux>>.

⁸⁶ Queensland Parliament. 2022. Question on notice (No. 774). Available online <https://documents.parliament.qd.gov.au/tab/eoffce/questionsanswers/2022/774_2022.pdf>.

⁸⁷ Queensland Government. 2023. Strengthening Community Safety Bill, Statement of Compatibility. Available online <<https://documents.parliament.qd.gov.au/bills/2023/3130/Strengthening-Community-Safety-Bill-2023-Statement-of-Compatibility-249b.pdf>>.

⁸⁸ Queensland Government. 2022. Child Protection (Offender Reporting and Offender Prohibition) Bill, Statement about Exceptional Circumstances. Available online <https://documents.parliament.qd.gov.au/tp/2023/5723T1198_22EA.pdf>.

VICTORIA – PARKVILLE YOUTH DETENTION CENTRE, MALMSBURY YOUTH DETENTION CENTRE (NOW CLOSED)

In Victorian youth prisons the systemic use of solitary confinement has been highlighted by several organisations. In 2017 the Victorian Commission for Children and Young People reported increasing use of isolation, separation and lockdown of children in the Parkville and Malmsbury Youth Detention Centres, sometimes for 24 hours or more, in breach of the United Nations Rules for Protection of Juveniles Deprived of their Liberty (the Havana Rules).⁸⁹ The practice of isolation continues to be used routinely in Victorian youth prisons. In 2023 the Yoorrook Justice Commission reported that in one detention centre they visited, children in one part of that centre had in the previous two months been allowed only 30 minutes out of their room each day for exercise, washing, making phone calls, etc. The Commission expressed its concern about the excessive lockdowns and human rights breaches of young people in prison, noting reports of continuing use of lockdowns of young people in prison for up to 22 hours a day.⁹⁰

In April 2024 the Victorian Government expressed support in principle (not full support) to the Commission's recommendation for the Victorian Government to ensure adequate resourcing so that the practice of lockdowns and isolation would end.⁹¹

NSW – BAXTER YOUTH DETENTION CENTRE

In 2021 the NSW Ombudsman expressed concern to the NSW Government that it was lawful in NSW youth prisons for prison staff to undertake fully naked strip searches of children and young people in prison. The Ombudsman furnished a special report to parliament detailing a 2019 case involving three children in a youth prison who were subjected to a full strip search in which they were made to completely undress and spread apart their buttocks. The strip searches occurred after Correctional Services NSW (CSNSW) took control of the Baxter Youth Detention Centre following a violent incident at the centre.

The Ombudsman's report noted that a memorandum of understanding signed between Youth Justice and Corrective Services NSW allowed for those laws that only permitted partial strip searches to be circumvented. This had the effect of a youth prison becoming legally 'cloaked' as an adult prison when Correctional Services NSW officers have control of it. The Ombudsman recommended legislation to close this loophole to ensure that searches involve the least intrusive search method and involve the removal of no more clothing than is necessary.⁹² The NSW Government has refused to follow this recommendation.

SOUTH AUSTRALIA – KURLANA TAPA YOUTH DETENTION CENTRE

In 2023 the South Australian Children's Guardian observed that children in the Kurlana Tapa children's prison were being locked in their cells for up to 23 consecutive hours, partly due to

⁸⁹ Commission for Children and Young People (Vc) (n 63).

⁹⁰ Yoorrook Justice Commission. 2023. Yoorrook for Justice: Report into Victorian's Child Protection and Criminal Justice Systems. 322-323.

⁹¹ Victorian Government Response to the Yoorrook for Justice Report, April 2024. Available online <https://www.frstpeople.vic.gov.au/response_yoorrook_for_justice_report>.

⁹² Ombudsman New South Wales. 2021. Strip searches conducted after an incident at Frank Baxter Youth Justice Centre – A special report under section 31 of the *Ombudsman Act 1974*. 8 June 2021; Ombudsman New South Wales. 2022. Strip searches in youth detention. 12 May 2022.

staffing shortages. The prolonged lockdowns were resulting in increased incidents of self-harm, reduced hours of school attendance for children in prison and difficulties for children to be able to meet with their lawyers.⁹³ In November 2023 the official Training Centre Visitor (TCV) reported to parliament that:

- Nearly three in four ambulance attendances over the financial year were responding to young people self-harming;
- Two in five individuals involved in incidents throughout the year self-harmed or expressed self-harm ideation during their admission;
- Aboriginal young people, young people with a disability, and young people in care are all seriously overrepresented. All experienced a greater likelihood of having force used against them, and higher rates of self-harm;
- At times, over 90% of young people housed in the segregation unit were those with disability – including autism, intellectual disability and psychiatric condition/s.⁹⁴

CHILDREN'S PRISONS AND IMPRISONMENT OF CHILDREN IN WATCH- HOUSES AROUND AUSTRALIA

There are currently 18 children's prisons in Australia. These are:

Jurisdiction	Existing Children's Prisons
ACT	Bimberi Youth Justice Centre
NSW	Acmena Youth Justice Centre Cobham Youth Justice Centre Frank Baxter Youth Justice Centre Orana Youth Justice Centre Reiby Youth Justice Centre Riverina Youth Justice Centre
Northern Territory	Alice Springs Youth Detention Centre Don Dale Youth Detention (Darwin)
Queensland	Brisbane Youth Detention Centre Cleveland Youth Detention Centre West Moreton Youth Detention Centre
SA	Kurlana Tapa
Tasmania	Ashley Youth Detention Centre
Victoria	Parkville Youth Justice Precinct Cherry Creek Youth Justice Precinct
WA	Banksia Hill Detention Centre Unit 18, Casuarina Prison

⁹³ Sarah Coard. 2023. 'Children self-harming to escape prolonged confinement in cells, South Australian watchdog says'. *The Guardian*. 30 June 2023. <<https://www.theguardian.com/society/2023/jun/29/children-locked-in-cells-for-up-to-23-hours-at-south-australian-youth-detention-centre>>.

⁹⁴ Training Centre Visitor. Annual Report 2022-23. Office of the Guardian for Children and Young People, Adelaide 2022.

At the time of writing, there are plans in Queensland to build three new prisons for children: a new 80 bed centre in Woodford at a cost of \$627 million⁹⁵, a new 40 bed centre in Cairns⁹⁶ (there are not clear costings for this centre at the time of writing), and a new 76 bed remand centre in Wacol at a cost of \$250 million (which will be used as an adult remand centre once the new youth detention centres are built).⁹⁷

In Victoria, the new 'Cherry Creek' Youth Justice Centre (which cost \$420 million)⁹⁸ sat empty for many months after completion, provoking debate as to the extent to which the building of the centre had been a mistake as the children's prison population in Victoria had reduced.⁹⁹ However, Cherry Creek started receiving children in August 2023. It has 140 beds¹⁰⁰ and has now replaced Malmsbury Youth Detention Centre, which closed at the end of 2023.¹⁰¹

CHILDREN IN ADULT WATCH-HOUSES

In Queensland there are hundreds of children held each year in adult police watch-houses.¹⁰² In 2022-2023, the Queensland Children's Court reported that there were more than 8,000 receptions of children into Queensland watch-houses during the year (around 556 unique children each month).¹⁰³ This has led to widespread concerns about child human rights abuses occurring in adult watch-houses in Queensland. There have been public reports of children being denied adequate food, legal support, medical attention, education, access to sunlight, and privacy when accessing amenities; as well as reports of overcrowding, sexual assault, use of force, strip searches, suicide attempts and excessively long periods held in watch houses (sometimes for weeks at a time).¹⁰⁴

⁹⁵ Queens and Prem er. 2024. 'Construct on Starts on Youth Detent on Fac ty at Woodford' (Med a Statement). 27 February 2024. <<https://statements.qd.gov.au/statements/99792>>.

⁹⁶ Ib d.

⁹⁷ Queens and Prem er. 2023. 'New Youth Remand Fac ty to be Bu t at Waco '. (Med a Statement). 5 October 2023. <<https://statements.qd.gov.au/statements/98865#:~:text=A%20new%20youth%20remand%20fac%20ty%20w%20be%20fast%20Dtraced%20and.by%20a%20%24250%20m on%20 nvestment>>; Queens and Prem er. 2024. 'New rap d bu t Waco Youth Remand Centre on track for 2024'. (Med a Statement). 27 March 2024. <<https://statements.qd.gov.au/statements/99987>>.

⁹⁸ V ctor an Government. 2022. Contemporary Detent on Env ronments (Vo ume 15). Ava ab e on ne <<https://www.v.c.gov.au/vctoran-government-annual-report-2022-royal-commission-on-justice-system-responses-child-sexual-abuse-10>>.

⁹⁹ V ctor an L bera Party, 2023. 'Empty Pr sons Won't Get Young Offenders on the R ght Path'. (Med a Statement) 5 February 2023. <<https://v.c.bera.org.au/meda-releases/2023-02-05-batt-n-empty-pr-sons-wont-get-young-offenders-on-the-right-path>>.

¹⁰⁰ V ctor a State Government. 2022. Cherry Creek Youth Just ce Centre. (Web Page) <<https://csba.v.c.gov.au/our-projects/cherry-creek-youth-justice-centre>>.

¹⁰¹ Shannon Schubert. 2023. 'Troub ed Ma msbury Youth Just ce Centre c osed but ex staff, un on say prob ems aren't over'. ABC News. 22 December 2023. <<https://www.abc.net.au/news/2023-12-22/malmsbury-youth-justice-legacy-centre-vctora-crime/103255038>>.

¹⁰² Queens and Fam y and Ch d Comm ss on. 2023. 'Who's Responsible? Understanding why young people are being held longer in Queensland Watch Houses'. Report. November 2023. Ava ab e on ne <<https://www.qfcc.qd.gov.au/sites/default/files/2023-12/FINAL%20%20Watchhouse%20Review%20%20Who%27s%20Responsibe%20%20November%202023.pdf>>.

¹⁰³ Ch dren's Court of Queens and. 2022. Annual Report 2022 23. Ava ab e on ne <https://www.courts.qd.gov.au/_data/assets/pdf_file/0010/786466/ccar2022-2023.pdf>.

¹⁰⁴ Ben Smee. 2023. 'Strip searches and suicide attempts: the rea ty for ch dren n Queens and watch houses'. *The Guardian*. 26 August 2023. <<https://www.theguardian.com/australia-news/2023/aug/26/queens-and-watch-houses-awards-teens-strip-searches-suicide-attempts#:~:text=On%20Thursday%2C%20the%20Queens%20and%20government,n%20adu%20po%20ce%20watch%20houses>>; Rache R ga and Kate McKenna. 2023. 'Advocates say ch dren are be ng he d n adu t watch houses n Queens and for weeks at a t me'. ABC News. 7 February 2023. <<https://www.abc.net.au/news/2023-02-07/ch-dren-he-d-n-adu-t-watch-houses-youth-justice-system-crises/101936438>>; Ben Smee. 2024. 'Boy, 13, a eged y sexua y assau ted wh e be ng he d n crowded Ca rns watch house ce '. *The Guardian*. 15 February 2024. <<https://www.theguardian.com/australia-news/2024/feb/15/boy-13-ca-rns-watch-house-ce>>; Ben Smee. 2024. 'Ca rns watch house worker sounds a arm over 'mass deter orat on' n ch dren's phys ca and menta hea th'. *The Guardian*. 24 January 2024. <<https://www.theguardian.com/society/2024/jan/23/queens-and-youth-detent-on-ca-rns-watch-house-ch-dren-phys-ca-menta-hea-th>>; Ben Smee. 2024. 'More than 550 ssues ra sed on beha f of

Despite the ongoing scrutiny and criticism of this practice, in August 2023 the Queensland Parliament made an express declaration to override their own *Human Rights Act* in order to further legitimise and expand this practice.¹⁰⁵

In Tasmania, the Children's Commissioner has also raised concern about the practice of holding children in both adult reception centres and watch-houses.¹⁰⁶ Similarly in South Australia, the Children's Commissioner identified that over the course of a year more than 2000 children under the age of 18 were held in adult watch-houses.¹⁰⁷

In Western Australia, the Children's Commissioner has noted that information on the number of children and young people arrested and detained in police watch-houses, and the length of time for which they are held, is not readily available. However, reports indicate that Aboriginal children and young people in regional centres are disproportionately affected by the practice. The Commissioner noted that children may be detained in police lockups for longer than 24 hours if the child is in a regional location, or if the Banksia Hill Juvenile Detention Centre does not have capacity to admit additional children into the centre. The Commissioner expressed concern that there is no independent systemic oversight of police custodial facilities.¹⁰⁸

In Victoria, under section 347A of the *Children Youth and Family Act 2005* (Vic), a child may be temporarily detained in a police watch-house for no more than two working days, with requirements that include keeping the child separate from adults and making reasonable efforts to meet the child's medical and cultural needs. In 2021 the Victorian Commission for Children and Young People reported that several children with whom they had consulted spoke about spending multiple days or weeks in regional police watch-houses, with some reporting poor conditions such as being cold and not being provided with blankets or clothing.¹⁰⁹

EVIDENCE BASED PROGRAMS THAT REDUCE CONTACT WITH THE YOUTH JUSTICE SYSTEM

This section outlines some recent research and evidence in Australia and internationally. The list of programs noted below is by no means exhaustive. We have focused on programs that have independent and published evaluations that directly connect the outcomes of the programs with reductions in justice system contact. There are multiple programs around Australia achieving excellent outcomes, which have not had the resources or opportunity for evaluation,

children in police lockups this year, Queensland public guardian says'. *The Guardian*. 9 March 2024. <<https://www.theguardian.com/australia-news/2024/mar/08/queensland-children-in-police-watch-houses>>.

¹⁰⁵ Nicky Jones. 2023. 'Queensland's not on y tramp ng the r ghts of ch dren t s sett ng a concern ng ega precedent'. *The Conversation*. 29 August 2023/ <<https://theconversation.com/queensland-s-not-on-y-tramp-ng-the-rights-of-children-t-s-sett-ng-a-concern-ng-ega-precedent-212377#:~:text=In%20March%2C%20the%20par%20ament%20passed.dec.ared%20a%20serous%20repeat%20offender>>.

¹⁰⁶ Commissioner for Children and Young People Tasmania. 2024. 'Adult Prisons no place for children'. (Media Release). 8 February 2024. <<https://chdcomm.tas.gov.au/opinion/peace-adult-prisons-no-place-for-children/>>.

¹⁰⁷ Commissioner for Children and Young People South Australia. 2022. 'Bail Conditions for Children'. Position Brief. November 2022. Available online <<https://www.cyp.com.au/wp-content/uploads/2022/11/Position-Brief-Bail-Conditions-Screen.pdf>>.

¹⁰⁸ Commissioner for Children and Young People WA. 2017. Oversight of services for children and young people in Western Australia, Commissioner for Children and Young People WA, Perth. 55 56.

¹⁰⁹ Commissioner for Children and Young People (Vic). 2021. *Our youth our way: inquiry into the over representation of Aboriginal children and young people in the Victorian youth justice system*, Commissioner for Children and Young People, Melbourne, 2021. 428 429.

or that are focused on a different set of measures. We are hoping that this overview will provide a useful collection of programs as a starting point and marker of the extensive evidence that exists about what is currently working and enable us to explore how we might further build on these successes.

EVIDENCE-BASED EARLY INTERVENTION & DEVELOPMENTAL CRIME PREVENTION

Investment in a wide-variety of community-based early intervention as well as developmental crime prevention policies and initiatives is key to preventing offending and diverting children away from the justice system.¹¹⁰ Early intervention (secondary crime prevention) aims to intervene early in an individual's developmental pathway to address risk factors associated with offending and strengthen protective factors that support engagement in pro-social behaviour.¹¹¹ Early intervention commonly occurs early in life, but it can also occur later in life at a crucial transition point on a pathway to offending.¹¹² Children who are at risk of justice system involvement often experience a number of individual, family, peer, and school/community risk factors such as disconnection from education, unstable home environments, homelessness, and poverty.¹¹³ Programs that work to reduce contact with the justice system tend to address a multitude of these factors at once.¹¹⁴ Primary crime prevention focuses on modifying 'criminogenic' factors in physical and social environments to stop crime before it starts.¹¹⁵

While there are clear limitations in studies that focus primarily on costs, these findings are important in framing the significance of the impact of early intervention and prevention, not just financially, but in terms of a range of social and health wellbeing measures. A study of children at risk of criminalisation in NSW found that 7% of individuals under the age of 25 will account for half the estimated costs of the state's social services by the time they are 40 years old. Additionally, 1% of this cohort will be responsible for 32% of NSW justice service costs, highlighting that early intervention targeting a small percentage can significantly reduce future costs.¹¹⁶

¹¹⁰ National Crime Prevention (1999) *Pathways to prevention: Developmental and early intervention approaches to crime in Australia*. National Crime Prevention, Attorney General's Department: Canberra. Available online <https://eprints.qut.edu.au/4482/1/4482_report.pdf>.

¹¹¹ Paul J. Brantingham and Frederick L. Faust. 1976. A Conceptual Model of Crime Prevention. *Crime & Delinquency*, 22(3), 284-296.

¹¹² National Crime Prevention (n 110).

¹¹³ David Farrington. 2007. Childhood risk factors and risk focused prevention. The Oxford handbook of criminology; Tony Vnson and Margot Rawsthorne. 2015. *Dropping off the edge 2015: Persistent communal disadvantage in Australia*. Jesuit Social Services/Catholic Social Services Australia. 2015. Available online <<https://www.ourcommunity.com.au/files/Edge.pdf>>; Drum, Martin and Buchanan, Remy, "Western Australia's Prison Population in 2020: Challenges and Reforms" (2020). *Catholic Social Outreach Series*. 1. <<https://researchonline.nd.edu.au/cso/1>>; Candace L. Odgers. (2015). 'Income inequality and the developmental divide: Is there a role for?'. *Am Psychol.*, 70(8):722-31; AIHW. 2015. *Vulnerable young people: interactions across homelessness, youth justice and child protection 1 July 2011 to 30 June 2015*. Cat. no. HOU 279. Canberra; AIHW. 2018. *National data on the health of justice involved young people: a feasibility study*. Cat. no. JUV 125. Available online <<https://www.aihw.gov.au/reports/youth-justice/health-justice-involved-young-people-2016-17/summary>>.

¹¹⁴ National Crime Prevention (n 110).

¹¹⁵ Brantingham and Faust, (n 111).

¹¹⁶ NSW Government. 2019. *Forecasting future outcomes: Stronger communities investment unit 2018 insights report*. Available online <<https://www.nsw.gov.au/sites/default/files/2023-01/Forecasting%20Future%20Outcomes%20Report%202018.pdf>>.

A recent economic analysis of early intervention resourcing in Australia found that one dollar invested in early childhood education yields a return of two dollars.¹¹⁷ The cost of late intervention in Australia has been estimated to be \$15.2 billion per year, including \$2.7 billion (18%) for youth crime.¹¹⁸ Research findings support investing in capacity-building strategies that scale up community-based approaches to early intervention. Building on the success of relatively small-scale and economically efficient community-led innovations that create the conditions for healthy development pathways early in life can be a path to larger-scale crime prevention.¹¹⁹

There remains a genuine opportunity in Australia to further invest in early intervention responses and build capacity for sustainable, scalable, place-based primary youth crime prevention.¹²⁰ Alongside this investment, adjacent research in this area is needed so that there is sufficient high-quality data and evaluations that can drive evidence-based policy and investment. There is a particular need for longitudinal studies, using some form of matched-group comparisons at baseline to determine the impact of existing and new early intervention programs to reduce offending and improve community safety.

AUSTRALIAN EARLY INTERVENTION AND PREVENTION PROGRAMS

CHILD SKILLS TRAINING & BEHAVIOURAL CHANGE PROGRAMS (AUSTRALIA AND INTERNATIONAL)

In young people, the pre-frontal cortex (the part of the brain that controls executive functioning) is still developing. This means that children and young people are still developing the cognitive processes required in planning, controlling impulses, and weighing up the consequences of decisions before acting.¹²¹ There are various examples of programs that aim to build children's skills and cognitive abilities in areas that are often related to anti-social behaviour and offending (for example areas like self-control/impulsiveness, perspective-taking, and delayed gratification). Systematic reviews examining randomised-controlled trials of child skills training programs reported such interventions decrease anti-social behaviour by anywhere between 24-32%.¹²² Similarly, systematic reviews of interventions that involve cognitive-behavioural therapy have shown effects on youth offending with anywhere between a 21-35% reduction in recidivism.¹²³

¹¹⁷ The Front Project. 2019. *A smart investment for a smarter Australia: Economic analysis of universal early childhood education in the year before school in Australia*. June 2019. PWC. Available online <https://www.thefrontproject.org.au/images/downloads/ECO_ANALYSIS_Fu_Report.pdf>.

¹¹⁸ W. Teager, S. Fox and N. Stafford. 2019. *How Australia can invest early and return more: A new look at the \$15b cost and opportunity*. Early Intervention Foundation. The Front Project and CoLab at the Teetion Kids Institute, Australia. 5. Available online <https://coab.teetionkids.org.au/s teassets/media docs_coab/coab/how_australia_can_invest_in_children_and_return_more_finally_not_embargoed.pdf>.

¹¹⁹ Home, R., Freiberg, K., & Branch, S. (2015). *Creating capacity to take developmentally appropriate crime prevention to scale: A community based approach within a national framework*. *Australian & New Zealand Journal of Criminology*, 48(3), 367-385. <<https://doi.org/10.1177/0004865815589826>>.

¹²⁰ Ibid.

¹²¹ Richard J. Bonnie and Elizabeth S. Scott. 2013. 'The teenage brain: Adolescent brain research and the law'. *Current Directions in Psychological Science*. (2013) 22(2), 158-161. Available online <<https://journals.sagepub.com/doi/pdf/10.1177/0963721412471678>>.

¹²² David P. Farrington, Hannah Gaffney and Howard White. 2022. 'Effectiveness of 12 types of interventions in reducing juvenile offending and antisocial behaviour'. *Canadian Journal of Criminology and Criminal Justice*. (2022) 64(4), 47-68; Andreas Beehmann and Friedrich Löse. 2021. 'A comprehensive meta-analysis of randomized evaluations of the effect of child social skills training on antisocial development'. *Journal of Developmental and Life Course Criminology*. (2021) 7(1), 41-65; Alex R. Piquero, Wesley G. Jennings, Brandon C. Weisburd, David P. Farrington, Richard E. Tremblay, Brandon C. Weisburd and Jennifer M. Reingle-Gonzalez. 2016. 'A meta-analysis update on the effects of early family/parent training programs on antisocial behavior and delinquency'. *Journal of Experimental Criminology*. (2016) 12, 229-248.

¹²³ Koehler, J. A., Löse, F., Akeens, T. D., & Humphreys, D. K. (2013). A systematic review and meta-analysis on the effects of young offender treatment programs in Europe. *Journal of Experimental Criminology*, 9(1), 19-43. <<https://doi.org/10.1007/s11292-012-9159-7>>; Mark W. Lapsey, Nana A. Landenberger and Sandra J. Wilson. 2007. 'Effects of

COMMUNITIES THAT CARE (AUSTRALIA AND INTERNATIONAL)

There is a strong evidence base in Australia and overseas for primary prevention models such as the Communities That Care (CTC) model.¹²⁴ These models mobilise communities to address risk factors that increase the risk of justice system involvement, including harmful substance use, low academic achievement, early school leaving, and violence. A recent study evaluated the impact of the CTC model across communities in Victoria, between 2010 and 2019. This study supports the existing evidence base showing CTC is effective at preventing youth crime at a population level, with findings demonstrating significant reductions in crimes associated with CTC including a 2% annual reduction in risk for crimes against persons and a 5% annual reduction in risk for crimes of property and deception.¹²⁵

RESOLVE (LOGAN, QUEENSLAND)

Resolve is an early intervention program for young people aged 12 to 16 years old who are at risk of justice system involvement. The program is delivered in Logan through a joint partnership between Youth and Family Service (YFS), Griffith University, Overflow Foundation, and Queensland Police Service. The program includes community outreach as well as intensive case management that uses a flexible, relational, and strengths-based approach. In 2023, a Griffith University evaluation of the program found that participation in the program resulted in a significant reduction in risk levels evident in relation to housing, schooling, family relationships, social connections, physical health, drug and alcohol use, mental health and safety and the law, and considerable increases in young people's hopefulness both in relation to their sense of agency and confidence in goal achievement.¹²⁶ Despite the success of this program ongoing funding was unable to be secured.

SPORT PROGRAMS (AUSTRALIA AND INTERNATIONAL)

There are limited evaluations in Australia with sound designs that evaluate the effectiveness of sport programs in preventing and reducing crime. However, a recent systematic review and meta-analysis of 13 control-group evaluations (two in Australia and the remainder overseas) found sport programs significantly protect against offending behaviour and related antisocial attitudes, as well as significantly increase self-esteem and psychological wellbeing.¹²⁷

PARENTING PROGRAMS (AUSTRALIA AND INTERNATIONAL)

Parenting programs found to be the most effective at reducing antisocial behaviour and youth crime include parent-child interaction therapy, the Triple P (Positive Parenting Program), and the Incredible Years Parenting Program.¹²⁸ These programs typically involve training and

cognitive behavioural programs for criminal offenders'. *Campbell Systematic Reviews*. 13 August 2007. 6. Available online <<https://onlinelibrary.wiley.com/doi/10.4073/csr.2007.6>>.

¹²⁴ John W. Toumbourou, Bosco Rowland, Joanne Williams, Rache Smith and George C. Patton. 2019. 'Community Intervention to Prevent Adolescent Health Behaviour Problems: Evaluation of Communities That Care in Australia' *Health Psychology*. 2019, Vol. 38, No. 6, 536–544; Hawkins JD, Oesterle S, Brown EC, Abbott RD, Catalano RF. Youth problem behaviours 8 years after implementation of the communities that care prevention system: a community randomized trial. *JAMA Pediatrics*. 2014 Feb;168(2):122–9. <doi: 10.1001/jamapediatrics.2013.4009. PMID: 24322060; PMCID: PMC3946405>.

¹²⁵ Rowland B, Kealy AB, Mohebb M, Kremer P, Abrahams C, Abmany Ochoy J, Carter R, Williams J, Smith R, Osborn A, Hanson T, Renner H, Toumbourou JW. Evaluation of Communities That Care Effects on Municipal Youth Crime Rates in Victoria, Australia: 2010–2019. *Prev Sci*. 2022 Jan;23(1):24–35. doi: 10.1007/s11121-021-01297-6. Epub 2021 Oct 9. PMID: 34626325.

¹²⁶ Jug, I., Bender, D. & Löse, F. (2023). 'Do sports programs prevent crime and reduce reoffending? A systematic review and meta-analysis on the effectiveness of sports programs' *Journal of Quantitative Criminology*, 39:333–384.

¹²⁷ Ibid.

¹²⁸ Piquero et al (n 122).

education that supports parents to develop positive parenting skills as well as strong relationships with their children.¹²⁹ Systematic reviews of parenting program evaluations have estimated such interventions have resulted in anywhere between a 34-48% reduction in problematic child behaviour.¹³⁰

YOUTH PARTNERSHIP PROJECT (WA)

The Youth Partnership Project (YPP) brings together state government, local government, and the community sector in a place-based, collective impact approach to youth justice. The project focuses on early identification of young people aged 8 to 12 years old with complex needs, and the delivery of targeted community services to prevent their involvement with the justice system.

The Armadale Youth Intervention Partnership (AYIP) as part of the YPP achieved a 50% reduction in reoffending for those who completed the program.¹³¹ Evaluation of YPP social outcomes used modelling to estimate that without the intervention, participants were likely to cost the government ~\$3 million in the future. It concluded that if the YPP Youth Justice Model reduces participants' future reliance on government by 10%, the program almost pays for itself, with approximately \$300,000 of reduced government costs.¹³²

YOU GOT THIS (QUEENSLAND)

The University of Sunshine Coast conducted an independent evaluation of the Johnathon Thurston Academy 'You Got This' initiative, which aims to boost courage and self-belief in young people aged 9 to 16 years old experiencing disadvantage. The Queensland Government noted the success of the program, outlining that the evaluation (based on the data of 39 participants, and also interviews with staff members and stakeholders) found successes in diversion, school re-engagement and a reduction in offending. The evaluation found there was a reduction in the number of offences committed by the young people who were at-risk and who participated in the program in Cairns. Nine out of 10 young people with a prior offending history who participated in the program in Cairns did not reoffend within 9 months after completing the program.¹³³

INTERNATIONAL EARLY INTERVENTION AND PREVENTION PROGRAMS

AFTER-SCHOOL PROGRAMS (INTERNATIONAL)

Evaluations have shown after-school programs that incorporate skills training, mentoring and/or academic components may reduce anti-social behaviour. Two robust systematic reviews of

¹²⁹ Ibid.

¹³⁰ Farrington et al (n 122); Piquero et al (n 122); Baume A, Pawar A, Kane JM, Corry CU. *Digital Parent Training for Children with Disruptive Behaviors: Systematic Review and Meta-Analysis of Randomized Trials*. *J Child Adolesc Psychopharmacol*. 2016 Oct;26(8):740-749. doi: 10.1089/cap.2016.0048. Epub 2016 Jun 10. PMID: 27286325.

¹³¹ Sophie Stewart. 2020. *The Case for smart justice alternatives: Responding to Justice issues in WA through a justice reinvestment approach*. Discussion Paper. Social Investment WA. Available online <<https://stat.c1.squarespace.com/stat/c/59c61e6dbefafb0293c04a54/t/5ef5632af22174273c5d18d5/1593140018902/SRWA+Discussion+Paper+on+Justice+Reinvestment+n+WA+March2020+%281%29.pdf>>.

¹³² Youth Partnership Project. 2021. *Youth justice model: 2021 practice framework & evaluation summary*. Available online <https://resourcecentre.savethechildren.net/pdf/2021_YPP_YJ_Evaluation_Summary.pdf>.

¹³³ Queensland Government. 2023. 'Study finds success in Far North youth program'. (Media statement) 4 May 2023. <<https://statements.qd.gov.au/statements/97670>>.

after-school program evaluations estimated between a 6-14% decrease in anti-social behaviour.¹³⁴

ANTI-BULLYING/ANTI-CYBER BULLYING PROGRAMS (INTERNATIONAL)

Bullying is a known predictor of future offending and violence. Anti-bullying and anti-cyber bullying programs have the potential to contribute to reduced youth offending. There are various examples of programs in Australia and overseas that aim to intervene early (mostly during the school years) to reduce bullying. Several systematic reviews of anti-bullying and anti-cyberbullying program evaluations have estimated such interventions result in a reduction in bullying anywhere between 10%-35%.¹³⁵

FAST TRACK (UNITED STATES)

Fast Track is an evidence-based early intervention program in the United States that focuses on disrupting the school to prison pipeline. The program delivers a series of multi-level, developmental, and age-appropriate interventions to support children (from the age of 5 onwards), families, and schools over a long-term developmental period. A 10-year longitudinal study found children who were randomly assigned to the intervention displayed a reduction in violent offences (31% reduction) and drug offences (35% reduction) as well as significantly lower internalising problems, externalising problems and alcohol and other drug use.¹³⁶ Fast Track costs \$58,000 per child over the 10-year investment period, which is much more cost-effective than incarcerating a child for just one year.¹³⁷

HOME VISITATION PROGRAMS (UNITED STATES)

Pre-natal and infancy home visitation programs show positive outcomes in terms of improving the health and wellbeing of children and families and reducing contact with the criminal justice system.¹³⁸ Within these programs, health professionals visit new parents (typically mothers or expected mothers) to provide support, care, and education pre-and-post birth. The most common home visiting programs involve sustained nurse home visiting (SNHV). The Elmira Nurse-Family Partnership program is an evidence-based SNHV program that originated in the United States.¹³⁹ This program has been shown to have sustained effects on outcomes for children and mothers within several randomised-controlled trials in the US, the Netherlands, and the United Kingdom.¹⁴⁰ In the US, young girls whose mothers participated in the program were less likely to be arrested than those who did not participate in the program.¹⁴¹ In addition,

¹³⁴ See Farrington et al (n 122); Taher A. Sema and Brandon C. Welsh. 2016. 'After school programs for delinquency prevention: A systematic review and meta-analysis'. *Youth Violence and Juvenile Justice*. (2015) 14(3), 272-90; Kremer KP, Maynard BR, Poan n JR, Vaughn MG, Sartesch CM. Effects of after school programs with at risk youth on attendance and externalizing behaviors: a systematic review and meta-analysis. *J Youth Adolesc*. 2015 Mar;44(3):616-36. doi : 10.1007/s10964-014-0226-4. Epub 2014 Nov 22. PMID: 25416228; PMCID: PMC4597889.

¹³⁵ Farrington et al (n 122).

¹³⁶ Dodge KA, Berman KL, Coie JD, Greenberg MT, Lochman JE, McMahon RJ, Penderhughes EE; Conduct Problems Prevention Research Group. Impact of early intervention on psychopathology, crime, and wellbeing at age 25. *Am J Psychiatry*. 2015 Jan;172(1):59-70. doi : 10.1176/appi.ajp.2014.13060786. Epub 2014 Oct 31. Erratum in: *Am J Psychiatry*. 2015 Jan;172(1):100. PMID: 25219348; PMCID: PMC4485380.

¹³⁷ Ibid.

¹³⁸ Piquero et al (n 122).

¹³⁹ Social Programs That Work. 2020. Evidence Summary for the Nurse Family Partnership. Available online <<https://evidencebasedprograms.org/document/nurse-family-partnership-nfp-evidence-summary/>>.

¹⁴⁰ Ibid.

¹⁴¹ Eckenrode J, Campa M, Luckey DW, Henderson CR Jr, Coie R, Kitzman H, Anson E, Sidorco Arcoeo K, Powers J, O'Leary D. Long term effects of prenatal and infancy nurse home visitation on the life course of youths: 19 year follow up of a randomized trial. *Arch Pediatr Adolesc Med*. 2010 Jan;164(1):9-15. doi : 10.1001/archpediatr.2009.240. Erratum in: *Arch Pediatr Adolesc Med*. 2010 May;164(5):424. PMID: 20048236.

participation in the program was shown to be associated with significantly reduced reports of child abuse and neglect, amongst other benefits.¹⁴²

MENTORING PROGRAMS (INTERNATIONAL)

Internationally, evaluations have found mentoring programs are effective at reducing offending and supporting children and young people to engage in prosocial behaviour.¹⁴³ One study that reviewed 25 experimental and quasi-experimental evaluations of mentoring programs and their impact on delinquency found a 19-26% reduction in behaviours of concern.¹⁴⁴

THE PERRY PRE-SCHOOL PROJECT (UNITED STATES)

Pre-school programs provide early intervention and support for children at a crucial transition point in their development. There is a strong evidence base noting the relationship between behaviours in childhood that might be indicative of future offending.¹⁴⁵ In the US, the Perry Preschool Project is recognised as an evidence-based program that supports children from disadvantaged backgrounds to prevent the onset of offending. The Perry Preschool Project provides high-quality pre-school education to children aged three and four years old in small school-based sessions delivered by qualified teachers. In addition, teachers conduct a weekly home visit to support parents with at-home learning. An evaluation of the Perry Preschool Project found the program produced sustained effects well into adulthood. Positive outcomes included improved educational attainment, fewer teen pregnancies, reduced likelihood of spending time in prison, lower arrest rates for violent crimes, higher median incomes and reduced likelihood of receiving government assistance.¹⁴⁶

YOUTH ADVOCATE PROGRAM (UNITED STATES)

The Youth Advocate Program (YAP) was developed in the United States. It is a strengths-based intensive support and advocacy program that provides individually tailored and wrap-around support to young people who are at risk of, or already experiencing, involvement with the justice system. Evaluations have shown the program is more cost-effective than incarceration, and that it reduces justice system involvement and improves other factors in children's lives.¹⁴⁷

YOUTH CRIME ACTION PLAN, NEW ZEALAND

The New Zealand 10-year Youth Crime Action Plan¹⁴⁸ is an approach to reducing youth offending rates, with a focus on the overrepresentation of Māori people in the justice system.

¹⁴² Ibid.

¹⁴³ Patrick Toan, David Henry, Michael Schoeny, Aron Bass, Peter Lovegrove and Emily Nicholas. 2013. 'Mentoring interventions to affect juvenile delinquency and associated problems: A systematic review'. *Campbell Systematic Reviews*. 10. Available online <<https://onlinelibrary.wiley.com/doi/10.4073/csr.2013.10>>; Raposa EB, Rhodes J, Stams GJJM, Card N, Burton S, Schwartz S, Sykes LAY, Kanchewa S, Kupersmidt J, Hussain S. The Effects of Youth Mentoring Programs: A Meta-analysis of Outcome Studies. *J Youth Adolesc*. 2019 Mar;48(3):423-443. doi: 10.1007/s10964-019-00982-8. Epub 2019 Jan 19. PMID: 30661211; Christensen KM, Hager MA, Stams GJ, Raposa EB, Burton S, Rhodes JE. Non-Specific versus Targeted Approaches to Youth Mentoring: A Follow-up Meta-analysis. *J Youth Adolesc*. 2020 May;49(5):959-972. doi: 10.1007/s10964-020-01233-x. Epub 2020 Apr 15. PMID: 32297173.

¹⁴⁴ Patrick et al (n 143).

¹⁴⁵ Batchelor S, Carr A, Elias G, Freiberg K, Hay I, Home R, Lamb C, Leech M & Teague R 2006. The Pathways to Prevention project: doing developmentally prevention in a disadvantaged community. *Trends & issues in crime and criminal justice* no. 323. Canberra: Australian Institute of Criminology. <<https://www.aic.gov.au/publications/tand/tand323>>.

¹⁴⁶ Social Programs That Work. 2021. Perry School Project. Available online <<https://evidencebasedprograms.org/programs/perry-preschool-project/>>.

¹⁴⁷ Youth Advocate Programs Inc. Evidence supporting YAP's model. Available online <https://www.yapnc.org/Portals/0/Docs/YAP%20Evidence%20Base%20%20booklet.pdf?ver=2020_11_22_003401663>.

¹⁴⁸ New Zealand Ministry of Justice. 2013. Youth Crime Action Plan 2013-2023. Available online <https://www.ustce.govt.nz/assets/Documents/Publications/YCAP_full_report.pdf>

The program has sought to have a 'genuine partnership with communities' by involving Māori communities, frontline practitioners, and schools, to allow 20 communities across New Zealand to develop their own solutions to youth offending problems.¹⁴⁹ In 2015, the New Zealand Justice and Courts Minister reported that the number of young people (aged 10-16) appearing in court had more than halved since 2007.¹⁵⁰

¹⁴⁹ New Zealand Associate Justice Minister. 2013. 'Act on Plan the next step forward for youth justice'. (Media Release). 31 October 2013 <<http://www.beehive.govt.nz/release/act-on-plan-the-next-step-forward-for-youth-justice>>.

¹⁵⁰ New Zealand Justice and Courts Minister. 2015. 'Lowest number of youth in court in 20 years'. (Media Release). 24 March 2015 <http://beehive.govt.nz/release/lowest-number-youth-court-20-years?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+beehive.govt.nz%2Fportfolio%2Fcourts+%28Courts+beehive.govt.nz%29>.

EVIDENCE-BASED TERTIARY RESPONSES FOR CHILDREN & YOUNG PEOPLE

Children – especially young First Nations children – need off-ramps from the criminal justice system into effective community-based supports and interventions. Tertiary prevention programs occur after a young person has come into contact with the justice system with the aim of preventing recidivism and repeat victimisation.¹⁵¹ Community-led services and strategies for children and young people in contact with the justice system encompass diversion and sentencing alternatives, in-prison programs and post-release support. Youth-focused options consider the specific needs of young people and their families.

AUSTRALIAN TERTIARY CRIME REDUCTION PROGRAMS FOR CHILDREN AND YOUNG PEOPLE

A PLACE TO GO (NSW)

The A Place to Go pilot has been operational in the Nepean Police Area Command and Parramatta Children’s Court since November 2018. The program aims to improve supports and deliver a better service response for 10 to 17 year old children in contact with the justice system, with a focus on young people on remand. It draws on services from across NSW Government and non-government service providers to deliver a coordinated and multiagency service solution that can support a young person to change their life trajectory. A Place to Go uses a young person’s contact with police and/or the court as an opportunity to intervene early by linking them with appropriate community supports and services, court liaison staff, cross-agency panels and dedicated short-term transitional accommodation. An independent evaluation found that young people were supported in finding stable and appropriate accommodation, accessing health services, removing barriers to education, and connecting with their communities.¹⁵²

BACKTRACK YOUTH SERVICES IMPACT REPORT (NSW)

Over the last ten years, the intensive, holistic and relational case work provided by BackTrack Youth Services has supported 1,000 children and young people at risk of criminal justice system involvement or entrenched in the justice system. An impressive 87% of the young people who leave BackTrack transition into employment or education. A University of NSW report of the impact of the program on the local community in Armidale found a 35% reduction in crime because of the engagement of young people in the program.¹⁵³

BOOST YOUTH MENTORING PROGRAM, AUSTRALIAN COMMUNITY SUPPORT ORGANISATION (ACSO) (NSW)

In response to the urgent need for targeted interventions addressing domestic and family violence offences among adolescents, ACSO piloted a mentoring program developed in collaboration with NSW Police, NSW Youth Justice, and the University of Wollongong. The program was designed for young people aged 14 to 17 who had breached or were at risk of

¹⁵¹ Brantingham and Faust, (n 111).

¹⁵² NSW Government. 2022. *A Place to Go Overview and referral pathway*. June 2022. 2 3.

¹⁵³ Backtrack. 2021. *Annual report 2020*. Available online <https://backtrack.org.au/wpcontent/uploads/2021/06/Backtrack_Annua_Report_2020.pdf>.

breaching an existing Apprehended Violence Order (AVO) to address the root causes of violent behaviours. The program was piloted in the Illawarra region of NSW. Based on the program's success and at the request of the local magistrate, Boost expanded its catchment to include the Sutherland Shire. The program ended in August 2023 as ongoing funding was not secured.

ACSO commissioned an evaluation of the pilot which found that:

- Young people's overall wellbeing improved;
- The program contributed to a lower AVO breach rate among young people in the program when compared with the 'comparison group', and particularly among First Nation participants;
- Protective factors were strengthened for young people, including understanding of their AVO and confidence to remain offence free, developing prosocial relationships and increased engagement in education and employment;
- Young people experienced the program as meaningful, meaning that these protective factors are more likely to be sustained.¹⁵⁴

GRIFFITH YOUTH FORENSIC SERVICE (QUEENSLAND)

Griffith University delivers the Griffith Youth Forensic Service (GYFS) in Queensland, which provides state-wide multisystemic and specialist assessment and treatment services for young people adjudicated for sexual offences. In 2015, a study evaluating the impact of treatment provided in this service found it was equally effective at preventing sexual recidivism for First Nations and non-Indigenous youth. It also prevented violent and other recidivism for non-Indigenous youth living in remote and non-remote locations.¹⁵⁵

EMBEDDED YOUTH OUTREACH PROGRAM (VICTORIA)

The Embedded Youth Outreach Program (EYOP) provides after-hours outreach support to young people who come into contact with police. EYOP pairs a police officer with a Youth Support and Advocacy Service (YSAS) youth worker at the first point of police contact. The pilot began in 2018 with the aim of supporting the complex needs of young people at high risk of antisocial or criminal behaviour. The program provides young people with support and refers them to services tailored to their individual needs. It also refers young victims of crime to support services and works with them to reduce the likelihood of future victimisation. The pilot was delivered in Wyndham, Hobsons Bay, Maribyrnong, Dandenong, Casey, and Pakenham. In July 2023, the Victorian Government announced an expansion of these locations to include Brimbank, Melton and Shepparton.¹⁵⁶

The program was evaluated by Swinburne University. The evaluation compared a group of young people who had been subjected to YSAS/police contact (the treatment group) and a group that hadn't (the control group). The evaluation found that there was a 9% reduction in re-offending between the treatment and control group but that this was not statistically significant. However, for young people without a history of offending, there was a drop in family violence re-

¹⁵⁴ Australian Community Support Organisation (ACSO). The Impact of ACSO's Boost Program on Youth Justice Reform (Web Page). 5 Apr 2024. <https://www.acso.org.au/the_impact_of_acsos_boost_program_on_youth_justice_reform/>; ACSO. Boost Program Empowers Young People to Break the Cycle of Violence (Web Page). 20 July 2023. <<https://www.acso.org.au/boost-program-empowers-young-people-to-break-the-cycle-of-violence/>>.

¹⁵⁵ Troy Ard, Susan N. Rayment McHugh, Dmitry Adams, Stephen Smabone and Nadine McKee. 2016. 'Responding to youth sexual offending: a fed-based practice model that "closes the gap" on sexual recidivism among Indigenous and non-Indigenous males'. *Journal of Sexual Aggression*. (2016) 22:1, 82-94.

¹⁵⁶ Victorian Police. Embedded youth outreach program (Web Page) <<https://www.police.vic.gov.au/embedded-youth-outreach-project>>.

offending in the treatment group. Similarly, for young people with a history of offending there was a decrease in re-offending rates for property and deception offences in the treatment group.¹⁵⁷

The evaluation found that young people who had been supported by the police/YSAS partnership had future numbers of field contact with the police stabilise rather than increase as it did with the control group. (However, not all police contacts lead to a field contact being submitted, so this finding is not conclusive of all contact with police.) The evaluation found that all groups of young people who had first contact with the police went on to have future contact with the police. However, the number of future contacts was lower for the group who had been contacted first by the police/YSAS partnership.

The researchers noted that, even with the modest outcomes, the EYOP program is likely to result in 1000 fewer offences on an annual basis. They found that this offers value for money and outweighs its expenses. Overall, the evaluation provides support that multi-disciplinary response teams are better at reducing crime than police alone. It also supports that youth worker presence may lead to a stabilising in police contact rather than an increase.¹⁵⁸

INTENSIVE CASE MANAGEMENT (QUEENSLAND)

In February 2023, the Queensland Government published a report summarising findings from a 2022 Nour Group evaluation of the government-led Intensive Case Management (ICM) program. ICM is modelled on evidence-based practice frameworks including multi-systemic therapy,¹⁵⁹ Collaborative Family Work,¹⁶⁰ the Good Lives Model,¹⁶¹ and Strengthening Families Protective Factors.¹⁶² This evaluation found 42% of ICM clients did not reoffend (some for as long as three years post intervention). Additionally, the evaluation showed ICM resulted in a 51% reduction in the frequency of offending (in comparison to a 29% reduction for young people receiving alternative youth justice supports) and a 72% reduction in the proportion of crimes against the person (in comparison to a 13% reduction for young people receiving alternative youth justice supports). It is estimated that the program results in an \$8.1-\$15.7 million saving through reduced frequency and severity of offending and reduced time in custody.¹⁶³

SUPERVISED COMMUNITY ACCOMMODATION (QUEENSLAND)

In 2019, Griffith University conducted an evaluation of the Supervised Community Accommodation (SCA) program for young people in Queensland. This evaluation found SCA provided young people with a high-level of service delivery that addressed the drivers of offending and provided long-term safe and stable accommodation in a home-like environment. This evaluation highlighted the relatively strong integration of case management partnerships

¹⁵⁷ Luebbers, S., Picher, A.S., Fumal, R. & Ogloff, J. R. P. (2019). Embedded Youth Outreach Program Evaluation, Final Report.

¹⁵⁸ Ibid.

¹⁵⁹ Porter, M., Nuntavast, L. An Evaluation of Multisystemic Therapy with Australian Families. *Aust N Z J Fam Ther.* 2016 Dec 37(4):443-462. doi: 10.1002/anzf.1182. Epub 2016 Dec 20. PMID: 28979064; PMCID: PMC5599972.

¹⁶⁰ Chris Trotter. 2013. *Collaborative Family Work: A practical guide to working with families in the human services* (1st ed.). Routledge.

¹⁶¹ The Good Lives Model of Offender Rehabilitation. *Welcome to the Good Lives Model website* (Web Page) <<https://www.goodlivesmodel.com/>>.

¹⁶² Center for the Study of Social Policy. *Strengthening families: The Protective Factors Framework*. Florida Office of the Governor. (Fact Sheet) Available online <https://www.fgov.com/wp-content/uploads/chadvocacy/strengthening_families_protective_factors.pdf>.

¹⁶³ Nour Group. 2023. *Evaluation of Intensive Case Management* (summary report) Department of Children, Youth Justice, and Multicultural Affairs. 10 February 2023. Available online <https://www.cyma.qd.gov.au/resources/dcsyw/youth_justice/program_eva/summary_report_evaluation_of_intensive_case_management.pdf>.

between youth justice staff and non-government service providers operating the facilities.¹⁶⁴ In 2020, Ernst and Young produced a follow-up evaluation and comparative analysis of SCAs in comparison to other residential care and bail support services. This evaluation concluded that SCA and residential care are higher in cost/less cost effective than bail support programs due to offering 24/7 housing. It also found over 70% of young people did not offend while residing at SCAs, but 83% of young people reoffended after exiting the program.¹⁶⁵

TALDUMANDE - BAIL ASSISTANCE LINE (NSW)

The Bail Assistance Line (BAL) takes referrals for children and young people aged 12 to 17 years who have come into contact with the law (but have not committed a crime that warrants detention at the time of arrest) and are in need of crisis accommodation. The child or young person is given a placement (for a maximum of 28 days) and provided with a range of supports to transition to longer-term accommodation or a return to home if it's legally able and safe for them to do so. Supports during the placement may include advocacy and referral pathways for employment, education, health, drug and alcohol and disability services as well as other case management services. Fees for the service are covered by Taldumande Youth Services, Youth Justice NSW and the Bail Assistance Line.¹⁶⁶ An evaluation released in 2021 showed that while the numbers of children and young people accessing the service was extremely low, those placed by BAL were 10.5% less likely to be in any form of custody within six months of their contact date, compared with those children and young people who couldn't be placed due to lack of services.¹⁶⁷

TARGET 120 (WA)

Target 120 focuses on children between 10 and 14 years who have already had multiple contacts with police but have not yet been in detention. The program was first rolled out in 2018 in Bunbury and Armadale, and has since been expanded to Kalgoorlie, Kununurra, Northam, Albany, Port Hedland, Mirrabooka, Geraldton, Rockingham, and Midland in 2022-2023. A government evaluation was conducted in 2020, and in announcing an expansion of the project, the WA Government noted that 50% of people who participated in the program had not gone on to offend. Target 120 provides individualised support for young people at risk as well as additional coordinated support for their families for a period of 12 months.¹⁶⁸

TED NOFFS FOUNDATION (QUEENSLAND, NSW)

The Ted Noffs Foundation runs a residential alcohol and other drug treatment service called Program for Adolescent Life Management (PALM) for young people aged 13 to 18 years old with problematic substance and crime-related behaviours. A recent evaluation of this program analysed three pre-referral trajectories of convictions (no or low, moderate, or high incline convictions) for over 891 young people referred to the PALM service in NSW. This study found

¹⁶⁴ Dr William R. Wood, Dr Hennessey Hayes and Griffith University Criminology Institute. *Supervised community accommodation: Final report* Department of Children, Youth Justice, and Multicultural Affairs. Available online <<https://www.cyma.qd.gov.au/resources/dcsyw/about-us/performance-evaluation/program-evaluation/qu-sca-evaluation.pdf>>.

¹⁶⁵ Ernst and Young. 2020. *Supervised Community Accommodation Evaluation Multi Criteria Analysis and Policy Options Report* (Evaluation report). Department of Children, Youth Justice, and Multicultural Affairs. September 2020. Available online <<https://www.cyma.qd.gov.au/resources/dcsyw/about-us/performance-evaluation/program-evaluation/sca-december-2020-report.pdf>>.

¹⁶⁶ Taldumande Youth Service. Bail Assistance Line (Web Page) <<https://www.taldumande.org.au/page/100/bail-assistance-line>>.

¹⁶⁷ Ilya Kuznetsov. 2021. *An evaluation of the youth Bail Assistance Line*. Crime and Justice Bulletin No. 237. Sydney: NSW Bureau of Crime Statistics and Research.

¹⁶⁸ Government of Western Australia 2022. \$11.1 million boost to Target 120 program to address drivers of youth crime. (Media Statement) 3 May 2022 <[https://www.wa.gov.au/government/media-statements/McGowan-Labor-Government/\\$11.1-million-boost-to-Target-120-program-to-address-drivers-of-youth-crime-20220503](https://www.wa.gov.au/government/media-statements/McGowan-Labor-Government/$11.1-million-boost-to-Target-120-program-to-address-drivers-of-youth-crime-20220503)>.

treatment was associated with a significant decrease in convictions for the high incline convictions trajectory, with 4.36 fewer convictions on average over five years post referral.¹⁶⁹

THE Y NSW (ALTERNATIVE SUSPENSION PROGRAM)

Originally created in Canada, the Alternative Suspension Program is currently being piloted in NSW by The Y NSW. When an incident, accumulation of incidents, or reasons for concern occur (that would warrant a suspension), partner schools have the capacity to refer the student to the program with the permission of their parent/s. Once referred, a program youth worker supports the young person through a range of individual and group activities as well as their schoolwork. Return to school involves a range of meetings with the young person, their parents, youth worker and the school. The youth worker conducts follow-ups at 4-6 weeks post program (with the young person, their parents and the school) and 3 months post program (with the school). The purpose of the program is to reframe the period of suspension as a positive and highly supported experience.¹⁷⁰ An evaluation of the program in Canada found that up to 9 months after the program more young people who had completed the program than young people from a control group had met school academic expectations and improved their behaviour at school. Furthermore, the decrease in the number of disciplinary actions for young people who had completed the program was significantly higher (61.5%) than for the control group (39.6%).¹⁷¹

TRANSITION TO SUCCESS (QUEENSLAND)

In 2018, Deloitte undertook a six-month outcome evaluation of the Queensland Government Youth Justice run Transition to Success (T2S) voluntary vocational and therapeutic service for young people.¹⁷² Following this, Deloitte released further analysis evaluating outcomes from the program over a 12-month reporting period. This analysis found, when compared with a comparison group, T2S participants with a youth justice history had a lower reoffending rate (58% compared to 73% reoffended), a reduction in custody nights (0.7 decrease in average custody nights compared to a 1.7 increase in average custody nights), and a reduction in the average supervision days (1.4 decrease in average supervision days per month compared to a 1.9 increase in average supervision days per month). Additionally, the evaluation found for every \$1 spent on the T2S program, the program results in \$2.13 of benefits.¹⁷³

TRIPLE CARE FARM (NSW)

Triple Care Farm is a youth drug and alcohol program offering withdrawal, rehabilitation and aftercare support for people aged 16 to 24 years of age from anywhere in Australia. Located on 110 acres in the NSW Southern Highlands, the program is voluntary, holistic, evidence-based and offers the following time options: 2 - 4 weeks (Withdrawal Program) or 12 weeks (Residential Rehabilitation). Up to 6 months of aftercare is provided to support young people on their return to the community. An evaluation showed that six months after completion of the

¹⁶⁹ Tyson Whitten, Jesse Caie, Sa'y Nathan, Megan Williams, Eileen Barry, Mark Ferry, Andrew Hayden, Influence of a residential drug and alcohol program on young people's criminal conviction trajectories, *Journal of Criminal Justice*, Volume 84, 2023, 102026, ISSN 0047 2352, <https://doi.org/10.1016/j.jcrjus.2022.102026>.

¹⁷⁰ The Y NSW. Aternative Suspension (Web Page) <[https://www.ymcansw.org.au/community/services/youth/aternative-suspension/#:~:text=Aternative%20Suspension%20\(AS\)%20transforms%20the,fostering%20personality%20development%20and%20autonomy](https://www.ymcansw.org.au/community/services/youth/aternative-suspension/#:~:text=Aternative%20Suspension%20(AS)%20transforms%20the,fostering%20personality%20development%20and%20autonomy)>.

¹⁷¹ Dan è e La bertè .2017. *Evaluation of the Alternative Suspension Program Research Report: 2017 R008*. Public Safety Canada: Canada. Available online <https://www.publicsafety.gc.ca/cnt/rsrcs/pbctns/2017_r008/index_en.aspx>.

¹⁷² Deloitte Access Economics. 2018. *Transition to success: Evaluation report*. Department of Child Safety, Youth and Women. September 2018. Available online <<https://www.cyma.qd.gov.au/resources/dcsyw/about-us/performance-evaluation/program-evaluation-report.pdf>>.

¹⁷³ Ibid.

Withdrawal Program, 80% of young people had a reduction in chronic use of drugs and alcohol; 80% of young people were engaged in training or education; and 100% were in stable housing.¹⁷⁴ Triple Care Farm is run by Mission Australia. An evaluation using a 'Social Return on Investment' frame by Social Ventures Australia in 2015, found that the program facilitated long term, sustainable changes amongst a cohort of young people with multiple, intersecting and complex disadvantage. It specifically noted positive improvements in physical and mental health and well-being, stronger relationships with friends and families, and increased engagement in education and employment. The evaluation also noted a strong economic return on investment, noting that \$39.5 million worth of social value was generated. For every \$1 invested in the program, approximately \$3 of social value was created.¹⁷⁵

WEAVE CREATING FUTURES PROGRAM (NSW)

This independent three-year evaluation of the WEAVE Creating Futures program (which provides intensive, culturally safe case work support to First Nations young people on release from custody) found that only 4.11% of the 93 young people engaged in the program over the period of the evaluation reoffended. This was compared to BOCSAR reoffending rates for young First Nations people which are 57.3% for a comparable cohort.¹⁷⁶

WHITELION: DEADLY DIVERSIONS YOUTH SUPPORT SERVICE (WA)

The Deadly Diversions project is a collaboration between WA Police and Whitelion aimed at preventing young people in Perth's Northern suburbs from continuing their cycle of criminal justice system involvement. The 2023 Productivity Commission Report on Government Services noted that the WA Government spent \$63 million on children's incarceration in 2021/2022.¹⁷⁷ The program provides 28 individuals with intensive case management support and addresses the root causes of their offending through individualised support, mentoring, and social engagement activities. The program focuses on improving long-term outcomes and addressing social factors such as education and literacy, connection to culture, housing, parenting, and counselling.¹⁷⁸ Outcomes from the service include: 73% of participants feel they have become more independent; 71% of participants feel better about the future; and there is evidence of a reduction in crime and antisocial behaviour.¹⁷⁹

INTERNATIONAL TERTIARY CRIME PREVENTION PROGRAMS

DIAGRAMA MODEL (SPAIN)

Diagrama is an international non-profit organisation and operates over 35 custodial centres across Spain for young people aged 14 to 23 who have been remanded or sentenced to custody. The Diagrama model has demonstrated that it reduces rates of recidivism and its

¹⁷⁴ S r Dav d Mart n Foundat on. Tr p e Care Farm (Web Page) <https://martnfoundat on.org.au/youth_programs/tr p e care farm/>.

¹⁷⁵ SVA Consu t ng. 2015. Tr p e Care Farm, Base ne Tota Return on Investment Project. May 2015. Ava ab e on ne <<https://www.par ament.nsw.gov.au/cdocs/other/11330/Add t ona %20document%202%20 %20M ss on%20Austra a.PDF>>.

¹⁷⁶ Me an e Schwartz and Mareese Terare. 2020. *Creating Futures: Weave's intensive support service for young people leaving custody or involved in the criminal justice system* (Eva uat on report). Ava ab e on ne <<https://apo.org.au/node/306819>>.

¹⁷⁷ Product v ty Comm ss on (2023). ROGS 2023, tab e 17A.10.

¹⁷⁸ Government of Western Austra a. 2018. 'Dead y D vers ons k ck ng goa s n the northern suburbs' (Med a Statement) 29 May 2018. <<https://www.wa.gov.au/government/med a statements/McGowan Labor Government/Dead y D vers ons k ck ng goa s n the northern suburbs 20180528>>.

¹⁷⁹ Soc a Re nvestment Western Austra a. Programs that work: Ex st ng a ternat ves to the just ce system for young peop e 10 Case Stud es. Ava ab e on ne <<https://stat c1.squarespace.com/stat c/59c61e6dbefafb0293c04a54/t/615bf3ac17e47d7acf388f44/1633416111307/RTA+Case+St ud es+Programs+that+Work.pdf>>.

operational costs are comparable to or lower than those of other providers. The model has been implemented across France and the UK. A study of 757 young people who had attended a Diagrama re-education centre in 2011 found that by December 2017, only 13.6% had been placed back in custody.¹⁸⁰

¹⁸⁰ Centre for Innovative Justice (CIJ). 2018. A European alternative approach to juvenile detention. RMIT University. 13 December 2018. Available online <https://cij.org.au/news_and_views/a_european_alternative_approach_to_juvenile_detention/>. Diagrama Foundation. 2019. A blueprint for change: Adapting the lessons of the Spanish Youth Justice System to the Northern Territory. Report on Diagrama visit. October 2019. 14-15, 25. Available online <https://ddhs.org.au/sites/default/files/media_library/documents/Blueprintfor%20Change%20-%20Diagrama%20Foundation%20Report%20FINAL.pdf>.

EVIDENCE-BASED CASE STUDIES: WHAT WORKS IN ALTERNATIVE COURT PROCESSES FOR CHILDREN?

Every jurisdiction should establish a separate specialist court for children. This would involve a judge being appointed as President of the Children's Court. The President, in assigning a magistrate to the Court, would be required to consider the magistrate's experience in matters relating to child welfare and youth justice. In order to enhance their experience in this specialist area, judicial officers assigned to the Court would be required to attend training and education seminars relating to child welfare and wellbeing, therapeutic, trauma-informed and integrated service delivery, and models of therapeutic intervention for children.

The needs of children who come into contact with the justice system differ significantly from adults. Specialist children's courts that are aware of the principles and latest research regarding children's development and its impacts on children's participation in the justice system are therefore a vital component in developing a service focused justice system that emphasises the best interest of children. Having a Children's Court division as part of a generalist adult court does not allow the court to develop the necessary level of expertise, understanding and awareness of the developmental needs of children. Such divisions are therefore unable to maximise the potential for children to access the necessary services and supports that will address the underlying causes of criminal offending.

A specialist Children's Court can support children to participate in court processes meaningfully with due regard to their age and maturity. It can implement effective problem solving, collaborative and multidisciplinary practices to deal with youth justice and child protection matters. A specialist Children's Court can ensure the necessary expertise amongst all professionals at the court – judges, magistrates, court staff, lawyers, youth justice and child protection professionals, and support service professionals – by ensuring there is continuous training and professional development in key subject areas and practices relevant to children.¹⁸¹

Some of the identified challenges faced by courts in dealing with youth justice issues include:

- Challenges in facilitating the understanding and meaningful participation of children and families in court processes;
- The complexity of the issues being experienced by children and families appearing in court, including in relation to intergenerational disadvantage and trauma, disability, mental health, harmful alcohol and other drug use, and family violence;
- The high proportion of children appearing in both youth justice and child protection proceedings;
- The large volume of cases to be heard, especially in child protection jurisdictions;
- The disproportionate representation of children who are First Nations, as well as children from culturally and linguistically diverse backgrounds; and
- Challenges in expanding specialist court approaches, especially to rural and regional locations.¹⁸²

¹⁸¹ CIJ. 2020. *Specialist Children's Court Approaches*. September 2020. RMIT. September 2020. 47. Available online <<https://c.org.au/cms/wp-content/uploads/2019/07/specialist-childrens-court-approaches-report.pdf>>.

¹⁸² Ibid.

A specialised Children’s Court should be staffed with appropriate specialised judicial officers and court staff who are able to implement court-based therapeutic, trauma-informed, diversionary and targeted intervention strategies to support children charged with criminal offences who come before the court. The establishment of the Children’s Court and the way in which it should operate should be clearly outlined in legislation. In addition, the physical location of the Children’s Court should ideally be in an integrated services hub, which enables easy referral to support services that are identified as relevant and appropriate for children who come before the court.

AUSTRALIAN COURT ALTERNATIVES FOR CHILDREN AND YOUNG PEOPLE IN AUSTRALIA

BROADMEADOW CHILDREN’S COURT PILOT (NSW)

The Broadmeadow Children’s Court Pilot (Pilot) is a multiagency service program that provides a coordinated response to the needs of young people coming before the Broadmeadow Children’s Court in Newcastle. The Pilot also operates at Singleton and Raymond Terrace Courts. All young people who present before Broadmeadow Children’s Court have access to integrated, multidisciplinary support from the court-based team. This team provides support to the young person through the court process and assists the young person to engage with specialist services, supports and education pathways. An independent evaluation of the pilot found that:

- The pilot supported young people to address a wide range of needs, including urgent and immediate needs.
- Young people were supported to find accommodation, access mental health supports, engage in an appropriate educational pathway or employment and access victim’s services.
- There is evidence that the initiative offers the court alternatives to placing young people on bonds, community service orders or in custody, as participation in the Pilot can be a factor in the decision of the court when sentencing young people.¹⁸³

CHILDREN’S COURT YOUTH DIVERSION (VICTORIA)

In Victoria, the Children’s Court operates a Youth Diversion Service based on restorative justice principles which aims to assist participants to take responsibility for their actions, repair harm and increase insight into the impacts of their offending upon the victim, their family, and the community. Children and young people can have court proceedings adjourned for up to four months to participate in diversion programs or services. They must acknowledge responsibility for the offence. An evaluation report found that the program was successful in diverting young people from the formal justice system. The magistrates working across the pilot sites for the program uniformly agreed that it provided them with an important additional option to their decision-making process. All stakeholders and young people agreed that the program offered a positive alternative and filled an important gap to help keep the young people diverted from the formal justice system.¹⁸⁴

¹⁸³ NSW Government. 2022. *Broadmeadow Children’s Court Pilot Overview and referral pathway*. June 2022. 5 6.

¹⁸⁴ Professor Stuart Thomas, Dr Marg L dde and Dr D ana Johns. 2016. *Evaluation of the Youth Diversion Pilot Program (YDPP: Stage 3)* 16 December 2016. Available online <https://www.chidrens.court.vic.gov.au/sites/default/files/2020-11/YDPP%20Stage%203%20Final%20Report%20Dec%202016%20-%20Executive%20Summary_%28final%29.pdf>.

PRE-COURT DIVERSION FOR CHILDREN (AUSTRALIA)

Children and young people may undertake pre-court diversion that involves an intervention (for example they are required to participate in a formal diversion program) or no intervention (for example they just receive a caution, reprimand, or warning).¹⁸⁵ Systematic reviews of studies that compare children who were diverted with children who were processed through formal court proceedings show pre-court diversion is associated with a decrease in recidivism anywhere between 9-36%.¹⁸⁶ Pre-court diversion programs that include services and supports have been found to be significantly more effective than diversion on its own.¹⁸⁷

RESTORATIVE JUSTICE CONFERENCING FOR CHILDREN AND ADULTS (AUSTRALIA & NEW ZEALAND)

The evidence on the impact of restorative justice on reoffending is mixed. According to 2012 research from BOCSAR, restorative youth justice conferences under the *Young Offenders Act 1997* (NSW) (YOA) are no more effective than the NSW Children's Court in reducing juvenile reoffending among young people eligible for a conference.¹⁸⁸ However, there is a significant body of research which suggests that restorative justice has positive impacts for both victims and young people who commit offences. Internationally, studies have found restorative justice conferencing is cost effective in terms of reducing repeat reoffending.¹⁸⁹ In Australia, restorative youth justice conferencing has also been shown to reduce reoffending in circumstances where young people are remorseful, and their conference outcomes are reached via consensus.¹⁹⁰ According to an internal 2018 12-month program evaluation of restorative youth justice conferencing in Queensland, 59% of young people who participated in restorative justice conferencing did not reoffend within six months of their conference.¹⁹¹ The Queensland Government has since reported that it has invested \$65.1 million towards restorative youth justice conferencing, with 77% of participants who either did not reoffend or decreased the magnitude of their offending.

Regardless of reoffending outcomes, restorative youth justice conferencing results in positive outcomes for victims and communities through actions that repair the harm caused by the young person's offending.¹⁹² 70% of victims in Queensland reported youth justice conferencing helped them to 'manage the effects of the crime'.¹⁹³

¹⁸⁵ Farrington et al (n 122).

¹⁸⁶ Wilson DB, Brennan I, O'aghare A. Police mediated diversion for youth to prevent future delinquent behavior: a systematic review. *Campbell Syst Rev.* 2018 Jun 1;14(1):188-5. doi: 10.4073/csr.2018.5. PMID: 37131366; PMCID: PMC8427984; Anthony Petrosno, Carolyn Petrosno, Sarah Guckenbun, Jenna Terre, Trevor A. Fronus and Kyungseok Choo. 2019. 'The effects of juvenile system processing on subsequent delinquency outcomes'. In *The Oxford Handbook of Developmental and Life Course Criminology*. ed. David P. Farrington, L. Kazemian and Alex R. Piquero, 553-75. New York: Oxford University Press; Wilson, H. A., & Hoge, R. D. (2013). The Effect of Youth Diversion Programs on Recidivism: A Meta-Analysis. *Journal of Research on Crime and Behavior*, 40(5), 497-518. <https://doi.org/10.1177/0093854812451089>; Farrington et al (n 122).

¹⁸⁷ Petrosno et al (n 186).

¹⁸⁸ Nadene Smith and Don Weatherburn. 2012. 'Youth Justice Conferences versus Children's Court: A comparison of reoffending'. NSW Bureau of Crime Statistics and Research (BOCSAR). *Crime and Justice Bulletin - Contemporary Issues in Crime and Justice*. Number 160. February 2012. 15-16.

¹⁸⁹ Sherman, L.W., Strang, H., Mayo Wilson, E. et al. Are Restorative Justice Conferences Effective in Reducing Repeat Offending? Findings from a Campbell Systematic Review. *J Quant Criminol* 31, 1-24 (2015). <https://doi.org/10.1007/s10940-014-9222-9>.

¹⁹⁰ Hennessey Hayes and Kathleen Daugherty. 2003. Youth Justice Conferencing and Reoffending. *Justice Quarterly*. (2003) 20(4). Available online <https://www.researchgate.net/publication/29457142_Youth_Justice_Conferencing_and_Reoffending>.

¹⁹¹ Restorative Justice Evaluation Team (Youth Justice Policy, Research and Partnerships). 2018. *Restorative Justice Project 12 month program evaluation*. 20 May 2018. Available online <<https://www.cyjima.qd.gov.au/resources/dcsyw/about-us/performance-evaluation/program-evaluation/restorative-justice-evaluation-report.pdf>>.

¹⁹² Ibid; Hayes and Daugherty (n 190).

¹⁹³ Restorative Justice (n 191).

Jesuit Social Services in Australia run restorative justice conferences in Victoria and the Northern Territory. In a recent evaluation by Swinburne University, it was found that group conferencing was associated with a reduction in recidivism of between 24-40% compared to mainstream justice processes. This evaluation also found conferencing was extraordinarily cost-effective (running one conference costs about the equivalent of keeping a child in custody for four days).¹⁹⁴

In New Zealand, family-group conferences are used at different stages of interaction with the youth justice system,¹⁹⁵ including where there is an intention to charge, as a court-ordered option pre-or post-sentencing, when a young person is remanded (to explore alternative community-based options), and where there is a care and protection consideration (for children aged 10 to 13 years old).¹⁹⁶ Importantly, this model focuses on ensuring young people receive community-based supports that address the drivers of offending.

There have been some important critiques in Australia of the way in which restorative conferencing has not always adequately engaged in a meaningful or respectful way with First Nations communities. The research in this space notes the importance of ensuring restorative programs are developed and implemented by First Nations communities with appropriate self-determination and resourcing.¹⁹⁷

¹⁹⁴ Jesuit Social Services. 2023. 'New youth justice spending data highlights effectiveness of restorative justice programs' (Web Page) 24 January 2023 <<https://jss.org.au/news-and-media/media-releases/new-youth-justice-spending-data-highlights-effectiveness-of-restorative-justice-programs/>>./

¹⁹⁵ McErean, J.F. The New Zealand Model of Family Group Conferencing. *European Journal on Criminal Policy and Research* 6, 527-543 (1998). <https://doi.org/10.1023/A:1008696514447>.

¹⁹⁶ Judge Andrew Becroft. 2017. *Family Group Conferences: Still New Zealand's gift to the world?*. Mana Mokopuna Children and Young Person's Commission. December 2017. Available online <https://www.occ.org.nz/documents/98/OCC_SOC_Dec_2017_Companion_Piece.pdf>.

¹⁹⁷ Coker, D. (2006). Restorative justice, Navajo Peacemaking and domestic violence. *Theoretical Criminology*, 10(1), 67-85. <https://doi.org/10.1177/1362480606059983>; Bran Jarrett and Polly E. Hyslop. 2014. 'Justice for all: An Indigenous community based approach to restorative justice in Aaska'. *Northern Review*. 38 (2014):239-268.

FIRST NATIONS PLACE BASED APPROACHES

Place-based approaches seek to address complex social problems at the local level rather than through top-down policies. They draw on the unique capabilities and strengths, as well as the difficulties, faced by First Nations communities and challenge governments to develop genuine partnerships with communities to alleviate complex disadvantage.¹⁹⁸ Place-based initiatives prioritise physical infrastructure, employment, education, community capacity building and cultural connection as ways to address the social drivers of crime.

AUSTRALIAN FIRST NATIONS LED APPROACHES

COMMUNITY JUSTICE GROUPS (QUEENSLAND)

Community Justice Groups (CJGs) were first trialled in three Queensland communities in 1993 in response to the Royal Commission into Aboriginal Deaths in Custody. The program has since been expanded state-wide, with First Nations-led CJGs now operating in 41 communities across Queensland. CJGs work with key stakeholders to coordinate place-based responses that support First Nations people interacting with the justice system. A 2010 KPMG-led evaluation found stakeholders involved in Queensland CJGs widely supported the initiative and that it is closely aligned with state and national justice priorities. However, the evaluation found that CJGs required greater resourcing and support to improve their capacity to deliver responses that reduce the over-representation of First Nations people in prison.¹⁹⁹ Following this evaluation, Queensland Government released a Framework for Stronger CJGs and allocated an additional \$19.1 million over four years in the 2019-2020 state budget to enhance the initiative. Myuma Pty Ltd is currently undertaking a second outcome evaluation of the CJG initiative (was due for completion in December 2023). A Phase 1 implementation evaluation report was released in November 2021, which noted the extensive outputs of CJGs and provided recommendations to strengthen program implementation and inputs during the program enhancement phase.²⁰⁰

DEADLY CONNECTIONS (NSW)

Deadly Connections is a specialist First Nations-led organisation based in NSW working to break cycles of disadvantage and trauma and address the overrepresentation of First Nations people in the child protection and justice system/s. Deadly Connections offers a range of different programs and services for justice-impacted individuals including people leaving prison. In 2022, Deadly Connections published an impact report overviewing the outcomes of the organisation's services between 2019 and 2021. The report also highlighted the findings of an independent outcomes evaluation of Deadly Connections' work. These findings included that there was a 42% improvement in health and wellbeing and a 40% increase in connection to First Nations culture. Of the clients that had already participated in the Breaking the Cycle

¹⁹⁸ Robyn Gilbert. 2012. 'Place based initiatives and Indigenous justice'. Research Brief 13. Indigenous Justice Clearinghouse. June 2012. Available online <https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/pub_catchments/files/br ef013.v1.pdf>.

¹⁹⁹ KPMG. 2010. *Evaluation of the Community Justice Group Program Final Report*. Department of Justice and Attorney General. November 2010. Available online <https://www.courts.qd.gov.au/_data/assets/pdf_file/0004/519898/fna_report_community_justice_group_evaluation.pdf>.

²⁰⁰ The Myuma Group. 2021. *Phase 1 Report: Evaluation of Community Justice Groups*. Queensland Courts. November 2021. Available online <https://www.courts.qd.gov.au/_data/assets/pdf_file/0011/738974/cg_evaluation_annual_report.pdf>.

program (focused on people with recent justice involvement), 41% reported improved wellbeing compared to clients that were new to the program.²⁰¹

MARANGUKA JUSTICE REINVESTMENT PROJECT (NSW)

The independent review of the Maranguka Justice Reinvestment Project at Bourke in 2016-2017 found the following:

- A 23% reduction in domestic violence offending;
- A 38% reduction in the number of youth proceeded against for driving offences;
- Increased rates of school retention; and
- Estimated savings of \$3.1 million over the course of a year.²⁰²

The close partnership between the community and police was critical to the success of this work, with regular meetings between police and community members, sharing of data, and working together to identify community members in need.²⁰³

OLABUD DOOGETHU (WA)

The Kimberley-based Olabud Doogethu project is Western Australia's first justice reinvestment site. Olabud Doogethu aims to create stronger communities, more resilient families and young people, and reduce youth involvement in the criminal justice system in the Halls Creek Shire. The project's focus is community-driven and First Nations-led initiatives that build local community cohesion, capacity, leadership and infrastructure; tackle disadvantage; and create local justice support opportunities. 90% local First Nations employment has been achieved for all Olabud Doogethu service programs.²⁰⁴ Data provided by WA Police for the period 2017-2020 showed significant reductions in youth crime at the site, including:

- 63% reduction in burglaries;
- 43% reduction in oral cautions;
- 69% reduction in arrests;
- 64% reduction in First Nations persons admitted to police custody (aged 10+); and
- 59% reduction in theft of motor vehicles.²⁰⁵

THE YIRIMAN PROJECT (WA)

The Yiriman Project – which is run by the elders of four Kimberley language groups to reconnect their young people to culture while also reducing contact with the criminal justice system, harmful substance use and suicide – has received numerous awards and positive evaluations.²⁰⁶ Yet it has struggled over the past two decades to secure the funding it needs to

²⁰¹ Deadly Connections. 2021. Impact Report 2019-2021. Available online <<https://deadlyconnections.org.au/wp-content/uploads/2022/08/Deadly-Connections-Impact-Report-2019-2021.pdf>>.

²⁰² Justice Reinvest NSW. 2018. Maranguka Justice Reinvestment Project Impact Assessment. KPMG. 27 November 2018. Available online <https://www.ndgenousjustice.gov.au/wp-content/uploads/mp/files/resources/files/maranguka_justice_reinvestment_project_kpmg_impact_assessment_fna_report.pdf>.

²⁰³ Fiona A'ison and Chris Cunneen. 2022. Justice Reinvestment in Australia – A Review of Progress and Key Issues. Justice Reinvestment Network Australia. July 2022. Available online <https://jrn228913579.files.wordpress.com/2022/07/natona_report_r.pdf>.

²⁰⁴ Olabud Doogethu Aboriginal Corporation. The Impact (Web Page) <<https://olabuddoogethu.org.au/about-us/the-impact/>>.

²⁰⁵ Ibid.

²⁰⁶ Kathryn Thorburn and Melissa Marshall. 2017. The Yiriman Project in West Kimberley: An example of justice reinvestment. Current Initiatives Paper. Indigenous Justice Clearinghouse. 31 July 2017. Available online <https://apo.org.au/sites/default/files/resource_files/2017_07/apo_nid116631.pdf>; Dave Palmer. 2013. Yiriman youth justice diversion program business plan 2016. Evaluation report. December 2013. Available online <http://kaacc.org/wp-content/uploads/2018/06/yiriman_youth_justice_diversion_business_plan_2016.pdf>; The Centre of Best Practice in Aboriginal &

continue its services. Children and young people aged 15 to 25 years are taken out on country to visit Elders where they are involved in deep learning and transmission of culture and language, workshops, making of artefacts and taking care of the land. A three-year evaluation found it reduced participants' subsequent contact with the criminal justice system, with some concluding it was better than most other sentencing and diversionary options in this regard.²⁰⁷

YUWAYA NGARRA-LI (NSW)

Yuwaya Ngarra-li, a community-led partnership between the Dharriwaa Elders Group and the University of New South Wales, aims to improve the wellbeing, social, built and physical environment, and life pathways of First Nations people in Walgett, NSW, through collaboration on evidence-based initiatives, research and capacity building. A 2022 report from Yuwaya Ngarra-li evaluating change in youth justice outcomes since the commencement of the partnership in 2018 showed:

- Overall increases in diversions in 2019 and 2020 (but decreases again in 2021);
- Overall reductions in charges and court cases; and
- Reductions in youth custody episodes.

The report noted the need for ongoing work to embed systemic change.²⁰⁸

POLICING OF CHILDREN

The way policing operates around Australia has a significant impact on imprisonment rates. Reducing the number of prisons for children requires an examination of the 'front end' of the justice system, including the role, function and operations of police. To stem the flow of children unnecessarily funnelled into the prison system, there is a need to rethink policing, particularly in communities that are over-policed.

Nearly all contact with the criminal justice system starts with police contact, and early police contact is a social determinant of incarceration.²⁰⁹ Police discretion can work in favour of, or against, a child suspected of criminal conduct.²¹⁰ How police use their powers and discretion determines whether - and how far - a child further progresses in the criminal justice system. Discretionary powers can be used to either de-escalate or to escalate in each of the following interactions between police and young people:

- Whether to stop a young person, question them and request identification;
- Whether to direct a person to 'move-on';
- Whether to conduct a personal search or a strip search in the field;
- The assessment as to whether certain behaviour or language is 'offensive';

Torres Strait Islander Suicide Prevention. (Web Page) <<https://cbpatsp.com.au/caring-house/best-practice-programs-and-services/programs-for-preventing-youth-suicide/>>.

²⁰⁷ Dave Palmer. 2016. "We know they healthy cos they on country with old people": Demonstrating the value of the Yrman Project, 2010-2013. Final Report. Yrman Project, Kimberley Aboriginal Law and Culture Centre 2013. Available online <<https://researchrepository.murdoch.edu.au/dspace/handle/10157/42383/1/Yrman%20Project.pdf>>.

²⁰⁸ Dr Rebecca Reeve, Dr Ruth McCaus and Peta MacGravy. 2022. *Has criminal justice contact for young people in Walgett changed over time? Analysis of diversions charges court and custody outcomes 2016-2021*. Yuwaya Ngarra Research Report. Available online <https://www.gd.unsw.edu.au/sites/default/files/documents/YN%20Research%20Report%20Has%20criminal%20justice%20contact%20for%20young%20people%20in%20Walgett%20changed%20over%20time_1.pdf>.

²⁰⁹ McCaus and Ba dry (n 20).

²¹⁰ ALRC (n 29), paragraph 14.23.

- The decision whether to issue a warning or a caution, rather than issue a Penalty Notice;
- Whether to arrest a young person;
- The decision to use of force in making an arrest and the assessment as to what is 'reasonable force';
- The decision whether to formally charge a young person;
- Whether to consent to court-based diversion.

POLICE DISCRETION

In relation to the discretion to divert children from the criminal justice system, there is strong evidence to suggest that police are less likely to divert First Nations children than non-First Nations children. For instance, according to the Victorian Crime Statistics Agency, Victoria Police are less likely to issue cautions to children in lower socio-economic areas and to young First Nations people accused of offences.²¹¹

There is also increasing concern regarding the discretion of police to prioritise resources into particular policing activities that target children. In this regard, children are regarded by police to be a 'suspect population' who are considered as more likely to break the law. As a 'suspect population' children are then targeted for discretionary policing activities such as stop and search, request for identification and arrest, and may be subject to these activities on multiple occasions on the one day.²¹² This is based on the concept of 'focused deterrence', which refers to the relocation of police resources toward a relatively small number of people responsible for a disproportionately large fraction of crime. The frustration experienced by children to this form of continued police engagement can then result in an escalation of the police interaction to one that is confrontational, resulting in serious criminal charges.²¹³

An example of such a focused deterrence program was the NSW Police Suspect Target Management Program (STMP), which began operation in 2002. The objective of STMP was to reduce crime by identifying individuals considered to be a high risk of offending, notifying them that they are to be the subject to enhanced supervision and then proactively policing such individuals. This involved officers from the corresponding Police Area Command regularly conducting person searches, bail compliance checks and issuing move-on directives.²¹⁴

A 2017 study of how STMP applied to children and young people found that the STMP disproportionately targeted children and First Nations people. The study also found that young people were subject to a STMP in circumstances where they had only minor, non-violent prior convictions or no prior convictions but extensive prior contact with police.²¹⁵

The NSW Law Enforcement Conduct Commission (LECC) conducted a 5-year review that looked at how the NSW Police Force used the STMP on children and young people under 18 years. In its final report released in October 2023, the LECC concluded that:

²¹¹ Legislative Council, Legal and Social Issues Committee, Parliament of Victoria (Victoria Parliament CLSIC), *Inquiry into Victoria's criminal justice system* (Report, March 2022). 214.

²¹² Mike McConville, Andrew Sanders, Roger Lang. 1991. *The Case for the Prosecution - Police Suspects and the Construction of Criminality*. Routledge, London. 14-17.

²¹³ Ben Bowling and Coretta Phillips. 2007. 'Disproportionate and Discriminatory: Reviewing the Evidence on Police Stop and Search' (2007) 70(6) *Modern Law Review* 936.

²¹⁴ Steve Yeong. 2020. *An evaluation of the Suspect Target Management Plan* (Crime and Justice Bulletin No. 233 revised). Sydney: NSW Bureau of Crime Statistics and Research. 2.

²¹⁵ Dr Vicki Sentas and Camilla Pandolfi. 2017. *Policing Young People in NSW - A Study of the Suspect Targeting Management Plan*. Youth Justice Coalition. 2017. 14-15, 20.

- The STMP disproportionately targeted First Nations young people, suggesting the ongoing discriminatory effect of the policy;
- Most young people targeted by the STMP had complex needs, but police mostly ignored these needs when they applied the STMP to them;
- Police used strategies that were highly intrusive and disruptive in the life of the young person, and which increased the likelihood of a young person's interactions with the criminal justice system
- The STMP review and evaluation process did not robustly evaluate whether the program helped to reduce a young person's offending.²¹⁶

In October 2023, the NSW Police Force advised LECC that it had discontinued using the STMP on young people, and that by the end of 2023 it would discontinue using the STMP for adults. The NSW Police further advised that it was developing a replacement program that will improve outcomes for young people engaged in or at risk of repeat offending.²¹⁷

The JRI agrees with the LECC that this new approach should:

- Not disproportionately impact First Nations young people;
- Remedy past problems with selection bias;
- Reduce police's reliance on heavy-handed and oppressive policing strategies to intervene in young people's lives;
- Introduce robust record keeping and evaluation processes to ensure accountability of policing actions.²¹⁸

Similar risk-based databases are used by Victoria Police (VicPol) and the Queensland Police Service. VicPol use the 'Youth-Networked Offender database' and the 'Victoria Police Priority Target Management Plan'. In March 2017, VicPol commenced 'Operation Wayward' - an intelligence driven crime operation whereby local detectives engage in ongoing monitoring and case management of children who have been involved in aggravated burglaries and home invasions and deemed at high-risk of reoffending. The Queensland Police Service introduced the 'Serious Repeat Offender Index' in 2021 as part of the Youth Justice Taskforce 'Intensive Multi-Agency Case Management' model. In both Victoria and Queensland, there is evidence to suggest that the strategies result in disproportionate targeting of multicultural and First Nations children.²¹⁹

The way in which police discretion is utilised reflects the culture and operational structures of policing. JRI considers that all police interactions with children should be focused on moving children away from the justice system. This requires a shift in the cultural and operational norms of police officers to ensure discretion is exercised to divert children from the criminal justice system. Policing culture should be focused on developing cooperative working relationships and increasing trust with communities, initiating actions that promote diversion from the criminal justice system, using non-forceful responses to situations, and making appropriate referrals to support services for children in need.

²¹⁶ Law Enforcement Conduct Commission (LECC) 2023. *An investigation into the use of the NSW Police Force Suspect Target Management Plan on children and young people - Operation Tepito - Final Report* October 2023. 9-10.

²¹⁷ *Ibid.*, 10.

²¹⁸ *Ibid.*, 2.

²¹⁹ *Ibid.*, 18-19.

Police are frequently called upon to perform a ‘first responder’ role that would be better performed by social and community support services and networks. Due to an under-resourced social services sector, police are often called upon to ‘manage’ children young people in need of support services, rather than these young people receiving the care, support and assistance that is required in the community. These young people should not be ‘criminalised’ in their interactions with police, just because alternative pathways outside of the criminal justice system are not available.

In Australia and internationally, there are alternative models of positive policing where interactions with police result in improved outcomes in terms of both community safety and reducing the likelihood of criminal justice system involvement. In the Justice Reform Initiative Policing Position Paper, we discuss alternative responder models in more detail. This includes discussion of policing and alternative first-responder models that:

- Reduce criminal justice system involvement and lessen likelihood of arrest;²²⁰
- Halve the rate of crime and justice system involvement;²²¹
- Significantly reduce levels of specific crime;
- Improve health and wellbeing (especially for people with mental health conditions);²²² and
- Address the social drivers of incarceration while avoiding contact with police.²²³

All police interactions with children should be focused on moving children away from the justice system. Police should develop appropriate key performance measures with the aim of shifting the behavioural norms of police officers to ensure discretion is exercised to divert young people from the criminal justice system. This also requires significant investment from governments to ensure community-led diversion and bail support options at the point of police interaction are adequately resourced in each community. These measures should place premium value on developing cooperative working relationships and increasing trust with communities, initiating actions that promote diversion from the criminal justice system, using non-forceful responses to situations, and making appropriate referrals to support services for young people in need.

²²⁰ Susan E. Co ns, Heather S. Lonczak and Seema L. C fasef . 2019. Seatt e’s aw enforcement ass sted d vers on (LEAD): program effects on cr m na just ce and ega system ut zat on and costs’. *Journal of Experimental Criminology* (2019) 15:201–211 <https://doi.org/10.1007/s11292-019-09352-7>. Ava ab e on ne <https://eadbureau.org/wp-content/uploads/2023/08/2019-LEAD-Eva_HaRRT-Peer-Reviewed.pdf>.

²²¹ New Zea and Just ce and Courts M n ster (n 150).

²²² Pame a Henry and N kk Rajakaruna. 2018. *WA police force mental health co response evaluation report*. The Se enger Centre for Research n Law, Just ce and Soc a Change, Ed th Cowan Un vers ty. 29 March 2018. Ava ab e on ne <[https://www.par-ament.wa.gov.au/pub-cat-ons/tab-edpapers.nsf/d-sp-aypaper/4011830c6f17958a776124a04825830d0003e135/\\$file/tp_1830.pdf](https://www.par-ament.wa.gov.au/pub-cat-ons/tab-edpapers.nsf/d-sp-aypaper/4011830c6f17958a776124a04825830d0003e135/$file/tp_1830.pdf)>; Harry B agg. 2015. ‘Mode s of best pract ce: Abor g na commun ty patro s n Western Austr a’. October 2015. Ava ab e on ne <https://www.researchgate.net/pub-cat-on/282866234_Mode_s_of_Best_Pract.ce_Abor.g.na_Commun ty_Patro_s_n_Western_Austra.a>.

²²³ Porter, A. (2016). Deco n z ng po c ng: Ind genous patro s, counter po c ng and safety. *Theoretical Criminology*, 20(4), 548–565. <https://doi.org/10.1177/1362480615625763>; B agg (n 222).

CONCLUSION

Youth justice systems across Australia are failing. They are failing to act in the best interests of the children who are in contact with them, and they are failing to address the drivers of crime and criminal justice system contact. Despite Australia's international obligations to act in the best interests of the child, the youth justice systems in operation in each of the states and territories exhibit a punitive culture, fuelled by law-and-order rhetoric that seeks to ignite community fear about youth crime.

This paper details the failures of the youth justice system in Australia as it currently operates including some of the cruel and punitive practices in prisons for children that have been brought to light in recent years. These practices are clear examples of institutional abuse and mistreatment which serve to compound the trauma and social exclusion that characterises the lives of many of the children who come into contact with the youth justice system. Too many children in prison come from backgrounds of trauma, deep disadvantage and marginalisation. All of this is exacerbated through interaction with the youth justice system. First Nations children in particular are affected at a disproportionate rate by the punitive nature of the youth justice system.

The current model fails to provide children with the support they need to address the underlying causes of offending. The absence of resourcing for therapeutic and community led approaches ultimately compounds the cycle of offending and undermines the very community safety which state and territory governments state that they are seeking to protect by way of a more severe and punitive system – a system that sets children and young people up to fail, as well as failing the community.

Many children who are trapped in a cycle of incarceration and disadvantage are being 'managed' in justice system settings. It is abundantly clear that this could be avoided if effective and well-resourced supports were available in the community. This paper details the community initiatives and programs that have demonstrated considerable success in providing necessary supports for children who come into contact with the criminal justice system, improving their health and wellbeing and reducing the likelihood of further criminal offending. This paper also details the early intervention and prevention supports and First Nations place based programs that make a difference. The problem to date has been that while we have as a community continued to funnel more and more money into building children's prisons, we have not invested in the evidence-based alternatives that we know will genuinely make a difference when it comes to building safer communities.

Substantial investment by governments in evidence-based programs and services, run by the community sector (including First Nations led organisations), that address the social drivers of incarceration will lead to a significant reduction in recidivism, a significant reduction in police interactions with children, and significant reduction in care and protection orders. This shift in approach will also result in significant cost-savings, and substantial improvements in health and wellbeing.

Investing in evidence-based services instead of incarceration will break entrenched cycles of engagement with the criminal justice system and recidivism. In addition to creating substantial

cost-savings to government, this approach will have enormous benefits for populations who have too often been 'managed' in justice systems rather than being supported in the community.

'Tough on crime' rhetoric does not make the community safer, nor does our current over-use of imprisonment for children. If we genuinely want to build a safer, more cohesive community, we need to invest in community-led programs that address the drivers of crime and incarceration.

We need programs that provide opportunities for children to rebuild their lives in the community. We need to embrace a criminal justice model that genuinely relegates prisons to a position of last resort, and instead centres community-led interventions that really work to break cycles of disadvantage, reduce reoffending, and build safer communities.

APPENDIX A: MULTIPLE ADVOCATES WORKING FOR CHANGE

The Justice Reform Initiative recognises that many of the principles and ideas outlined above have been identified by First Nations experts and advocates over decades of advocacy in this space. We also recognise the leadership and work of Aboriginal and Torres Strait Islander led organisations and leaders more broadly, over many decades in progressing reform when it comes to the over-representation of First Nations people in the criminal justice system. In addition, in recent years there have been some additional and significant contributions to advocacy and policy in youth justice by expert advocates. This includes recent important contributions about changing youth justice nationally from:

- **Save the Children** and their 2023 publication calling for a rights-based approach, *'Putting Children First: A rights respecting approach to youth justice.'*²²⁴
- **Jesuit Social Services** who have been committed to long-standing policy, research and advocacy work and have produced multiple publications on this topic of youth justice.²²⁵
- **Amnesty International** who have been campaigning on a range of youth justice issues, including their work outlined in their *National Plan for Youth Justice.*²²⁶
- **Change the Record** who along with the **Human Rights Law Centre** have been leading the *Raise the Age* campaign.²²⁷

There have been many other local service providers and local advocacy organisations campaigning on the specific needs of their jurisdictions and the Justice Reform Initiative acknowledges this important expertise. For instance, in 2022 the Social Reinvestment Western Australia (SRWA) coalition put out a comprehensive blueprint for reform in WA: *Blueprint for a Better Future – Paving the Way for Youth Justice Reform in Western Australia.*²²⁸

In Queensland multiple organisations including PeakCare Queensland, the Youth Advocacy Centre, QATSICPP and Sisters Inside have been campaigning specifically around the over incarceration of children in Queensland. In Victoria, Smarter Justice for Young People,²²⁹ West Justice and the 'Target Zero' campaign,²³⁰ and many others have been working on reform. In the NT, the long-standing Central Australian Youth Justice (CAYJ) have also been campaigning and advocating in this space.²³¹ There are community-based advocates, researchers, campaigners and service providers in every state and territory who have enormous expertise in the area of youth justice. There is also enormous stakeholder expertise and goodwill. A growing

²²⁴ Save the Children. 2023. *Putting children first: A rights respecting approach to youth justice in Australia.* Apr 2023. Available online <<https://www.savethechildren.org.au/getmedia/4b9efc9d7c9de4088b591547714fc8673/puttingchildrenfirstarightsrespectingapproachtoyouthjusticeinaustraliaapr23.pdf.aspx>>.

²²⁵ Jesuit Social Services. 2017. *#JusticeSolutions: Expanding the conversation.* 28 August 2017. Available online <<https://jss.org.au/policy-submissions/justice-solutions/>>.

²²⁶ Amnesty International. 'Enough Kids have suffered in Prison. Time for National Change.' (Web Page) <<https://act.on.amnesty.org.au/actnow/celebratingnationalplanofactionkidsindetention>>.

²²⁷ Change the Record. '#Raise the Age'. (Web Page) <<https://www.changetherecord.org.au/raise-the-age>>.

²²⁸ Social Reinvestment Western Australia. 'Blueprint for a Better Future: Paving the Way for Youth Justice' (Web Page) <<https://www.socia reinvestmentwa.org.au/blueprintforabetterfuture>>.

²²⁹ Federation of Community Legal Centres (Vic). 'Smarter Justice for Young People' (Web Page) <https://www.fcclc.org.au/smart_justice_for_young_people#:~:text=Smart%20Justice%20for%20Young%20People%20system%20oat%20of%20over,contact%20with%20the%20justice%20system>.

²³⁰ Westjustice. 'Target Zero' (Web Page) <<https://www.westjustice.org.au/media-and-events/target-zero>>.

²³¹ Central Australian Youth Justice. 'A Connected Youth Justice System' (Web Page) <<https://www.cayj.org.au/new-page>>.

coalition of First Nations leaders and communities, researchers, community sector practitioners, people with lived experience of incarceration, and a diverse group of advocates are all committed to sharing this expertise and supporting decision makers throughout Australia to develop and properly resource evidence-based approaches to criminal justice.



APPENDIX B: RAISING THE MINIMUM AGE OF CRIMINAL RESPONSIBILITY TO 14

The Justice Reform Initiative recognises the need for multiple legislative, policy, social, health, and human service reforms to be enacted, so that historically over-incarcerated and disadvantaged populations have opportunities to thrive in the community. Raising the Minimum Age of Criminal Responsibility (MACR) to 14 is one of these critical changes.

The evidence is clear that 14 is the **minimum** age, developmentally and neurologically, that children could or should be held criminally responsible.²³² There are compelling developmental arguments to suggest this age should be even higher. The United Nations Committee on the Rights of the Child has pointed to developments and neuroscientific evidence that shows adolescent brains continue to mature beyond teenage years and has therefore 'commend[ed] States Parties to have an even higher minimum age, for instance 15 or 16 years.'

The evidence states that children aged between 10 and 14 years of age are not at a cognitive stage of development where they are able to be held criminally responsible. This creates significant doubt on the capacity for children of these ages to appropriately reflect before embarking on a course of action involving criminal behaviour.

According to the UN Committee on the Rights of the Child:

*Documented evidence in the fields of child development and neuroscience indicates that maturity and the capacity for abstract reasoning is still evolving in children aged 12 to 13 years due to the fact that their frontal cortex is still developing. Therefore, they are unlikely to understand the impact of their actions or to comprehend criminal proceedings. They are also affected by their entry into adolescence.*²³³

The consequences of imprisoning young children extend well beyond the futility of this in terms of what we know about children's developmental capacity. By criminalising the behaviour of children who may not be aware of the consequences and nature of their conduct, a dangerous cycle of disadvantage is initiated causing children to become entrenched in the criminal justice system. Several studies confirm that when children are drawn into the criminal justice system at a young age there is a significantly higher likelihood of subsequent reoffending and a lower likelihood of that child completing their education or securing employment. The experience of youth detention is one of the key predictors of longer-term justice system involvement.²³⁴

²³² Key Richards. 2011. 'What makes even e offenders d fferent from adu t offenders?'. *Trends & issues in crime and criminal justice*. Paper No. 409. 18 February 2011. 4; Laurence Ste nberg. 2007. 'R sk tak ng n ado escence: new perspect ves from bra n and behav oura sc ence'. (2007) 16(2). *Current Directions in Psychological Science*. 55, 56; See also E. Farmer. 2011. 'The age of cr m na respons b ty: deve opmenta sc ence and human r ghts perspect ves'. *Journal of Children's Services*. 6(2); Chr s Cunneen. 2017. 'Arguments for Ra s ng the M n mum Age of Cr m na Respons b ty'. Comparative Youth Penalty Project. Sydney. Un vers ty of New South Wa es. 2017. Ava abe at <<http://cyp.unsw.edu.au/node/146>>; Austra an Med ca Assoc at on. 2019. AMA subm ss on to the Counc of Attorneys Genera Age of Cr m na Respons b ty Work ng Group Rev ew'.

²³³ Un ted Nat ons Comm ttee on the R ghts of the Ch d. 2019. *General comment No 24: Children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019). Paragraph 22.

²³⁴ AIHW. 2016. *Young people returning to sentenced youth justice supervision 2014 15*. Report, Juven e just ce ser es no. 20. 22 Ju y 2016. Ava abe at <<https://www.aihw.gov.au/reports/youth-justice/young-people-returning-to-sentenced-youth-justice-supervisors-on-2014-15/contents/table-of-contents>>; AIHW, *Young people aged 10 14 in the youth justice system 2011 12*. Report 25 Ju y 2013. Ava abe on ne <<https://www.aihw.gov.au/reports/youth-justice/young-people-aged-10-14-in-the-youth-justice-system/contents/publication>>.

The Justice Reform Initiative is of the view that there should **not** be any exceptions on the MACR, on the basis of the 'type' or severity of the offence or behaviours. The frame around which decision-making should be made with regard to the minimum age should be medical and developmental – not political. If a child is not able to be held criminally responsible for offences that might be considered 'less serious' (for instance, shoplifting) then there is no reason why they could be held criminally responsible for more serious offences. This is especially the case for offences that require specific intent, for example, the requirement for murder that the person intended to cause the person's death or cause serious harm to the person.

The Justice Reform Initiative notes that in January 2021 as part of Australia's Universal Periodic Review before the UN Human Rights Committee, 31 UN Member States called on Australia to raise the age of criminal responsibility to 14 years of age.²³⁵

In addition, the UN Committee on the Rights of the Child has recommended that the minimum age of detention be set to 16 years of age, with exceptions allowed where there are genuine public safety or health concerns.²³⁶ This recognises that 'the use of deprivation of liberty has very negative consequences for the child's harmonious development and seriously hampers her/his reintegration into society.'²³⁷ Detention should therefore always be considered as a measure of last resort.

In its 2020 draft report (publicly released in December 2022), the Council of Attorneys-General Age of Criminal Responsibility Working Group recommended that the age of criminal responsibility across all jurisdictions in Australia be raised to 14 years-of-age.²³⁸ The report was informed by more than 90 public submissions, including the Australian Medical Association, First Nations organisations, health, legal and human rights organisations and experts.

The Justice Reform Initiative is keen to promote a decision-making environment in governments around Australia in which the framework for this important policy and legislative decision is driven by medical evidence, rather than any political challenges associated with legislative reform. All governments in Australia should commit to the principle of raising the age to 14 so that this is the starting point for the development of the necessary service framework.

There is a need in all jurisdictions around Australia to develop an alternative service delivery and support framework for children who have historically been 'managed' in the youth justice system. Although there are challenges with regard to making this change, and gaps in service delivery that require a response, we believe that these issues are resolvable, based on observations in other jurisdictions internationally, and more recently in the ACT.

We believe that once the principled decision to raise the age to 14 has been made, governments will then have the opportunity to draw on a wealth of experts (including First Nations led organisations, medical experts, community sector service delivery experts,

²³⁵ O'Ver Gordon. 2021. 'Australia urged by 31 countries at UN meeting to raise age of criminal responsibility'. ABC News. 21 January 2021. <<https://www.abc.net.au/news/2021-01-21/un-australia-raise-the-age-of-criminal-responsibility/13078380>>.

²³⁶ United Nations Committee on the Rights of the Child. 2019. *General Comment No 24 (2019) on children's rights in the child justice system*, UN Doc CRC/C/GC/24 (18 September 2019). 30.

²³⁷ *Certain Children v Minister for Families and Children [No 2]* (2017) 52 VR 441, 522 [262](c), quoting UN Committee on the Rights of the Child, General Comment No 10: Children's rights in juvenile justice, 44th session, UN Doc No CRC/C/GC/10 (25 April 2007) 5 [11].

²³⁸ Draft Final Report, 2020 Council of Attorneys-General Age of Criminal Responsibility Working Group, 79.

researchers and advocates) to assist in the thoughtful development of an alternative multi-agency response to children aged between 10 and 13.

To this end, we recommend that all governments around Australia:

1. Make a public commitment to raising the age of criminal responsibility to 14 (based on the available medical evidence). This has occurred in the ACT, Tasmania and Victoria.
2. Make a public commitment to raise the age of detention to 16 (as has occurred in Tasmania).
3. Make a public commitment that no child under the age of 18 should be subject to youth justice detention unless there are exceptional circumstances concerning community safety warranting such detention.
4. Make a concurrent commitment to oversee a comprehensive review process of the youth service and youth justice systems with the view of ensuring a gaps and needs analysis is carried out, prior to the development of a road-map for implementation and subsequent legislation.

APPENDIX C: THE RIGHT TO BAIL AND THE PRESUMPTION OF INNOCENCE

The significant majority of young people in detention in Australia are unsentenced, having been denied bail after being charged with a criminal offence. These are children who have not yet been found guilty of the criminal offence with which they have been charged. Remanding a young person in custody is a serious decision that interferes with that young person's right to liberty, the right to the presumption of innocence and the right not to be punished prior to a finding of guilt.

On an average day in 2022-2023, 83% of young people in detention were unsentenced and on remand, having been denied bail.²³⁹ The estimated annual national cost for holding children in detention on remand is over \$670 million (based on the average total daily cost per young person subject to detention of \$2,827.47 per day).²⁴⁰ Reducing the numbers of young people in detention on remand will result in significant savings.²⁴¹

Bail legislation around Australia for children should always involve the presumption in favour of bail. Denial of bail increases the likelihood of incarceration and is a major contributing factor in causing children to become further entrenched in the criminal justice system. In no circumstances should there ever be a presumption against bail for a child charged with a criminal offence. The onus should always be on the prosecution to demonstrate that bail should not be granted to a young person charged with a criminal offence, due to there being a specific and immediate risk to the physical safety of another person, a serious risk of interfering with a witness, or the person is posing a demonstrable flight risk. A young person charged with a criminal offence should not be subject to any 'reverse onus' provisions in bail legislation.

In order to facilitate access to bail for children and young people, there is a need to increase resources for bail support programs which provide supported accommodation for children with opportunities for education, health and other necessary support services.

ELECTRONIC MONITORING

The Justice Reform Initiative does not support electronic monitoring, or other forms of onerous electronic surveillance for children on bail. The Queensland Human Rights Commissioner has indicated that electronic monitoring devices are not appropriate for children charged with offences and released on bail.²⁴² Moreover, requiring a child on bail to wear an electronic monitoring device creates a significant level of stigma for that child making it difficult for them to attend school, find employment, or secure safe accommodation. Such a child will need significant family support for the desired effect of electronic monitoring to be achieved. For many children in this cohort such family support will not be available. This is particularly the case for First Nations children who make up a disproportionate number of children under child protection orders, for whom the parent is the state.

²³⁹ AIHW (2023). Youth detention population in Australia 2023, tables S14 and S32

²⁴⁰ Productivity Commission (n 2), Youth justice services, table 17A.21.

²⁴¹ Jarrod Baillieu. 2019. 'Australia pays the price for increasing rates of imprisonment'. Opinion Article. Committee for Economic Development of Australia. 2 July 2019. Available online <<https://www.ceda.com.au/DigitalHub/Blogs/CEDABlog/July2019/Australia-pays-the-price-for-increasing-rates-of-imprisonment>>.

²⁴² Kate McKenna. 2021. 'GPS trackers set young criminals up for failure, Human Rights Commissioner says'. ABC News. 5 February 2021. <<https://www.abc.net.au/news/2021-02-05/youth-crime-justice-coupled-brisbane-gps-human-rights/13117336>>.

The requirement for some children on bail to wear electronic monitoring devices inflames the already present concerns of the growing vigilante responses to youth crime.²⁴³ The devices may make it easier to identify the children on bail making them more vulnerable when in public.

A recent UK systematic review of the effectiveness of electronic monitoring in several countries found that electronic monitoring works best with people convicted of sex offences; but when extended to broader populations, there was no significant positive effect compared to non-monitoring.²⁴⁴

There is very little benefit in incurring the substantial cost of introducing electronic monitoring of children on bail, given the evidence that there is no significant positive effect in terms of crime reduction. We are also concerned of the substantial risk that children required to wear such a device will be set up to fail resulting in increased incarceration for this vulnerable cohort.

²⁴³ Peter McCutcheon. 2021. 'Why the growing number of vigilante response to youth crime in Townsville is worrying the Indigenous community'. *ABC News*. 2 March 2021. <<https://www.abc.net.au/news/2021-03-02/townsville-youth-crime-vigilantes-worry-indigenous-community/13192838>>; Michael Atkin. 2016. 'Townsville police issue vigilante warning as youth crime rates soar.' *ABC News*. 13 December 2016 <<https://www.abc.net.au/news/2016-12-13/townsville-police-vigilante-warning-youth-crime-rates-soar/8115002>>.

²⁴⁴ Jyoti Baur, Amy Thornton, Lisa Thomson, Matthew Manning, Aiden Seabottom, Kate Bowers. 2017. *What Works Crime Reduction Systematic review Series No 13 A Systematic Review of the Effectiveness of the Electronic Monitoring of Offenders*. UCL Department of Security and Crime Studies, University of London. 2017. Available online <https://whatworks.co.uk/Research/Systematic_Review_Series/Documents/Electronic_monitoring_SR.pdf>.



The Justice Reform Initiative is an advocacy organisation working to reduce the use of harmful incarceration and build communities in which disadvantage is no longer met with a criminal justice system response. We work in partnership with other organisations and individuals seeking to bring about justice system change.

The Initiative respectfully acknowledges and supports the current and longstanding efforts of Aboriginal and Torres Strait Islander people to reduce the number of First Nations people incarcerated in Australia and, importantly, the leadership role which First Nations-led organisations continue to play on this issue.

The Justice Reform Initiative is backed by eminent patrons, including former Governors-General Dame Quentin Bryce AD CVO and Sir William Deane AC KBE as patrons-in-chief. A full list of patrons is available [here](#).

The Justice Initiative is also supported by hundreds of organisations who are also working to reduce incarceration. A list of supporter organisations is available [here](#).

The Justice Reform Initiative deeply appreciates the ongoing support of the Paul Ramsay Foundation.

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