

Aboriginal Health and Medical Research Council of NSW

Inquiry Into Youth Justice

Date: 18/03/2026

The AH&MRC Acknowledges the Traditional Owners of the lands on which the AH&MRC stands, the lands of the Bidjigal and Gadigal people of the Eora Nation. The AH&MRC pays respect to Elders past, present and emerging.



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About the AH&MRC

The AH&MRC, formerly the Aboriginal Health Resource Co-op (AHRC) was established in 1985 following a recommendation of the Brereton Report by the NSW Aboriginal Task Force on Aboriginal Health in 1982-83.

The AH&MRC assists the ACCHO Sector across NSW to ensure they have access to an adequately resourced and skilled workforce to provide high-quality health care services for Aboriginal communities.

As the Peak Body for Aboriginal Health in NSW the AH&MRC represents the rights and interests of 47 Member Services. The AH&MRC is committed to the delivery of four key priorities. These are:

- Aboriginal Community Control and Innovation
- Education and Workforce
- Research and Data
- Governance and Finance

The AH&MRC works collaboratively with the ACCHO Sector across NSW to ensure accessibility, sustainability and adequate resourcing of a skilled workforce providing comprehensive primary health care services for Aboriginal communities.

Opportunity to review

Thank you for this opportunity to make a submission to the new Select Committee of the NSW Legislative Council to examine ways to reduce the number of children in the criminal justice system. We understand that the impetus for this select committee has been the 34 per cent increase since June 2023 and look forward to addressing the systemic issues facing Aboriginal children and families in NSW that may have caused this increase.

As the peak body for Aboriginal Community Controlled Health Organisations (ACCHOs), we value this opportunity to speak on the need for our children to be cared for rather than punished and have been guided by the voices of our staff, member services, and Community. NSW ACCHOs are highly engaged in the care and development of our young people and are a key part of community diversionary models. In line with the mandate of the Select Committee and the remit of the AH&MRC, the focus of this submission will be on the criminalisation and health and wellbeing of Aboriginal children.

Background

Since the arrival of colonisers, Aboriginal children have experienced institutional displacement, from the establishment of missions to the Stolen Generations¹, and to the child protection system that removes Aboriginal children from their families and culture². For Aboriginal children, the youth justice system is not a mechanism of safety but of ongoing displacement, criminalisation, and violence. The statistics could not be clearer:

- Aboriginal children represent 59.9 per cent of children sentenced to detention in the 2024 – 2025.³

¹ Goldson, B., Cunneen, C., Russell, S., Brown, D., Baldry, E., Schwartz, M., & Briggs, D. (2020). Youth “Justice” in Australia: Histories of Human Rights Violation, Racialized Injustice and Prospects of Redress. Court of Conscience, 14.

² SNAICC: National Voice for our Children. (2025). *Family Matters Report* (p. 78).

³ Youth Justice NSW. (2022, May 16). *Youth Justice profile*. NSW Government. <https://www.nsw.gov.au/legal-and-justice/youth-justice/about/statistics/youth-justice-profile>

- Aboriginal children represent 53.6 per cent of children sentenced to a community supervision order.⁴
- Aboriginal children in NSW are 18 times more likely than non-Aboriginal children to be sentenced to youth detention.⁵

Since the signing of the National Agreement on Closing the Gap the NSW Government has been committed to target 11: By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10–17 years) in detention by at least 30%. Despite five years' worth of work, there has been no change⁶. Aboriginal children are being incarcerated at the same rate, separated from their families, their homes and education, and entrenched in the criminal justice system.

Youth justice is a subject under continuous review with four inquiries made by the NSW government since 2016⁷, representing a litany of submissions that have contributed to each of them, with 196 recommendations between them⁸. The reality of the situation hasn't changed. Children are still systematically detained at the same rate. The Select Committee on Youth Justice has a responsibility to change this trend and recommend clear and decisive action to address the ongoing impacts of colonial criminalisation suffered by Aboriginal children.

Summary

In NSW, Aboriginal children experience greater criminalisation at a higher rate than non-Aboriginal children; they⁹ for the same offence^{10,11}. These outcomes are not a coincidence; they are the predictable consequences of decision making by the NSW Police Force (NSWPF) and the NSW Government. This situation is not representative of the failings of Aboriginal families, communities, or kids, but of the ongoing and persistent impacts of colonisation and

⁴ Youth Justice NSW. (2022, May 16). *Youth Justice profile*. NSW Government. <https://www.nsw.gov.au/legal-and-justice/youth-justice/about/statistics/youth-justice-profile>

⁵ Goldson, B., Cunneen, C., Russell, S., Brown, D., Baldry, E., Schwartz, M., & Briggs, D. (2020). Youth "Justice" in Australia: Histories of Human Rights Violation, Racialized Injustice and Prospects of Redress. *Court of Conscience*, 14, p.3.

⁶ Productivity Commission. (2023). *Socio-economic outcome area 11 - Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system - Dashboard - Closing the Gap*. Pc.gov.au; Closing the Gap Information Repository. <https://www.pc.gov.au/closing-the-gap-data/dashboard/outcome-area/youth-justice/>

⁷ Clancey, G., Wang, S., & Lin, B. (2020). *Youth Justice in Australia: Themes from Recent Inquiries*. Australian Institute of Criminology.

⁸ Inspector of Custodial Services. (2018). *Use of force, separation, segregation and confinement in NSW juvenile justice centers* (pp. 23–27).

Law and Safety Committee. (2018). *The Adequacy of Youth Diversionary Programs in New South Wales* (pp. 9–17). NSW Parliament.

New South Wales Auditor-General. (2016). *Reintegrating young offenders into the community after detention* (pp. 4–6). Audit Office of New South Wales.

Shearer, L. (2019). *Ministerial Review into the Riot at Frank Baxter Detention Centre 21 and 22 July 2019* (pp. 16–19). NSW Parliament.

⁹ Snowball, L. (2008). Diversion of Indigenous juvenile offenders. *Trends & Issues in Crime and Criminal Justice*, No. 355.

Cunneen, C., White, R. and Richards, K. (2015) *Juvenile Justice: Youth and Crime in Australia*, 5th edition, pg. 154 - 159, Oxford: Melbourne.

¹⁰ BOSCAR. (2025). *NSW Closing the Gap Target 11 Quarterly Report*. Bureau of Crime Statistics and Research.

¹¹ Justice and Equity Centre. (2024). *Submission to the Law Enforcement Conduct Commission – Bail compliance checks in NSW – Issues Paper* (p. P.g. 24).

criminalisation¹². Aboriginal youth deserve a legislative environment and a police force that will act in their best interest and keep them safe, rather than subject them to prosecution, criminalisation, and harassment.

For these outcomes to get better, something in the system must change. Aboriginal children are best cared for by their communities, in their homes, with access to their culture and their elders. The criminal justice system must start recognising Aboriginal communities not as subjects, but as political counterparts.

AH&MRC response

The Aboriginal Community Controlled Health sector requires sustainable funding to continue addressing the Social Determinants of Justice

ACCHOs are already highly engaged in the work of addressing the Social Determinants of Justice¹³ (SDoJ) despite limited and inconsistent funding, working with young people to provide holistic care that considers the entirety of their wellbeing. Through access to primary health provision, community services, advocacy and culture, Aboriginal young people can be given the greatest opportunity to thrive and avoid contact with the justice system all together. Providing these services within the community-controlled sector is reliant on in-house positions that are often a part of short term and unsustainable funding arrangements, such as youth workers, alcohol and other drugs (AOD) workers, and social and emotional wellbeing (SEWB) workers. These funding issues can make early-intervention models inconsistent, unreliable, and difficult to track. With consistent, long-term funding models, ACCHOs are well positioned to formalise and continue this work that has the capacity to prevent contact with the justice system all together.

The role of the SDoJ for Aboriginal children cannot be untangled from the experience of Aboriginal adults. Alongside Aboriginal children, Aboriginal parents are greatly impacted by the (SDoJ) and their incarceration can have a devastating impact on their communities and their children. While the NSW assessment of progress for Target 11 (youth) has experienced no change after almost a decade of work¹⁴, estimates for Target 10 (adults) are actively getting worse¹⁵. Aboriginal adults are being incarcerated at a higher rate than ever before¹⁶, and the children of incarcerated parents are more likely to have trouble attending school, more likely to experience disability, and be criminalised themselves¹⁷. Aboriginal children bear the burden of intergenerational incarceration and criminalisation as their care givers and loved ones are systematically removed from their lives.

In situations where parents have been removed from the home, community organisations become infinitely more important, able to recognise early warning signs of family breakdown,

¹² Holland, L., Lee, C., Toombs, M., Smirnov, A., & Reid, N. (2024). Resisting the incarceration of Aboriginal and Torres Strait Islander children: A scoping review to determine the cultural responsiveness of diversion programs. *First Nations Health and Wellbeing - the Lowitja Journal*, Vol. 2.

¹³ McCausland, R., & Baldry, E. (2023). Who does Australia lock up? The social determinants of justice. *International Journal for Crime, Justice and Social Democracy*, 12(3), 37–53. <https://doi.org/10.5204/ijcsd.2504>

¹⁴ Productivity Commission. (2023). *Socio-economic outcome area 11 - Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system - Dashboard - Closing the Gap*. Pc.gov.au; Closing the Gap Information Repository. <https://www.pc.gov.au/closing-the-gap-data/dashboard/outcome-area/youth-justice/>.

¹⁵ Productivity Commission. (2024). *Socio-economic outcome area 10 - Aboriginal and Torres Strait Islander adults are not overrepresented in the criminal justice system - Dashboard - Closing the Gap*. Pc.gov.au; Closing the Gap Information Repository. <https://www.pc.gov.au/closing-the-gap-data/dashboard/outcome-area/criminal-justice/>

¹⁶ NSW Bureau of Crime Statistics and Research. (2020). *Aboriginal over-representation in the NSW Criminal Justice System*. BOCSAR ; NSW Department of Communities and Justice. <https://bocsar.nsw.gov.au/topic-areas/aboriginal-over-representation.html>

¹⁷ Committee on Children and Young People. (2022). *Support for Children of Imprisoned Parents in New South Wales*. Parliament of New South Wales.

financial stress, and the impacts of trauma. ACCHOs are an insulating factor to Aboriginal families in their communities, by providing access to both services and their community through women's groups, men's groups, healing and craft groups, and a community centre environment. These groups are often completely un-funded and reliant on donations from local businesses for food and materials, but the comfort and connection they provide are immense. Without sufficient and sustainable funding, these community groups are unable to maintain consistency, and families often become isolated from resource centres.

Another factor impacting Aboriginal youth and their interaction with the criminal justice system is the intersection of race, disability, and childhood, which exacerbates the existing structural inequities embedded in the justice system. A 2014 study found that of young people in NSW custody 45.8 per cent were found to have borderline or lower intellectual functioning, and that 14 per cent were assessed as having a possible intellectual disability¹⁸. This has immense implications for the safety and validity of the justice system and represents a serious public health concern. A later prevalence study looking specifically at Foetal Alcohol Spectrum Disorder (FASD), found a prevalence of 36 per cent in young people incarcerated in Western Australia¹⁹. Of those, 95.5 per cent were Aboriginal and 94 per cent had never been diagnosed. Access to early diagnosis, supportive care, family education, and cultural support has an enormous impact on outcomes for Aboriginal children and their families. ACCHOs are a huge part of making screening for conditions like Global Development Delays (GDD) and FASD a culturally safe experience for families, as well as providing follow up care and advocacy.

Aside from disability, access to diagnosis and community will also go onto affect the correlation between incarceration and social and emotional wellbeing for Aboriginal children. Much of the work done on this topic pertains to the western conception of mental health instead of a broader and more holistic approach to wellbeing²⁰. For Aboriginal communities, social and emotional wellbeing brings together all the experiences of wellness, like mental and physical health, alongside connection to culture, country and community²¹. Good social and emotional wellbeing has been found to be an insulating actor for Aboriginal young people, with one strengths-based study finding:

The strongest predictor of justice non-involvement in the model was a participant's self-rated health. It was found that the better a participant rated their own health the less likely they were to be involved with the justice system²².

These results are no surprise to Aboriginal communities and organisations and are part of the reason why our communities are structured the way that they are. Access to culture, community, and country from a young age has a positive impact on a young person's social and emotional wellbeing and will reduce their likelihood of interaction with the justice system. ACCHOs are a vital mechanism for providing community spaces that are equipped with

¹⁸ Haysom, L., Indig, D., Moore, E., & Gaskin, C. (2014). Intellectual disability in young people in custody in New South Wales, Australia - prevalence and markers. *Journal of Intellectual Disability Research*, 58(11), 1004–1014. <https://doi.org/10.1111/jir.12109>

¹⁹ Bower, C., Watkins, R. E., Mutch, R. C., Marriott, R., Freeman, J., Kippin, N. R., Safe, B., Pestell, C., Cheung, C. S. C., Shield, H., Tarratt, L., Springall, A., Taylor, J., Walker, N., Argiro, E., Leitão, S., Hamilton, S., Condon, C., Passmore, H. M., & Giglia, R. (2018). Fetal alcohol spectrum disorder and youth justice: A prevalence study among young people sentenced to detention in western australia. *BMJ Open*, 8(2). <https://doi.org/10.1136/bmjopen-2017-019605>

²⁰ Young, M., Ali, M. M., Trounson, J., & Shepherd, S. (2025). Understanding the Social and Emotional Wellbeing factors protecting Aboriginal and Torres Strait Islander young people from justice system involvement. *Psychiatry, Psychology and Law*, 1–21. <https://doi.org/10.1080/13218719.2025.2497782>

²¹ Black, C., Frederico, M., & Bamblett, M. (2024). "Healing through culture": Aboriginal young people's experiences of social and emotional wellbeing impacts of cultural strengthening programs. *Child Abuse & Neglect*, 148(1), 1–13. <https://doi.org/10.1016/j.chiabu.2023.106206>

²² Young, M., Ali, M. M., Trounson, J., & Shepherd, S. (2025). Understanding the Social and Emotional Wellbeing factors protecting Aboriginal and Torres Strait Islander young people from justice system involvement. *Psychiatry, Psychology and Law*, 1–21. <https://doi.org/10.1080/13218719.2025.2497782>

resources and practitioners who can collaborate with families and start making positive steps without intervention from the justice system.

For youth justice, prevention will require a structured commitment to address the SDoJ through community-led, strengths and culture-based initiatives that take advantage of the existing social infrastructure within Aboriginal communities. Health provision is a vital part of that. The Aboriginal Community Controlled Health sector is already doing so much of the work to refocus on the wellbeing of our young people, and the government's response should be to build capacity and sustainability within the community-controlled sector to continue that work.

NSW independent police oversight bodies lack the structural capability to effectively identify and prevent harmful policing practices that affect Aboriginal youth

To begin seeing a reduction in the rates of criminalisation for Aboriginal children the NSW Government and NSW Police Force must begin to consider the systemic roots of offending, acknowledge their own role in the criminalisation of Aboriginal communities, and follow the leadership of Aboriginal communities. Aboriginal children have historically faced great discrimination in all institutions from education to health to justice, and that discrimination continues to this day, largely impacted by structural racism and intergenerational removal from their communities. Data shows that Aboriginal children have contact with the police from an earlier age than their non-Aboriginal peers; they are more likely to be referred to court rather than diverted^{23,24}, more likely to be refused bail²⁵, and more likely to be harassed by police²⁶. Aboriginal youth deserve a legislative environment and a police force that will act in their best interest and keep them safe rather than subject them to persecution, criminalisation, and harassment. This will require a persistent commitment to creating and reinforcing structures of strict accountability for both NSWPF, the magistrates, detention centres, and governments.

According to information obtained by the Redfern Legal Centre, force is disproportionately used against Aboriginal people, representing roughly 45% of use-of-force events²⁷. It is obvious that the NSWPF require structured accountability and oversight in order to act in the best interest of the community, and that this accountability must be able to impose legitimate and impactful authority. It is the role of the LECC to be that accountability body, but it lacks the funding²⁸, the necessary mechanisms, or the structural authority to meaningfully impact the conduct or accountability of police. While overall oversight has increased since the LECC's inception in 2017, it has not inspired an increase in accountability. The LECC has struggled with funding shortfalls since in its creation which has consistently inhibited its capacity to investigate the complaints it receives, and this failure is incommensurately felt by Aboriginal people.

According to a LECC report into complaints made by Aboriginal people, over 78.64% of allegations were dismissed by NSWPF under Section 132 of the Police Act 1990 (NSW)²⁹. This is a process that requires no transparency for police decision making, just the oversight of the LECC³⁰. What is known is that according to the report, 34% of complaints made by or regarding

²³ Snowball, L. (2008). Diversion of Indigenous juvenile offenders. *Trends & Issues in Crime and Criminal Justice*, No. 355.

²⁴ Cunneen, C., White, R. and Richards, K. (2015) *Juvenile Justice: Youth and Crime in Australia*, 5th edition, pg. 154 - 159, Oxford: Melbourne.

²⁵ BOSCAR. (2025). *NSW Closing the Gap Target 11 Quarterly Report*. Bureau of Crime Statistics and Research.

²⁶ Justice and Equity Centre. (2024). *Submission to the Law Enforcement Conduct Commission – Bail compliance checks in NSW – Issues Paper* (p. P.g. 24).

²⁷ Redfern Legal Centre. (2023, July 31). *First Nations People Bear the Brunt of NSW Police Use of Force | Redfern Legal Centre*. Redfern Legal Centre. <https://rlc.org.au/news-and-media/media-releases/first-nations-people-bear-brunt-nsw-police-use-force>

²⁸ [Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission . \(2018\). Media Release: Ensuring Effective Police Oversight in NSW. Parliament of New South Wales.](#)

²⁹ Law Enforcement Conduct Commission. (2024). *Analysis of complaints made by or on behalf of Aboriginal and Torres Strait Islander People - An Observations Paper*.

³⁰ Police Act 1990 (NSW) S. 132

Aboriginal people were regarding police use of force. Despite such overwhelming evidence that police accountability structures are failing, the NSW government did not support recommendations made by the Select Committee on the High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody to expand the powers of the LECC to investigate deaths in custody or mandate a senior statutory First Nations position³¹.

Beyond the acts of serious misconduct perpetrated by police, Aboriginal children are consistently targeted by the justice system more broadly, given harsher punishments, and disadvantaged by police discretion. This is seen most clearly in the diversionary models utilised by police and the magistrate. Many of the diversionary strategies utilised by NSWPF were established by the 1997 Young Offenders Act³² and are used at police and court discretion under extremely broad and subjective legal circumstance with little oversight. According to a study completed by the Australian Institute of Criminology, Aboriginal youth are less likely to be given diversionary options than their non-Aboriginal counterparts, even while accounting for other factors like age, sex, prior custodial sentence, and offence³³. The choice to divert a child away from a conviction is most often made by police, often those directly involved in the arrest of the young person in question and there is little documented oversight as to why one choice might be made over another³⁴. This inadequacy of oversight systematises the potential bias of any officer making any diversionary choice³⁵.

A vicious cycle is at work here. Indigenous young people are more likely to have a longer criminal history, having previously been arrested and charged, and they are therefore less likely to be able to be diverted from the criminal justice system at certain points of the process. This, in turn, leads to an increased criminal history, and so the cycle of overrepresentation continues³⁶.

Aboriginal children and their families are asked to place their trust in police officers whose conduct raises serious questions and systems of accountability that consistently fail to answer them. In order to have an impact on the incarceration rates of Aboriginal children, the NSW government must begin to address these fundamental inequities and institute accountability mechanisms that give Aboriginal communities oversight of the services that have historically caused them harm.

Diversionary models are consistently inaccessible, unavailable, culturally inappropriate, or ineffective for Aboriginal children.

Despite their importance, the diversionary models made available through early contact with the justice system are most often paternalistic, heavily influenced by the police, culturally unsafe or unavailable^{37,38}. Programs fail to consider the cultural, historical and contemporary context of Aboriginal young people, and through supervision and mandated attendance they further isolate

³¹ NSW Government. (2021). *NSW Government response: Select Committee on the High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody*. NSW Parliament.

³² Young Offenders Act 1997 (NSW)

³³ Snowball, L. (2008). Diversion of Indigenous juvenile offenders. *Trends & Issues in Crime and Criminal Justice*, No. 355.

³⁴ Cunneen, C., White, R. and Richards, K. (2015) *Juvenile Justice: Youth and Crime in Australia*, 5th edition, pg. 154 - 159, Oxford: Melbourne.

³⁵ Juvenile offenders and post release support. *Current Issues in Criminal Justice*, 19(2), 197–210. Cunneen, C., & Tauri, J. (2017). *Indigenous criminology*. Bristol: Policy Press.

³⁶ Brown, L. (2012). The Criminalization of Conduct: Indigenous Youth in the Criminal Justice System. *Indigenous Law Bulletin*, Vol. 7(28), p. 8.

³⁷ Clancey, G., Wang, S., & Lin, B. (2020). *Youth Justice in Australia: Themes from Recent Inquiries*. Australian Institute of Criminology.

³⁸ Holland, L., Lee, C., Toombs, M., Smirnov, A., & Reid, N. (2024). Resisting the incarceration of Aboriginal and Torres Strait Islander children: A scoping review to determine the cultural responsiveness of diversion programs. *First Nations Health and Wellbeing - the Lowitja Journal*, Vol. 2.

young people from their culture and community. The criminal justice system is a traumatising, paternalistic, and criminogenic space³⁹, even more so for an Aboriginal child, and each interaction leads to risk of further entrenchment⁴⁰. Inclusive and culturally safe diversionary models can make all the difference in strengthening communities, keeping families together, and building on the perseverance, ingenuity, and resilience of our young people. Even within Youth Justice Conferencing, a model that has been proven to work⁴¹, Aboriginal children are isolated from their community and culture⁴². The Youth Justice Conferencing scheme fails to recognise the centuries of systemic racism, paternalism, and violent governance that has led to the over-representation of Aboriginal children in police stations and detention centres. Blagg⁴³ writes:

Current restorative practices around Indigenous juvenile justice while offering some illustrations of good practice, are hamstrung by a broader systemic failure to acknowledge Indigenous people are equal players, including accepting the jurisdiction of Aboriginal customary law.

There is no structure in YJC to recognise the authority of Elders or knowledge holders or understand the child within their Aboriginal context.

These deficits in police diversionary methods make community programs even more vital for addressing the root causes of an Aboriginal young person's contact with the justice system. Where a caution or a YJC can isolate a young person's actions into a single moment, community programs with wrap-around support can focus on the child and their experiences, rather than a behaviour or deficit needing punishment or rehabilitation.

The Yuwaya Ngarra-li Youth Program was developed by the Yuwaya Ngarra-li Partnership between the Dharriwaa Elders Group (DEG) and UNSW Sydney⁴⁴. They recognised the need to address the life experiences of young people in their town of Walgett, NSW. The partnership has grown to include Walgett Aboriginal Medical Service and the Aboriginal Legal Service of NSW and ACT. They have delivered numerous youth activity programs, developed a youth diversion demonstration model, and reduced the number of Aboriginal children and young people appearing in the Walgett Children's Court to 7.8%, exceeding their goal of 10%⁴⁵.

³⁹ Chen S, Matruglio T, Weatherburn D and Hua J (2005) 'The Transition from Juvenile to Adult Criminal Careers', Crime and Justice Bulletin No 86, NSW BOCSAR.

⁴⁰ Akpanekpo, E. I., Azar Kariminia, Preeyaporn Srasuebkul, Trollor, J. N., Kasinathan, J., Greenberg, D., Schofield, P. W., Kenny, D. T., Gaskin, C., Simpson, M., Jones, J., Ekanem, A. M., & Butler, T. (2024). Criminal justice transitions among adolescents in Australia: A multi-state model. *Journal of Criminal Justice*, 92, 102189–102189. <https://doi.org/10.1016/j.jcrimjus.2024.102189>

⁴¹ Trimboli, L. (2000). *An Evaluation of the NSW Youth Justice Conferencing Scheme*. NSW Bureau of Crime Statistics and Research.

⁴² Bolitho, J. (2005). *Creating space for young people, dialogue and decision making: youth justice conferencing in New South Wales Australia*. (pp. 30–32).

⁴³ Blagg, H. (2001) Aboriginal Youth and Restorative Justice: Critical Notes from the Australian Frontier. In A. Morris and G. Maxwell (eds.) *Restorative Justice for Juveniles Conferencing, Mediation and Circles*, Oregon: Hart Publishing.

⁴⁴ University of NSW Sydney. (n.d.). *Children and young people | Yuwaya Ngarra-li Partnership - UNSW Sydney*. UNSW Sites. <https://www.unsw.edu.au/walgett-partnership/current-programs/children-and-young-people>

⁴⁵ MacGillivray, P., Sands, Z., McCausland, R., Spencer, W., & Miller-Dawkins, M. (2024). *Yuwaya Ngarra-li Briefing Paper: Lessons from the Two River Pathway to Change Diversion Model 2018–2023*.

A key reason the program has seen such success is that it has been guided by Aboriginal leadership and community priorities. Decisions about program design, delivery, and direction are shaped with community members, Elders, and young people themselves. The Aboriginal community in Walgett has proved that when our young people see their communities reaching out for them, their culture represented, their voices being heard and their lived experiences respected, they are more likely to engage and stay engaged.

Aboriginal Community Controlled Organisations are already representative of community-based authority and the capacity within communities to address their own needs. The role of government in this sector should be to facilitate and resource the leadership of community-controlled organisations. This community work will require an ongoing and fierce commitment by the NSW Government to place-based and community led program design that centres the knowledge and experiences of young people.

Aboriginal children deserve a system that believes in their capacity to have a bright future and will give them the opportunity to keep trying.

Recommendations

The AH&MRC proposes three recommendations:

- 1** Create sustainable funding opportunities for the formalisation and continuation of existing programs and health provision through ACCHOs.
- 2** Ensure police accountability by strengthening the LECC, reviewing of the 1990 police act with special consideration of S 132, and ensure the sustainable resourcing and funding of external advocacy bodies like the Aboriginal Legal Service of NSW and ACT and specific programs like Koori Court that can give community access to the legal process.
- 3** Invest in the establishment of community-led diversionary programs for ACCHOs and ACCOs, with a particular focus on access to culture, wrap-around casework, and a strengths-based approach

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References

- Goldson, B., Cunneen, C., Russell, S., Brown, D., Baldry, E., Schwartz, M., & Briggs, D. (2020). Youth “Justice” in Australia: Histories of Human Rights Violation, Racialized Injustice and Prospects of Redress. Court of Conscience, 14.
- SNAICC: National Voice for our Children. (2025). Family Matters Report (p. 78).

- Youth Justice NSW. (2022, May 16). Youth Justice profile. NSW Government. <https://www.nsw.gov.au/legal-and-justice/youth-justice/about/statistics/youth-justice-profile>
- Youth Justice NSW. (2022, May 16). Youth Justice profile. NSW Government. <https://www.nsw.gov.au/legal-and-justice/youth-justice/about/statistics/youth-justice-profile>
- Goldson, B., Cunneen, C., Russell, S., Brown, D., Baldry, E., Schwartz, M., & Briggs, D. (2020). Youth “Justice” in Australia: Histories of Human Rights Violation, Racialized Injustice and Prospects of Redress. *Court of Conscience*, 14, p.3.
- Productivity Commission. (2023). Socio-economic outcome area 11 - Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system - Dashboard - Closing the Gap. Pc.gov.au; Closing the Gap Information Repository. <https://www.pc.gov.au/closing-the-gap-data/dashboard/outcome-area/youth-justice/>
- Clancey, G., Wang, S., & Lin, B. (2020). Youth Justice in Australia: Themes from Recent Inquiries. Australian Institute of Criminology.
- Inspector of Custodial Services. (2018). Use of force, separation, segregation and confinement in NSW juvenile justice centers (pp. 23–27).
- Law and Safety Committee. (2018). The Adequacy of Youth Diversionary Programs in New South Wales (pp. 9–17). NSW Parliament.
- New South Wales Auditor-General. (2016). Reintegrating young offenders into the community after detention (pp. 4–6). Audit Office of New South Wales.
- Shearer, L. (2019). Ministerial Review into the Riot at Frank Baxter Detention Centre 21 and 22 July 2019 (pp. 16–19). NSW Parliament.
- Snowball, L. (2008). Diversion of Indigenous juvenile offenders. *Trends & Issues in Crime and Criminal Justice*, No. 355.
- Cunneen, C., White, R. and Richards, K. (2015) *Juvenile Justice: Youth and Crime in Australia*, 5th edition, pg. 154 - 159, Oxford: Melbourne.
- BOSCAR. (2025). NSW Closing the Gap Target 11 Quarterly Report. Bureau of Crime Statistics and Research.
- Justice and Equity Centre. (2024). Submission to the Law Enforcement Conduct Commission – Bail compliance checks in NSW – Issues Paper (p. P.g. 24).
- Holland, L., Lee, C., Toombs, M., Smirnov, A., & Reid, N. (2024). Resisting the incarceration of Aboriginal and Torres Strait Islander children: A scoping review to determine the cultural responsiveness of diversion programs. *First Nations Health and Wellbeing - the Lowitja Journal*, Vol. 2.
- McCausland, R., & Baldry, E. (2023). Who does Australia lock up? The social determinants of justice. *International Journal for Crime, Justice and Social Democracy*, 12(3), 37–53. <https://doi.org/10.5204/ijcisd.2504>
- Productivity Commission. (2023). Socio-economic outcome area 11 - Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system - Dashboard - Closing the Gap. Pc.gov.au; Closing the Gap Information Repository. <https://www.pc.gov.au/closing-the-gap-data/dashboard/outcome-area/youth-justice/>.
- Productivity Commission. (2024). Socio-economic outcome area 10 - Aboriginal and Torres Strait Islander adults are not overrepresented in the criminal justice system - Dashboard - Closing the Gap. Pc.gov.au; Closing the Gap Information Repository. <https://www.pc.gov.au/closing-the-gap-data/dashboard/outcome-area/criminal-justice/>
- NSW Bureau of Crime Statistics and Research. (2020). Aboriginal over-representation in the NSW Criminal Justice System. BOSCAR ; NSW Department of Communities and Justice. <https://bocsar.nsw.gov.au/topic-areas/aboriginal-over-representation.html>
- Committee on Children and Young People. (2022). Support for Children of Imprisoned Parents in New South Wales. Parliament of New South Wales.
- Haysom, L., Indig, D., Moore, E., & Gaskin, C. (2014). Intellectual disability in young people in custody in New South Wales, Australia - prevalence and markers. *Journal of Intellectual Disability Research*, 58(11), 1004–1014. <https://doi.org/10.1111/jir.12109>
- Bower, C., Watkins, R. E., Mutch, R. C., Marriott, R., Freeman, J., Kippin, N. R., Safe, B., Pestell, C., Cheung, C. S. C., Shield, H., Tarratt, L., Springall, A., Taylor, J., Walker, N., Argiro, E., Leitão, S., Hamilton, S., Condon, C., Passmore, H. M., & Giglia, R. (2018). Fetal alcohol spectrum disorder and youth justice: A prevalence study among young people sentenced to detention in western australia. *BMJ Open*, 8(2). <https://doi.org/10.1136/bmjopen-2017-019605>
- Young, M., Ali, M. M., Trounson, J., & Shepherd, S. (2025). Understanding the Social and Emotional Wellbeing factors protecting Aboriginal and Torres Strait Islander young people from

- justice system involvement. *Psychiatry, Psychology and Law*, 1–21.
<https://doi.org/10.1080/13218719.2025.2497782>
- Black, C., Frederico, M., & Bamblett, M. (2024). “Healing through culture”: Aboriginal young people’s experiences of social and emotional wellbeing impacts of cultural strengthening programs. *Child Abuse & Neglect*, 148(1), 1–13. <https://doi.org/10.1016/j.chiabu.2023.106206>
 - Young, M., Ali, M. M., Trounson, J., & Shepherd, S. (2025). Understanding the Social and Emotional Wellbeing factors protecting Aboriginal and Torres Strait Islander young people from justice system involvement. *Psychiatry, Psychology and Law*, 1–21.
<https://doi.org/10.1080/13218719.2025.2497782>
 - Snowball, L. (2008). Diversion of Indigenous juvenile offenders. *Trends & Issues in Crime and Criminal Justice*, No. 355.
 - Cunneen, C., White, R. and Richards, K. (2015) *Juvenile Justice: Youth and Crime in Australia*, 5th edition, pg. 154 - 159, Oxford: Melbourne.
 - BOSCAR. (2025). NSW Closing the Gap Target 11 Quarterly Report. Bureau of Crime Statistics and Research.
 - Justice and Equity Centre. (2024). Submission to the Law Enforcement Conduct Commission – Bail compliance checks in NSW – Issues Paper (p. P.g. 24).
 - Redfern Legal Centre. (2023, July 31). First Nations People Bear the Brunt of NSW Police Use of Force | Redfern Legal Centre. Redfern Legal Centre. <https://rlc.org.au/news-and-media/media-releases/first-nations-people-bear-brunt-nsw-police-use-force>
 - Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission . (2018). Media Release: Ensuring Effective Police Oversight in NSW. Parliament of New South Wales.
 - Law Enforcement Conduct Commission. (2024). Analysis of complaints made by or on behalf of Aboriginal and Torres Strait Islander People - An Observations Paper.
 - Police Act 1990 (NSW) S. 132
 - NSW Government. (2021). NSW Government response: Select Committee on the High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody. NSW Parliament.
 - Young Offenders Act 1997 (NSW)
 - Snowball, L. (2008). Diversion of Indigenous juvenile offenders. *Trends & Issues in Crime and Criminal Justice*, No. 355.
 - Cunneen, C., White, R. and Richards, K. (2015) *Juvenile Justice: Youth and Crime in Australia*, 5th edition, pg. 154 - 159, Oxford: Melbourne.
 - Juvenile offenders and post release support. *Current Issues in Criminal Justice*, 19(2), 197–210.
 - Cunneen, C., & Tauri, J. (2017). *Indigenous criminology*. Bristol: Policy Press.
 - Brown, L. (2012). The Criminalization of Conduct: Indigenous Youth in the Criminal Justice System. *Indigenous Law Bulletin*, Vol. 7(28), p. 8.
 - Clancey, G., Wang, S., & Lin, B. (2020). *Youth Justice in Australia: Themes from Recent Inquiries*. Australian Institute of Criminology.
 - Holland, L., Lee, C., Toombs, M., Smirnov, A., & Reid, N. (2024). Resisting the incarceration of Aboriginal and Torres Strait Islander children: A scoping review to determine the cultural responsiveness of diversion programs. *First Nations Health and Wellbeing - the Lowitja Journal*, Vol. 2.
 - Chen S, Matruglio T, Weatherburn D and Hua J (2005) ‘The Transition from Juvenile to Adult Criminal Careers’, *Crime and Justice Bulletin* No 86, NSW BOCSAR.
 - Akpanekpo, E. I., Azar Kariminia, Preeyaporn Srasuebkul, Trollor, J. N., Kasinathan, J., Greenberg, D., Schofield, P. W., Kenny, D. T., Gaskin, C., Simpson, M., Jones, J., Ekanem, A. M., & Butler, T. (2024). Criminal justice transitions among adolescents in Australia: A multi-state model. *Journal of Criminal Justice*, 92, 102189–102189.
<https://doi.org/10.1016/j.jcrimjus.2024.102189>
 - Trimboli, L. (2000). An Evaluation of the NSW Youth Justice Conferencing Scheme. NSW Bureau of Crime Statistics and Research.
 - Bolitho, J. (2005). Creating space for young people, dialogue and decision making: youth justice conferencing in New South Wales Australia. (pp. 30–32).
 - Blagg, H. (2001) *Aboriginal Youth and Restorative Justice: Critical Notes from the Australian Frontier*. In A. Morris and G. Maxwell (eds.) *Restorative Justice for Juveniles Conferencing, Mediation and Circles*, Oregon: Hart Publishing.

- University of NSW Sydney. (n.d.). Children and young people | Yuwaya Ngarra-li Partnership - UNSW Sydney. UNSW Sites. <https://www.unsw.edu.au/walgett-partnership/current-programs/children-and-young-people>
- MacGillivray, P., Sands, Z., McCausland, R., Spencer, W., & Miller-Dawkins, M. (2024). Yuwaya Ngarra-li Briefing Paper: Lessons from the Two River Pathway to Change Diversion Model 2018–2023.