

Committee Secretary

Senate Legal and Constitutional Affairs Committee

By email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

10 October 2024

Dear Committee Members,

**Submission to the Senate Legal and Constitutional Affairs Committee's inquiry into Australia's youth justice and incarceration system.**

We welcome the opportunity to provide feedback on the Senate Legal and Constitutional Affairs Committee's inquiry into Australia's youth justice and incarceration system.

Women's Legal Service Victoria (Women's Legal) specialises in family violence, family law, migration law, child protection law and victims of crime assistance – recognising the intersections between the jurisdictions. We provide legal advice and representation to women, with a wraparound model of service delivery where women are also supported by social workers and financial counsellors, depending on their needs.

Our practitioners witness the impacts of family violence, trauma and intersecting forms of disadvantage on our clients and their children. The harm to children who are forcibly removed from the care of an adult victim-survivor by child protection services and placed in unsafe placements (including, in some cases, with a perpetrator of family violence) has devastating consequences. This includes immediate and adverse impacts on children's physical, emotional and social development and capacity to self regulate, increasing the likelihood of contact with the criminal legal system.

Mothers engaged with the child protection system are routinely held responsible for failing to protect their children from violence perpetrated against them whilst struggling to obtain practical supports to address their child's most basic needs. This includes adequate housing, mental health services and parenting support. Our clients are deeply distressed about the ongoing harm to their children in out of home care and lack of child-focused therapeutic support for young people exhibiting harmful responses to complex trauma including adolescent violence in the home. The lack of meaningful early intervention and failure of protective services to partner with adult victim-survivors undermines the prospects of family reunification and recovery for traumatised children.

Children known to statutory child protection are at least nine times more likely than other young people to offend and come under the supervision of youth justice services. Of those involved with youth justice services, Indigenous children and young women are the subgroups most likely to have experienced child protection involvement or out of home care.<sup>1</sup> This well-established 'care to custody' pipeline means that Australia's most vulnerable children are also those most likely to experience mistreatment and abuse through contact with the criminal legal system.

As a supporter of the Raise the Age Campaign and the Smart Justice for Young People Coalition, we are calling for the Australian Government to urgently implement national reforms to improve youth justice systems across the country.

Every child should be free to go to school, have a safe home to live in and be supported to learn from their mistakes. Children belong in classrooms and playgrounds, not police stations and prisons. Punishing children and locking them away in prison cells can cause lifelong harm, disrupt children's education and create additional barriers to children getting the health and wellbeing support they need to turn their lives around.

The Victorian Government recently passed the Youth Justice Act, which raised the age of criminal responsibility to 12 years of age and implemented special measures to address the over-representation of Aboriginal children in the criminal legal system. However, the Act also implemented negative bail changes, created new police powers over 10 and 11 year olds, introduced electronic monitoring of children 14 to 17 year olds, retained prosecutorial consent for court ordered diversion, and failed to raise the age of criminal responsibility to 14 years.

We support national reforms to improve early intervention, prevention and diversion away from harmful and ineffective punitive responses and towards supportive and evidence-based community support programs that work. Early intervention, holistic support for families and access to trauma-informed restorative justice programs are critically important to support the recovery of children and young people and promote improved outcomes for children, their families and the community.

We ask that the Senate Committee recommends that the Australian Parliament:

- Raise the age of criminal responsibility to 14 with no exceptions in line with the Raise the Age coalition and Change the Record's recommendations;
- Ensure no children are detained in adult prisons and raise the age of detention to 16;

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<sup>1</sup>Australian Institute of Criminology, '[Crossover kids: Offending by child protection-involved youth](#)', Trends & issues in crime and criminal justice, No. 582 December 2019.

- End the over-representation of over-policed groups of children in criminal legal systems by implementing recommendations from Smart Justice for Young People's Working Together Action Plan;
- Reform youth bail laws by implementing Poccum's Law;
- Ban the use of spit hoods, strip searches and isolation for all children in detention; and
- Appoint a National Taskforce responsible for rolling out systemic improvements across all states and territories in line with Australia's international obligations consistent with the Australian Human Rights Commission's Help Way Earlier report.

The National Youth Justice Inquiry is a critical opportunity to lift baseline standards for the policing and detention of children and young people across all states and territories. We thank you for taking the time to consider our submission.

Please feel free to contact us on contact details if you have any questions.

Yours faithfully,



Claudia Fatone  
**Chief Executive Officer**