



ACCGA submission to the Senate Legal and Constitutional Affairs References Committee's Inquiry into Australia's youth justice and incarceration system

19 December 2025

Introduction

Australian Children's Commissioners, Guardians, and Advocates (**ACCGA**) appreciate the opportunity to provide a submission to the Senate Legal and Constitutional Affairs References Committee's (**Committee**) Inquiry into Australia's youth justice and incarceration system (**Inquiry**). While ACCGA members may also make individual submissions, the following submission reflects collective support for the need to reform the current framework for youth justice in Australia and urgently attend to the deeply troubling developments that have emerged in 2025, which conflict starkly with the rehabilitative intent of Australia's youth justice system and our treaty obligations under international law.

The Australian and New Zealand Children's Commissioners, Guardians, and Advocates (ANZCCGA) comprises national, state, and territory children and young people commissioners, guardians, and advocates. The aim of the ANZCCGA is to promote and protect the rights, safety, and well-being of children and young people in Australia and New Zealand and ensure that the best interests of children and young people are considered in public policy and program development. This submission is made by the Australian members of the ANZCCGA.

Many ACCGA members have statutory responsibilities in respect of monitoring and/or otherwise providing oversight of the circumstances and conditions associated with children who come into contact with state and territory youth justice systems, including places of detention. In undertaking these responsibilities, ACCGA members make time to engage directly with children both in detention and in community and have the privilege of hearing firsthand about their experiences in, and their thoughts about, youth justice systems. In the words of a 17-year-old young woman who shared her views with the ACT Public Advocate and Children and Young People Commissioner:

"If the system was working, you wouldn't know you were in it. [...] Kids shouldn't be worried about their next court date or where they're gonna be sleeping, they should be worried about footy training or when their next assignment is due."

So as not to repeat the base premises from which the ACCGA establishes its position in this submission, we draw the Committee's attention to the ACCGA's previous submission of 10 October 2024,¹ our subsequent joint appearance before the Committee on 3 February 2025,² and our joint response to questions taken on notice sent to the Committee on 14 February 2025³ by way of background to the ACCGA's interest in the Committee's initial and now subsequent Inquiry into Australia's youth justice and incarceration system.

¹ [ANZCCGA submission to the Inquiry into Australia's youth justice and incarceration system, dated 10 October 2024](#)

² [Hansard transcript of ANZCCGA members public hearing appearance on 3 February 2025](#)

³ [ANZCCGA responses to questions taken on notice, provided on 14 February 2025](#)

Engaging lived experience

ACCGA members were pleased to note the revised Terms of Reference for this second iteration of the Committee's Inquiry; in particular, the Committee's interest in engaging with and seeking input from young people with lived experience.

The Committee's interest in speaking with those with lived experience is well supported by a 17-year-old young woman quoted in the Youth Representative Report released by UN Youth Australia in 2025, who said:

*"We would also like to ask you to involve troubled youths to have a say in what's happening in the world we live in... We cordially invite you to visit Ashley Youth Detention Centre to come and discuss with the youths our ideas and what we think will help the community and youths, we look forward to hearing back from you."*⁴

As ACCGA members, we urge the Committee to take up this invitation and visit Ashley Youth Detention Centre (Tasmania), or any of the other youth detention centres around Australia. If the Committee is genuinely committed to hearing from young people with lived experience, then Committee members will need to take active steps to do so, ensuring this includes Aboriginal and Torres Strait Islander children and young people, and those who are culturally diverse, gender diverse, and those living with disabilities. While not suggesting this to be the case, we note that passively hoping that those with lived experience will come forward without taking active steps to pursue this is unlikely to elicit the level of engagement that we anticipate the Committee is hoping for.

We urge the Committee to ensure a safe and appropriate process and recommend this be co-designed with young people and their supports to ensure they can meaningfully participate in the Inquiry. Centring their voices, ideas, and experiences in this process is essential to ensuring the Inquiry meets its potential to make a difference in the lives of some of Australia's most vulnerable young people.

"They aren't meeting my needs in here" – Child in youth detention in the NT

"Kind to us, the staff should just be kind to us" – Child in youth detention in the NT

Members also encourage the Committee to reach out to Satara Uthayakumaran, 2025 Australian Youth Representative to the United Nations, to hear more about what Australia's children and young people told her about their concerns for youth justice in Australia.

Too often, children and young people are excluded from contributing to and participating in decision-making about matters that impact them despite them being living experts in their experience of modern-day Australian life and this being their right under the United Nations Convention on the Rights of the Child.

"What's the use of saying anything, no-one listens anyway." – 11-year-old female to ACT Magistrate (prior to raising the Minimum Age of Criminal Responsibility to 14-years-old)

To amplify some of the voices you may not hear from, ACCGA members have included relevant quotes from young people throughout this submission to support the points we are making.

⁴ [UN Youth Representative Report 2025 – UN Youth Australia](#)

Current state of youth justice in Australia

ACCGA members express their dismay at the series of changes to youth justice practices across multiple states and territories that have occurred since the Committee's last Inquiry, which largely represent regressive steps in Australia's endeavours to improve outcomes for children and young people.⁵

In the past month, this has included Victoria passing laws to remove the fundamental principle of detention as a last resort for children, treat children as adults, and face life sentences, for certain serious charges.⁶ Further, in October 2024, the Northern Territory become the first jurisdiction to lower the minimum age of criminal responsibility from 12 to 10 years of age,⁷ and in July 2025, amendments were made to permit the use of harmful restraints (such as spit guards) in youth detention.⁸

These and other related decisions (including by two states that have human rights legislation)⁹ and the narratives behind them are deplorable. They are not supported by evidence; they are fundamentally flawed; and they will not make our communities safer.

The ACCGA also remains concerned that children aged as young as 10-years-old are still being sentenced in courts and locked up in detention centres across most jurisdictions in Australia. It should also be noted with concern that the vast majority of children in detention centres are unsentenced (i.e., on remand), and some are being held in prison watch-houses alongside adults.

"When you're locked down 23 hours a day, you want something to do."

– Child in youth detention in the NT

The charging, detention, and sometimes sentencing of children as young as 10-years-old is contrary to human rights standards and the recommendations of the United Nations Committee on the Rights of the Child who, in September 2019, issued General Comment 24¹⁰ in which they indicated that the internationally recognised standard should be a minimum of 14 years of age.

"My rights are being impinged in here." – Child in youth detention in the NT

The ACCGA has long recommended that the age of criminal responsibility in all states and territories be raised to at least 14 years, without exceptions. Raising the minimum age of criminal responsibility should not be regarded as reducing accountability for children who engage in offending or other anti-social behaviours. Instead, socio-educational pathways to accountability and rehabilitation within a family setting exist and have been shown to have positive outcomes. These include restorative justice approaches although we caution that these should not require children to declare themselves guilty of a 'crime' and instead focus on promoting an understanding of the impact of their actions on others while agreeing on appropriate remedial actions.

Equally concerning is the sensationalist misrepresentation of data by politicians and media outlets¹¹ and the increasing negative narrative about the behaviour of children, which dehumanises these children and fails to recognise that, more often than not, they were victims of crime before they were perpetrators. The statements being made are contrary to data that demonstrates that youth crime statistics have actually been reducing over the last 10 years.¹²

⁵ [Save the Children | 54 Reasons 2025 Youth Justice Report and Scorecard.pdf](#)

⁶ ANZCCGA First Nations Caucus, 13 November 2025, [Media release: Victorian youth justice reforms fail everyone](#)

⁷ [Criminal Code Amendment Bill](#), (2024), NT

⁸ [Youth Justice Legislation Amendment Bill](#), (2025), NT

⁹ There are only three jurisdictions in Australia that currently have human rights legislation – ACT, Victoria, and Queensland (in order of enactment). For the purposes of this submission, the ACCGA brings the Committee's attention to regressive legislative changes in both Queensland and Victoria.

¹⁰ [General comment No. 24 \(2019\) on children's rights in the child justice system | OHCHR](#)

¹¹ [Alex Simpson, Is Australia in a youth crime crisis? Here's what the numbers say \(2025\)](#)

¹² [Criminologists debunk claims of 'youth crime crisis' as data shows dramatic declines - ABC News](#)

"I hear the term thugs used in media all the time. The way they are characterised in the media feeds into that fear in the community. The stereotypes are being put into the media and the notoriety. If that's what you're labelling me then I'll feed into that." – Victorian young person¹³

ACCGA members implore the Committee to consider making recommendations that counter the narrative that children are simply mad, bad, or sad, and instead call out the current state of youth justice for what it is – a child rights issue that exists not because our children are failing our systems but because our systems are failing our children.

"It's easy to forget that these young detainees are just kids. The way the media talks makes them sound like hardened criminals, sometimes even describing them in inhuman ways. But seeing them in person brings clarity. They're not adults, they're not inhuman. They are kids [who are] scared and humiliated." – Two young people from Mpartntwe/Alice Springs who are not in custody¹⁴

The actual evidence is well-established and clear – the younger a child is when they come into contact with the justice system, the greater the likelihood that they will continue to offend, that their offences will become more serious in nature, and that they will progress to engagement with the adult justice system.

If Commonwealth, state, and territory governments are genuinely committed to increasing public safety and changing the life trajectories of those children who come to the attention of our justice systems, there is a need for immediate, substantive, and adequately resourced reform. Continuing to tackle this through tougher justice approaches fails to recognise the complex and compounding interplay of intersectional disadvantages that impact those children most at risk.

"They locked up 14-year-olds with disabilities for 23 hours a day – then wonder why they broke."
– 17-year-old female¹⁵

The diversion of matters away from the criminal justice system and into appropriate alternatives should always be the preferred option for children. ACCGA members call for governments to move from a justice response for children (especially those under 14 years) to a developmentally appropriate, trauma-informed, and culturally safe early intervention model that supports children in their families and communities.

"They look at all the wrong problems. Assume this and this and that's the problem. You need to ask the kids what's wrong." – 17-year-old female¹⁶

"It's hard for him to find that support. He doesn't have that right now so he finds it easier to go back to those friends as they understand. It's always why would you do that, rather than how can we help you. The community is so stuck in that oh my god how could you do that rather than how can we help you get a job or how can we help you." – Victorian young person¹⁷

It is firmly the view of ACCGA members that the failure of state and territory governments to act on evidence and instead to implement these regressive practices contravenes Australia's obligations under the international covenants to which it is a party.

¹³ CCYP (Vic), 2024, [2023-24 Youth Forum Report 1: A snapshot of consultations with young people as part of the South Sudanese Australian Youth Justice Expert Working Group](#), p.33

¹⁴ [UN Youth Representative Report 2025 – UN Youth Australia](#)

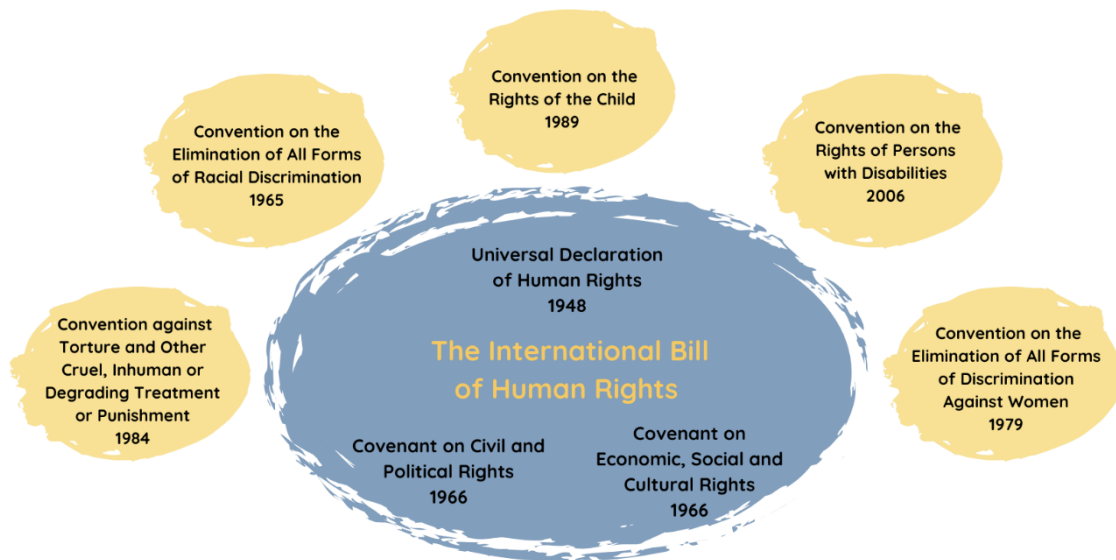
¹⁵ [UN Youth Representative Report 2025 – UN Youth Australia](#)

¹⁶ ACT Public Advocate and Children and Young People Commissioner's interview with a young person in supporting her to make a submission to the ACT Legislative Assembly's Standing Committee on Justice and Community Safety

¹⁷ CCYP (Vic), 2024, [2023-24 Youth Forum Report 1: A snapshot of consultations with young people as part of the South Sudanese Australian Youth Justice Expert Working Group](#), p.32

Australia's international treaty obligations

While being statutorily independent, ACCGA members are routinely guided by the United Nations instruments to which Australia is a party (see image below).¹⁸ Despite the ACCGA most commonly referencing the United Nations Convention on the Rights of the Child, this is just one of the many treaties that guide our advocacy and oversight responsibilities when it comes to youth justice and other matters.



Additionally, and while not a ratified document, it should be noted that the Australian Government has also indicated its support for the United Nations Declaration on the Rights of Indigenous Peoples 2007 and has committed to fully implementing the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (OPCAT). It is of significant concern to ACCGA members that despite the establishment of an OPCAT National Preventive Mechanism (NPM), this has not yet been funded, and some States and Territories are yet to legislate for implementation and/or nominate a sufficiently empowered entity to perform the OPCAT NPM functions. ACCGA members call for full, adequately resourced implementation of OPCAT NPMs as an immediate priority across Commonwealth, state, and territory governments. The importance of adequate oversight cannot be overstated – ensuring free and unfettered access to detained children supports Australia's obligations under this treaty and contributes to improved outcomes.

Alongside the above instruments are other internationally agreed documents relevant to youth justice that dictate minimum requirements and/or standards that member states are expected to uphold and adhere to. These include the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ('Beijing Rules'),¹⁹ the United Nations Standard Minimum Rules for the Treatment of Prisoners ('Nelson Mandela Rules'),²⁰ the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('Bangkok Rules'),²¹ and the Principles relating to the Status of National Institutions ('Paris Principles'),²² the last being relevant to the independence of ACCGA members as statutory entities in our oversight of youth justice systems.

Consistent with Australia's international obligations, it is the expectation of the ACCGA that these international instruments underpin the administration and operation of youth justice, whether at Commonwealth or state/territory levels. They should also be used to develop and agree nationally consistent and enforceable minimum standards for youth justice that encompass all stages of the system from first contact to detention.

¹⁸ Note: Australia is not a party to the International Convention for the Protection of All Persons from Enforced Disappearance 2006 nor the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990.

¹⁹ [United Nations Standard Minimum Rules for the Administration of Juvenile Justice \(Beijing Rules\)](#)

²⁰ [United Nations Standard Minimum Rules for the Treatment of Prisoners \(Nelson Mandela Rules\)](#)

²¹ [United Nations Rules for the Treatment of Women Prisoners \(Bangkok Rules\)](#)

²² [Principles relating to the Status of National Institutions \(Paris Principles\)](#)

ACCGA members urge the Committee to consider the role of international law in protecting the human rights of Australia's most vulnerable children and recommend opportunities to operationalise this commitment through a robust, rights-focused legislative framework that enshrines international treaties in domestic law.

"As an incarcerated young person, I have the right to an education."

– Child in youth detention in the NT

Prevention and diversion

If Commonwealth, state, and territory governments are genuinely committed to reforming the youth justice system and improving outcomes for children and young people, the foundation for reform needs to embed children's rights, safety, and wellbeing at its core, including by raising the minimum age of criminal responsibility to 14-years-old, without exceptions. Given the failure of states and territories to consistently implement the internationally recommended minimum age of criminal responsibility, we urge the Commonwealth Government to use all available levers to uniformly embed this into domestic laws.

Sustainable reform will only be advanced by having Commonwealth, state, and territory governments work together to break down bureaucratic silos through joint investment and shared accountability across multiple systems.

It is well known that the legacy of colonialisation, intergenerational trauma, and institutional racism continues to contribute to the significant over-representation of Aboriginal and Torres Strait Islander children and young people involved in our youth justice systems. For reform to be successful, it needs to be led by Aboriginal and Torres Strait Islander peoples. The narrative needs to change and Australia's commitment to Closing the Gap needs to be more than just words on paper.

"I am homesick for my country." – Aboriginal child in youth detention

In Victoria this year, the Yoorrook Justice Commission formally concluded its four-year truth telling inquiry, tabling its final report in parliament, calling for transformative change in its recommendations. Historic treaty legislation has also passed, marking Australia's first treaty with First Nations people. Treaty marks a historic opportunity for self-determination for First Nations people and a powerful mechanism of accountability to address the over-representation of Aboriginal children and young people in the youth justice system.

The root cause and risk factors associated with offending behaviours are well known and sufficiently evidenced.²³ This evidence tells us that there are a range of complex factors that can influence a child's behaviour, whether that be disability or mental illness, experiences of poverty, family violence or homelessness, or systemic factors that have contributed to entrenched socio-economic disadvantage or fragmented educational experiences.

Early support seeks to mitigate and ideally prevent challenges from becoming insurmountable hurdles. Early support shifts away from a deficit focus and instead seeks to identify and build on strengths. Early support has the potential to produce long-term, sustainable outcomes for children and families that can improve and uplift Australia's overall standard of living while enhancing community safety. By contrast, youth justice is currently the ambulance at the bottom of the cliff.

²³ [Chris Cunneen, Arguments for Raising the Minimum Age of Criminal Responsibility \(2020\)](#)

"They need to support the parents more, give them vouchers for food and clothes for kids"

– Child in youth detention

ACCGA members remain supportive of the evidence-based reform roadmap outlined in the National Children's Commissioner's 2024 'Help Way Earlier!' report.²⁴ The ACCGA also draws the Committee's attention to the supplementary paper released in October 2025, which provides examples of evidence-based approaches to reforming youth justice systems.²⁵

"There needs to be more programs on the outside for kids" – Child in youth detention in the NT

The needs of children and their families must be at the centre of decision-making when it comes to systems reform, policy development, and service design and delivery. Their needs must not be seen as mutually exclusive to community safety – instead, the two are dependent on each other. Change should be driven by a focus on primary prevention, using community-led and place-based knowledge to design and implement culturally safe initiatives tailored to local needs, especially for communities predominantly comprising Aboriginal and Torres Strait Islander peoples.

"They need to have better welfare workers – they need to train them better."

– Child in youth detention in the NT

"We need more programs that the kids, community would like and more support people for the young people that get out of youth detention to help them in the future with their studies and help them get work. And to help young parents in need and help pay for benefits and parenting courses."

– Young person in Kurlana Tapa Youth Justice Centre (SA)²⁶

Effective alternative approaches to community safety require coordinated, multi-agency responses across all relevant services and systems that are engaged when concerns are first identified. They must address the social determinants of youth justice involvement in ways that give children and their families the best opportunities to thrive, instead of reverting to punitive responses that further disenfranchise and disempower children and their families.

"Adults just don't realise that we are just products of the system, no one actually wants to help us. They just lock us up instead. They don't know what life is actually like for us."

– Child in youth detention in the NT

Importantly, people designing and working within systems need to show up, listen with an open mind, trust that individuals, families, and communities are experts in their own lives, partner with them in finding solutions, and deliver on commitments.

²⁴ ['Help way earlier!': How Australia can transform child justice to improve safety and wellbeing!](#)

²⁵ [AHRC Evidence-based approaches to child justice: HWE Supplementary Paper](#)

²⁶ [UN Youth Representative Report 2025 – UN Youth Australia](#)

Concluding comments

Children have a right to be safe in their homes, in education, and as active members of their communities. Reforming youth justice does not start with a 'tough on crime' narrative. It starts with genuinely valuing our children and young people and investing in solutions that holistically support them (and their families) through developmentally appropriate, trauma-informed, and culturally safe supports.

As observed by the United Nations Independent Expert on Children Deprived of Liberty, Manfred Nowak:

*"The most important reason for the large number of children in detention is the lack of adequate support for families, caregivers and communities to provide appropriate care to children and encourage their development. Such support and effective cooperation between parents, child welfare, social protection, education, health, law enforcement and the justice system would prevent children from being placed in institutions and coming into conflict with the law."*²⁷

The lifelong consequences of imprisonment and institutionalisation of children are multifarious. Children deprived of liberty often experience post-traumatic stress disorder (particularly when isolated), their risk of developing or exacerbating mental health conditions is increased, and there is a correlation between higher rates of early death of children in detention than their community peers, attributable to drug overdose, suicide, injury and violence.²⁸ Where detained, younger children are also at greater risk of violence or negative influence from older children.²⁹

"I've experienced a lot in here you know" – Child in youth detention in the NT

"We want to work for something while we're in here. We want to leave with purpose. [...] You have the power to make that possible, and for all the kids who'll come through here after us. We're not lost causes. We're young people trying to find our way back. And we need your help."

– Young People at Cobham Juvenile Justice Centre³⁰

Alongside reforms to increase the minimum age of criminal responsibility and introduce preventative and diversionary supports to reduce the number of children coming into contact with the justice system, ACCGA members also call for improved data collection and reporting underpinned by common definitions, and enforceable minimum youth justice standards that are agreed and endorsed federally or, at minimum, at the state/territory Government level (instead of these being signed off by system administrators as is currently the case). In doing so, there should also be clear mandates/mechanisms that provide for scrutiny by independent oversight agencies that are sufficiently empowered to call for and report on compliance.

Collectively, ACCGA members call upon the Australian Government to bring the issue of youth justice and incarceration to the attention of National Cabinet in a manner that focuses attention on upstream preventative and diversionary responses centred first and foremost on enhanced support that improves outcomes for children and young people within the context of their families and communities.

"We need support before we even get here, so we don't end up here at all." – Young People at Cobham Juvenile Justice Centre³¹

²⁷ [Manfred Nowak, Global study on children deprived of liberty UN Doc A/74/136 \(2019\) \[94\]](#)

²⁸ [Ibid](#) [29]

²⁹ [Kelly Richards, What makes juvenile offenders different from adult offenders? \(2011\)](#)

³⁰ [UN Youth Representative Report 2025 – UN Youth Australia](#)

³¹ [UN Youth Representative Report 2025 – UN Youth Australia](#),

This submission has been endorsed by the following ACCGA members:



Deb Tsorbaris
National Children's
Commissioner (Australia)



National Commission for
Aboriginal and Torres Strait Islander
Children and Young People



Jodie Griffiths-Cook
Public Advocate and Children and
Young People Commissioner (ACT), &
ANZCCGA Co-Chair



OFFICE FOR ACT ABORIGINAL
& TORRES STRAIT ISLANDER
CHILDREN & YOUNG PEOPLE
KEEPING OUR KIDS STRONG IN FAMILY & CULTURE

Barbara Causon
A/Aboriginal and Torres Strait
Islander Children and Young People
Commissioner (ACT)



Zoë Robinson
Advocate for Children and
Young People (NSW)



Shahleena Musk
Children's Commissioner (NT)



Shayna Smith
Public Guardian (QLD)



OFFICE OF THE ABORIGINAL
AND TORRES STRAIT ISLANDER
CHILDREN'S COMMISSIONER

Natalie Lewis
Commissioner (QLD)



Guardian
for Children and
Young People

Shona Reid
Guardian for Children
and Young People (SA)



Dr Kylie Heneker
Commissioner for Children
and Young People (SA)



Commissioner for
**Aboriginal Children
& Young People**

Dale Agius
Commissioner for Aboriginal Children
and Young People (SA)



Isabelle Crompton
Interim Commissioner for Children
and Young People (TAS)



COMMISSION FOR CHILDREN AND YOUNG PEOPLE

Argiri Alisandratos
A/Principal Commissioner for
Children and Young People (VIC)



COMMISSION FOR CHILDREN AND YOUNG PEOPLE

Meena Singh
Commissioner for Aboriginal Children
and Young People (VIC)



Commissioner for
Children and Young People
Western Australia

Jacqueline McGowan-Jones
Commissioner for Children and Young
People (WA)



**The contact person for this submission is Jodie Griffiths-Cook,
ACT Public Advocate and Children and Young People Commissioner, and ANZCCGA Co-Chair**