

NSW Youth Justice Inquiry: responses to supplementary questions by Community Restorative Centre

We thank the Committee for their supplementary questions. We have provided responses below.

(1) If the age of criminal responsibility is raised, what risks arise if broader system reform does not occur alongside it?

If broader, systemic reform does not occur alongside raising the age of criminal responsibility, children may not receive the appropriate therapeutic, prevention and diversionary supports to cease behaviours of concern. Social determinants of incarceration like homelessness, poverty, racism, problematic alcohol and other drugs use and unmet mental health needs (see McCausland & Baldry, 2023, p. 45) need to be addressed through appropriate prevention and diversionary supports, alongside raising the age. If they are not, there may be community concerns and frustrations regarding a lack of accountability around behaviours of concern by young people, and concerns regarding community safety. Failing to provide appropriate therapeutic supports and alternatives to the prison system, which address the social drivers of problematic behaviour, may be misconstrued as evidence of the ineffectiveness of raising the age. This could bolster narratives about punitive and carceral remedies being appropriate for children. Such a turn of events may undo years of tireless policy and advocacy work to support a sentiment shift towards increasing the age of criminal responsibility, recognising children are not yet developmentally able to understand the impacts of their actions, and given therapeutic interventions and alternatives to the prison system are more effective at addressing problematic behaviour.

(2) Should raising the age be accompanied by a legislated requirement to invest in early intervention and diversion services?

Yes, there should be a legislated requirement for government to reinvest funds away from the criminal legal system to culturally appropriate and inclusive prevention and diversion services. A legislated requirement is necessary so that policies supporting diversion and prevention are not easily undone with changes in government. Notably, without a legislated requirement, children might be removed from the criminal legal system but without the supports needed to address the social drivers of problematic behaviour.



The following principles should inform the legislation of a requirement for prevention and diversion programs:

- There should be sustainable and adequate funding for Aboriginal Community Controlled and youth-led services and programs.
- Programs should be inclusive of children's diversity and be culturally appropriate.
- Programs should ultimately be attractive for children and young people.
- There should be a focus on outreach, flexible, non-judgemental, long term service provision that meets children where they're at.
- Programs should be place-based and designed with young people, communities and families.
- Prevention and diversionary programs should be encouraged but not be mandatory. This is because mandating programs can simply replicate the surveillance and punitive approach of the child prison system, be a form of net widening, and set children up to fail.
- The legislated requirement would need whole of government coordination across health, education, housing, etc.
- Consultation should occur with children and young people, their families and supporters, specialist advocacy and non-government services etc. on the nature and degree of investment needed; and on interpreting and shaping the working definitions of 'early intervention' and 'diversion' in the context of raising the age.

Alongside legislating the need to invest in prevention and diversion programs, broader social changes are needed to support children to live lives free of the criminal legal system. These changes include:

- Keeping children and young people out of poverty, including through measures like ensuring children who need it have access to Centrelink, and, as we mentioned in our submission to this inquiry, investigating options like the Universal Basic Income in Australia.
- Children and their families have access to safe and appropriate housing.
- Government support for alternative first responders to the police, where a social or health response is better suited to police intervention. We say this recognising the overrepresentation of First Nations children, children with unmet mental health needs, and children with cognitive disabilities (amongst others) in the prison system, and the ability of alternative first responders to reduce contact with the police for these cohorts. Alternative first responders can include mental health and peer workers attending a crisis instead of police to support someone experiencing a mental health episode. Another example is First Nations led organisations providing

transport support to young First Nations people, and First Nations-led domestic and family violence services.

- Work opportunities that do not bar children with criminal records from acquiring jobs.
- The education system is culturally safe and engaging for First Nations children. The education system is also inclusive and engaging for other cohorts of children who experience educational exclusion, including children with disabilities, children with learning difficulties, children from lower socio-economic backgrounds, LGBTQI+ children and more.

(3) What does success look like five years after raising the age of criminal responsibility?

Success five years out from raising the age of criminal responsibility to at least 14 in NSW would look like:

- Fewer children in custody on any one day.
- Reducing the risk of First Nations children dying in custody.
- Reducing the institutionalisation of children in the prison system.
- Reduced recidivism. We say this recognising that the younger children become entangled in the criminal legal system, the more likely it is they will return to prison. By raising the age of criminal responsibility, this delays potential criminal legal system involvement, which will have a flow on effect of reducing the adult prison population.
- A robust service system to meet the needs of children and young people who may otherwise come to attention of the criminal legal system. These services are known and utilised by organisations, families and community members.
- Improved health and wellbeing for children and young people. We say this recognising that incarceration increases the likelihood of premature death for young people by 400% (Kinner et al., 2025). We also recognise that children may not be able to access the same level of healthcare and supports in prison compared to in the community.
- Reduced exclusion from education, including through children staying in the community and having more access to educational opportunities compared to prison.
- Cost saving to government and the community through the reduced cost of incarceration. We recognise it costs \$2,573 per day, or almost \$1 million per year, to incarcerate a child in NSW (Productivity Commission, 2026). In the hearing for this inquiry, we mentioned the Maranguka Justice Reinvestment Project in Bourke, NSW, whose operation led to \$2.5 million in savings to government and the community

over the course of 1 year in 2017 (KPMG, 2018). This initiative, which was Aboriginal-led and place-based, has since ended. The initiative employed a ‘life course’ approach and addressed factors that were likely to put Aboriginal people at risk of criminal legal system involvement across one’s lifespan (Just Reinvest NSW, n.d.).

(4) What is the single most important reform that should accompany raising the age to ensure better outcomes for children and community safety?

Genuine justice reinvestment, including the diversion of funds from imprisonment to Aboriginal Community Controlled and youth-led services. As we raised in the inquiry, while the NSW and federal government state a commitment to justice reinvestment, what occurs in practice is often not justice reinvestment in the true sense of the word. Through our work, we see governments creating smaller pools of fund for diversion and prevention programs, as opposed to the large-scale movement of funds away from the prison system to alternative approaches, which would be justice reinvestment in the true sense. Despite having excellent outcomes, interventions in regional NSW like the Yuwaya Ngarra-li Partnership between the Dharriwaa Elders Group and UNSW, which has been operating for 26 years, have not secured government funding (Dharriwaa Elders Group and Yuwaya Ngarra-li Partnership, 2026, p. 8). The project delivers group-based recreational and educational activities for children and young people in Walgett. Its excellent outcomes and need for government support were raised in their submission to this inquiry. An evaluation of the initiative showed the program exceeded its KPI, with a significant decrease of Aboriginal children and young people from Walgett appearing in the local Children’s Court (Dharriwaa Elders Group and Yuwaya Ngarra-li Partnership, 2026, p.7). Qualitative feedback also demonstrated its excellence in engaging young people, with participants saying of the program that they, ‘want to come every day’, that, ‘2 hours is too short’ and that they, ‘want to stay until 7pm’ (Dharriwaa Elders Group and Yuwaya Ngarra-li Partnership, 2026, p.7-8). Genuine justice reinvestment, which would support government funding for projects like the Yuwaya Ngarra-li Partnership between the Dharriwaa Elders Group and UNSW, is the single most important reform to accompany raising the age of criminal responsibility.

References

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