

Keep young people out of prison

Young people should not come into contact with the youth justice system, but when they do, they should only be detained as a last resort, and detention should be safe for them.

More can be done to address the root causes of contact with the justice system in NSW, to intervene early, and to utilise diversion to its full extent. A review of the youth justice system has found the health and wellbeing of young people has been put at risk. This must change.

In 2016–2017, **1,500 young people** were being supervised either in the community or in a youth detention centre.¹



87% of young people in NSW prisons have a mental health condition (including alcohol or drug-related problems).³



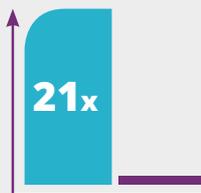
48% of children and young people in custody in NSW are Aboriginal and Torres Strait Islander.²



\$1,344 is the daily cost of detaining one child or young person in NSW. **\$490,560** is the cost of detaining one child or young person in NSW for one year.



Aboriginal and Torres Strait Islander children and young people are **21 times** more likely to be detained than non-Indigenous children and young people in NSW.



66% of young people released from prison reoffend within 12 months.



THE NSW GOVERNMENT CAN:

- Expand and support justice reinvestment via community-led solutions to break the cycle of offending, with specific focus on the potential of young people.
- Allocate \$15 million over five years from the corrections budget for three new community-led justice reinvestment initiatives across NSW.
- Provide \$5 million over five years from the corrections budget for the establishment of an independent NSW justice reinvestment body overseen by a board with Aboriginal and Torres Strait Islander leadership.
- Expand diversionary approaches that keep young people away from contact with the justice system.
- Ensure the availability of age appropriate, strengthening and evidence-based programs to prevent and address identifiable risk factors for young people in NSW.
- Prevent exit into homelessness through better planning and through pre- and post-release programs.
- Improve early intervention outcomes through:
 - Implementing a comprehensive training program and policy changes so that teachers and school staff can identify risk factors and supports for adolescents
 - Strengthening programs to build formal linkages with schools, youth services and local diversionary programs and the local community
 - Increasing the number of student support officers in schools and support their activities
- Take a centralised commissioning approach to contracts.
- Prevent the criminalisation of young people by raising the minimum age of criminal responsibility in NSW to at least 14 years.
- Immediately respond to and implement the recommendations of the NSW Inspector of Custodial Services review, *Use of force, separation, segregation and confinement in NSW juvenile justice centres*.⁴
- Consider the application of the recommendations from the Royal Commission into the Protection and Detention of Children in the Northern Territory, as per the 2018 Child Rights report.⁵
- Review and amend youth justice legislation, policy and practice to ensure that children are treated consistently with the Children's Convention and the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules).
- Ensure enforceable minimum standards in places of youth detention in line with international human rights standards, including to prohibit:
 - the use of solitary confinement other than as a last resort
 - the use of restraints against children, except where all other control measures have been exhausted and have failed, and
 - routine strip searches, unless other less invasive search options have been exhausted.

Both international human rights instruments⁶ and NSW law⁷ recognise that young people who come into contact with the youth justice system should only be detained as a last resort, and the evidence is clear that the most effective approaches to juvenile justice are firmly based on diversion.

There remains a need for a substantial shift to evidence-based early intervention strategies to address the underlying causes and risk factors that lead young people to have contact with the justice system and keep some young people churning through the system. It is well established that young people experience a key period of rapid and extensive psychological and biological growth, 'second only to early childhood in the rate and breadth of developmental change.'⁸ Interventions during adolescence can decrease the adverse long-term impacts of, for example, violence and abuse.⁹ Intervention at this point is pivotal and a sound investment.

Evidence shows that young people in contact with the NSW youth justice system experience frequent, intersectional and compounding disadvantage. We know that young people who are over represented in the justice system include:

- Aboriginal young people
- Young people from remote areas, very remote areas or areas of socioeconomic disadvantage
- Young people with experience of homelessness
- Those in contact with the child protection system, including children who have experienced family violence or maltreatment, particularly when placed in out-of-home care settings, and
- Young people reporting substance misuse, mental health issues and mental and cognitive disabilities.¹⁰

The trajectories that lead to young people's contact with the law need to be addressed. By focusing on the underlying causes of crime, young people have life chances rather than a life in detention. For example, in

Bourke NSW an initiative enabled 236 people to obtain a driver's license and the community saw a reduction of 72% in the number of young people proceeded against for driving without a licence.¹¹

One key approach is justice reinvestment. An impact assessment of the first major pilot site in Australia to adapt and implement an Aboriginal-led and place-based justice reinvestment approach, the *Maranguka JR Project*, showed a \$3.1 million in benefit to the community. There was significant impact for young people, including a 31% increase in the retention rate for Year 12 students in 2017, an 84% increase in the completion rate of VET courses by Bourke High School students and a 38% reduction last year in the number of juvenile charges in the top five offence categories.¹²

THE NSW GOVERNMENT CAN (AS RECOMMENDED BY JUST REINVEST):

- Expand and support justice reinvestment via community-led solutions to break the cycle of offending, with specific focus on the potential of young people.
- Allocate \$15 million over five years from the corrections budget for three new community-led justice reinvestment initiatives across NSW.
- Provide \$5 million over five years from the corrections budget for the establishment of an independent NSW justice reinvestment body overseen by a board with Aboriginal and Torres Strait Islander leadership.

Diverting young people away from criminality is not only positive for their lifetime outcomes, but positive for society as a whole. It costs approximately \$1,500 per day (over \$500,000 per year)¹³ to hold a young person in juvenile detention. Not only is this expensive, but it has been well established that early interaction with courts and incarceration leads to poorer lifelong criminal outcomes, rather than preventing them.¹⁴

Child rights reports suggest that diversion is not being utilised to its full extent.¹⁵ Diversion includes early intervention, pre-court options utilised by policy and courts, pre-sentence diversion and post-conviction and detention diversion.¹⁶ In NSW, the non-government youth sector delivers programs that provide positive outcomes, through services that ‘wrap around’ young people who come in contact with the juvenile justice system or are at risk of coming into future contact. These diversionary measures avoid criminalising young people while they are at a critical stage of their development.

Youth services need to be able to work strategically, focusing on outcomes for young people at the centre of their work, planning for the long term and working collaboratively with other agencies. Despite the best intentions, consultations show that youth services face departments that operate in silos and systems that do not promote collaboration. There are also gaps in community knowledge about the impacts of outcomes on vulnerable young clients, and service contracts often expire very quickly.¹⁷ Positively, however, much of the infrastructure to support young people is already in place. Schools, youth services and successful programs executed effectively for diversionary efforts exist already.

THE NSW GOVERNMENT CAN:

- Expand diversionary approaches that keep young people away from contact with the justice system.
- Ensure the availability of age appropriate, strengthening and evidence-based programs to prevent and address identifiable risk factors for young people in NSW.
- Prevent exit into homelessness through better planning and through pre- and post-release programs.
- Improve early intervention outcomes through:
 - implementing comprehensive training program and policy changes so that teachers and school

staff can identify risk factors and supports for adolescents

- strengthening programs to build formal linkages with schools, youth services and local diversionary programs and the local community
- increasing the number of student support officers in schools and support their activities, and
- taking a centralised commissioning approach to contracts.

The minimum age at which children can be held criminally responsible in NSW is ten years of age.¹⁸ The international child rights community, as well as national and community organisations, and various inquiries and royal commissions continue to advise governments to raise the minimum age of criminal responsibility to an internationally acceptable level.

In NSW, 66% of young people released from prison reoffend within 12 months.¹⁹ Evidence shows that the chances of future offending increase the younger a child has their first contact with the criminal justice system. In 2014–2015, 100% of those aged ten to twelve years at the start of their first supervised sentence returned to some form of sentenced supervision before they turned 18. This decreased slightly with successive age groups.

THE NSW GOVERNMENT CAN:

- Prevent the criminalisation of young people by raising the minimum age of criminal responsibility in NSW to at least 14 years.

There are widespread and systematic failings in youth detention facilities across Australia, including in NSW.²⁰ Young people’s health, safety and wellbeing have been put at risk. A 2018 review into the NSW juvenile justice system found that young people under the care of the government had been subjected to inappropriate routine strip searches, excessive use of force and overreliance on solitary confinement as a punishment.²¹

There are also continued and repeated reports of children being held in adult detention facilities.²² In NSW, children 16 years and above can legally be held in adult detentions.²³ It is positive to see the NSW government has already begun implementing changes from a review of its services,²⁴ however, over the period of the two years it took to review NSW's facilities and practices, harm to young people continued while they were in the care and protection of the NSW Government. It is imperative that the NSW government take urgent action to implement changes and ensure some of NSW's most vulnerable young people are safe.

THE NSW GOVERNMENT CAN:

- Immediately respond to and implement the recommendations of the NSW Inspector of Custodial Services review, *Use of force, separation, segregation and confinement in NSW juvenile justice centres*.²⁵
- Consider the application of the recommendations from the Royal Commission into the Protection and Detention of Children in the Northern Territory, as per the 2018 Child Rights report.²⁶
- Review and amend youth justice legislation, policy and practice to ensure that children are treated consistently with the Children's Convention and the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules).
- Ensure enforceable minimum standards in places of youth detention in line with international human rights standards, including to prohibit:
 - the use of solitary confinement other than as a last resort
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ENDNOTES

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