

**Submission
No 49**

COMMUNITY SAFETY IN REGIONAL AND RURAL COMMUNITIES

Organisation: ANTAR

Date Received: 14 May 2024



Submission: Community safety in regional and rural communities (NSW)

With thanks: This submission was authored by Ms Jessica Johnston, ANTAR Research and Policy Officer.

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Email: hello@antar.org.au

Phone: 02 9280 0060

PO Box 77

Strawberry Hills NSW 2012

ANTAR is proud to acknowledge and pay our respects to First Nations Peoples as the traditional owners of the lands on which we work across the continent.

About ANTAR

ANTAR is a national advocacy organisation working for Justice, Rights and Respect for Australia's First Nations Peoples. We do this primarily through campaigns, advocacy, and lobbying.

ANTAR is campaigning for the implementation of the Uluru Statement from the Heart, now focused on the establishment of a Makarrata Commission to oversee national agreement making and truth-telling as well as processes that promote the agency of First Nations people. We actively support State and Territory-based voice, treaty and truth-telling processes.

We also engage in national advocacy across various policy and social justice issues affecting Aboriginal and Torres Strait Islander communities, including cultural heritage protection; justice reinvestment, over-incarceration and raising the age of criminal responsibility; anti-racism campaigns, native title and land rights, and closing the life equality gap.

ANTAR is a foundational member of both the Close the Gap Campaign and Change the Record Campaign Steering Committee, and an organisational and executive committee member of Just Reinvest NSW. ANTAR has been working with Aboriginal and Torres Strait Islander communities, organisations and leaders on rights and reconciliation issues since 1997. ANTAR is a non-government, not-for-profit, independently funded and community-based organisation.

“In this environment, black children are never afforded a chance to achieve their potential, to grow up safe and strong in culture and community: instead, they are only seen as ‘criminals’, and ‘perpetrators’, rather than what they are: children.”

Dr Amy McQuire¹

Introduction

Thank you for the opportunity to provide commentary on the Committee on Law and Safety’s Inquiry into community safety in regional and rural communities in NSW.

As a foundational member of the Change the Record Campaign, and an organisational and executive committee member of Just Reinvest NSW, ANTAR has long campaigned on issues of youth justice. ANTAR is a trusted non-partisan advocacy organisation working for justice, rights and respect for First Nations Peoples. We are particularly interested in the processes and outcomes of the NSW Government's commitment to working in true partnership with First Nations people, including where it concerns the development of an improved and coordinated approach to matters of early intervention, prevention and diversion of Aboriginal and Torres Strait Islander children from the criminal justice system (CJS).

We note that the Inquiry’s focus, in name, is centred on community safety in regional and rural communities, while almost all of the terms of reference relate exclusively to youth crime. This is a clear attempt by the NSW Government to vilify and criminalise ‘at risk’ children, and in particular Aboriginal and Torres Strait Islander children.

¹ Amy McQuire, "[They don't care about community safety. They care about cops and cages](#)": Outrage at Qld's racist laws that will only lock up more black kids, *Black Justice Journalism*, 24 August 2023.

Too often, including in this Inquiry, community safety is positioned as at odds or in conflict with the behaviour of children and young people, with the latter being treated as a threat to community safety. ANTAR wishes to point out that this construction of youth as a 'problem population' underpinning the current NSW Government's 'tough on crime' approach neither adequately supports youth nor contributes to community safety and crime reduction.

Research on young people and crime in rural communities suggests that a paradigm shift is required away from 'youth as trouble' – which emphasises a need to control young people – and toward 'youth in trouble', which invokes a need to better understand, protect and support the unique needs of young people, particularly those facing intersectional patterns of disadvantage.² Furthermore, research suggests that youth participation in community life can significantly reduce the incidence of crime, where crime is understood to be situated within and influenced by social structures and conditions.³ In other words, crime is largely an individual's response to their environment.

Truly healthy, safe and thriving communities are those that treat their young people with dignity and respect, including the provision of needs-based therapeutic and diversionary support systems for youth *in* trouble. In this sense, ANTAR objects to the framing of young people – particularly Aboriginal and Torres Strait Islander young people – as a threat to community safety and challenges the NSW Government to ask a different question: in what ways is society failing to provide youth with the support, services and opportunities they need to become healthy, safe and successful members of their communities, and how can we change this?

First Nations children too frequently find themselves the victim of society's failure to design and deliver better child-centric and trauma-informed therapeutic systems, with government's historically focusing on statutory punitive crime-prevention responses rather than diversionary options. Our

² Elaine Barclay, Russell Hogg & John Scott, 'Young people and crime in rural communities' in Hogg, R, Scott, J, Barclay, E, & Donnermeyer, J (Eds.) *Crime in rural Australia*. The Federation Press, Australia, (2007): 107.

³ Mark Halsey, [Social explanations for crime](#). In A. Goldsmith, M. Israel, & K. Daly (Eds.) *Crime and justice: a guide to criminology*, Thomson pp 89-112

children, no matter how complex their needs, are not the problem; rather, the spotlight needs to be turned on the punitive, short-sighted and often discriminatory policies and practices that are driving First Nations young people into the CJS.

Summary of Recommendations

1. Raise the minimum age of criminal responsibility (MACR) from 10 to 14 with no exceptions or carve outs, and ensure that no children under the age of 16 are sentenced to detention or subjected to remand or watch-houses of any kind;
2. Repeal the recently created 'performance crime' offence in the *Crimes Act 1900* (NSW) and reform the *Bail Act 2013* (NSW) to remove the temporary additional bail test for young people between 14 and 18 charged with committing a motor offence or serious breaking and entering offence whilst on bail for a similar such offence;
3. Prioritise and be led by the principle of First Nations self-determination, including the sustainable resourcing of First Nations-led organisations who are trusted to respond to justice-involved and at risk First Nations children in regional and remote communities;
4. Ensure access to and better sustainable resourcing and funding of community based wraparound and diversionary support services in regional and remote areas, with particular attention paid to ensuring all First Nations young people in regional and rural areas have access to trauma-informed and culturally responsive 'On Country' diversion programs;
5. Amend NSW legislation to favour pre-charge referrals to diversionary programs using 'On Country' support models, prioritising diversion as a response to all offending by children and young people in NSW. Update policing practices – including in the NSW Police Force Handbook – to ensure clear guidance for police officers on how to issue cautions and refer First Nations children to appropriate diversionary services;
6. With respect to sentencing of First Nations children, expand the use and availability of culturally safe First Nations sentencing courts (Youth Koori

Court) as well as the use of circle sentencing and other First Nations-led restorative justice approaches which have been proven to reduce recidivism and the probability of being sentenced to a juvenile control order (JCO);⁴

7. Utilise a relational, whole-of-community response that builds on existing community strengths, addresses needs holistically and prioritises collaboration, including with young people themselves;
8. Prioritise the delivery of targeted locally-based police training regarding First Nations cultural awareness and responsiveness, as well as trauma-informed practice, as per the NSW Police Force Aboriginal Strategic Direction (ASD). In particular, ensure the completion of Level 2 face-to-face 'Working With Aboriginal Communities' course is mandatory for all NSWPF employees, not just those in ASD reporting commands;
9. Redirect the current NSW Police incentives to community services staff who are trained in the delivery of culturally safe diversionary programs so that they can transfer to or remain in regional and rural areas, with a particular emphasis on upskilling First Nations individuals with lived experience of the CJS;
10. Invest in holistic, place-based and trauma-informed First Nations-designed and led youth programs that address the social, emotional, relational, employment and educational needs of First Nations children using a justice reinvestment approach;
11. Sustainably fund and mandate the use of non-police first responders for First Nations children in regional and remote areas, including Aboriginal community-controlled organisations (ACCOS), youth night patrols and other culturally appropriate services, in order to limit the criminalisation of social issues and connect children with diversionary programs and supports they need;

⁴ Evarn J. Ooi and Sara Rahman, '[The impact of the NSW Youth Koori Court on sentencing and re-offending outcomes](#)', NSW Bureau of Crime Statistics and Research, Crime and Justice Bulletin Number 48 (April 2022): 1.

12. Actively include the voices and needs of First Nations children in decision-making bodies and processes with respect to the design and delivery of diversionary programs;⁵ and
13. Closely examine the recommendations from the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) and, where relevant, adapt and adopt them in NSW.

Policy context

First Nations Peoples in Australia, as a percentage of the population, are the most incarcerated peoples across the globe – making up just 3% of the Australian population but 33% of the prison population as of June 2023.⁶ The over-representation of young First Nations people in the criminal justice system (CJS) in particular is well known. Across Australia, Aboriginal and Torres Strait Islander children are 4.5 times more likely to be driven into the CJS than their non-Indigenous counterparts.⁷ A substantial body of research has consistently shown that criminal justice institutions tend to target and trap First Nations people in ongoing cycles of re-imprisonment.⁸ This is particularly true – and particularly damaging – for First Nations children, for whom contact with the CJS in their early life often reinforces an intergenerational cycle of poverty, instability and incarceration.⁹

Unfortunately, these national statistics are reflected in NSW, with First Nations children in NSW 24 times more likely to be in custody on any given day than non-Aboriginal children and 14 times more likely to be under supervision in the community.¹⁰ Despite making up just 6.2% of those aged 10-17 in the general

⁵ Recommendation 9 from [Aboriginal Legal Service \(NSW/ACT\) Submission](#) to the Inquiry into the adequacy of youth diversionary programs in NSW (2018): 3.

⁶ [‘Prisoners in Australia’](#), Australian Bureau of Statistics, 25 January 2024.

⁷ Allard T et al. [‘Police diversion of young offenders and Indigenous over-representation’](#), *Trends & issues in crime and criminal justice* no. 390. Canberra: Australian Institute of Criminology (2010): 4.

⁸ Chris Cunneen, ‘Surveillance, Stigma, Removal: Indigenous Child Welfare and Juvenile Justice in the Age of Neoliberalism’, *Australian Indigenous Law Review*, vol. 19, no. 1, (2015): 42

⁹ Donald, B. B. ‘Effectively addressing collateral consequences of criminal convictions on individuals and communities’ *Criminal Justice*, vol. 30, no. 4 (2016): 33.

¹⁰ Peter Murphy, Anthony McGinness, Andrew Balmaks, Tom McDermott, Tom and Megan Corriea, [A Strategic Review of the New South Wales Juvenile Justice System Report for the Minister for Juvenile Justice](#), Noetic Solutions (2010):

population, young First Nations people make up a staggering 52% of the population of children under community supervision in NSW.¹¹ Given that First Nations children are not inherently criminal, what these statistics reflect is the racialised and differential treatment of First Nations individuals within the CJS – starting with community interactions and first contact with police.

This reality is further shaped by young people's geographic location and other intersectional factors, with young people from rural areas, and particularly First Nations young people, over-represented in the CJS.¹² In NSW, slightly more than one-quarter of children aged between 10 and 19 years live in a rural community, with First Nations children under community supervision or in detention more likely than non-Indigenous children to have lived in rural and remote areas.¹³

Research on the risk profiles of justice-involved young people from rural and urban communities in Australia found that First Nations justice-involved children were more likely to come from rural areas (despite most First Nations children living in cities), whereas non-Indigenous justice-involved children were more likely to live in urban areas.¹⁴ Despite their over-representation in the CJS, First Nations children in rural areas do *not* have higher overall levels of assessed risk of offending than those in urban areas.¹⁵ This is a significant finding.

These seemingly paradoxical findings suggest that an overly simplistic and one-size-fits-all approach to youth crime in regional and rural areas, particularly when it involves First Nations children, will not work. Despite being consolidated into umbrella terms for statistical and policy purposes, rural, regional and remote communities – and the needs of their populations and young people – differ substantially, and should not be lumped together when it

¹¹ [Youth justice in Australia 2022–23](#), Australian Institute of Health and Welfare, Australian Government, 28 March 2024.

¹² Luke Butcher, Andrew Day, Debra Miles, and Garry Kidd, '[A Comparative Analysis of the Risk Profiles of Australian Young Offenders From Rural and Urban Communities](#)', *International Journal of Offender Therapy and Comparative Criminology*, 63(14), (2019): 1.

¹³ [Youth justice in Australia 2018–19](#), Australian Institute of Health and Welfare, Australian Government, 15 May 2020.

¹⁴ Luke Butcher, Andrew Day, Debra Miles, and Garry Kidd, '[A Comparative Analysis of the Risk Profiles of Australian Young Offenders From Rural and Urban Communities](#)', *International Journal of Offender Therapy and Comparative Criminology*, 63(14), (2019):

¹⁵ *ibid*

comes to legislative and policy solutions to problems like 'youth crime'.¹⁶ While principles of best practice can and should be applied across NSW, it is crucial that the individual needs and strengths of particular communities and their young people are reflected in policy making.

Similarly, a myopic focus on the individual behaviours of children at the expense of addressing the structural, environmental and ecological factors which contribute to their risk of being pushed into the CJS will continue to produce the same undesired results. Particularly where it concerns First Nations children, a range of sociopolitical factors such as marginalisation as a minority group, impact of colonisation and resulting dispossession, and social disadvantage contribute to CJS involvement.¹⁷ These do not tend to be adequately identified in commonly used risk assessment approaches such as the YLS/CMI-AA.¹⁸

It is ANTAR's view that until and unless the NSW Government properly addresses and remedies the foundational ways in which the structure of colonisation and its related, ongoing trauma – including forced removal from Country, disconnection from culture, separation of families (including through incarceration and child removals) and damage to family structures, exposure to racism, and witnessing and experiencing violence¹⁹ – trigger and underpin youth crime, policy and legislative changes will be limited and incomplete.

Furthermore, ANTAR urges the NSW Government to apply a holistic lens to understanding youth crime, in which the crime itself is a young person's response to their environment, and one which often comes at the end of a long trajectory of other unmet needs, unresolved trauma and environmental factors such as increased policing, surveillance and discrimination. Research suggests that additional non-individual factors such as differences between urban and

¹⁶ Butcher et al, 'A comparative analysis', 2.

¹⁷ Luke Butcher, Andrew Day, Debra Miles, and Garry Kidd, [A Comparative Analysis of the Risk Profiles of Australian Young Offenders From Rural and Urban Communities](#) (2019): 7.

¹⁸ Ilana Lockwood, Michele Peterson-Badali and Fred Schmidt, 'The Relationship Between Risk, Criminogenic Need, and Recidivism for Indigenous Justice-Involved Youth', *Criminal Justice and Behavior*, Volume 45 Issue 11 (2018)

¹⁹ ['The answers were there before white man come in'](#): Stories of strength and resilience for responding to violence in Aboriginal and Torres Strait Islander communities (2020): 15.

rural policing and greater visibility of First Nations children in rural communities contribute to higher involvement of rural youth in the CJS and in particular to the over-representation of First Nations children and youth.²⁰

Existing NSW policies

It must be said that the NSW Government, despite its commitments under the Closing the Gap National Agreement to reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30 per cent, continues to advance policies and legislative changes which directly contradict and undermine its stated goals and exacerbate the already crisis-level over-representation of First Nations children who are incarcerated. These policies also go against several international human rights instruments,²¹ as well as an overwhelming body of research on child development, criminology and recidivism.

The recent tightening of bail laws, for example, along with the newly created 'performance crime' offence in the *Crimes Act 1900* (NSW) – which imposes an additional penalty of two years' imprisonment for young people who commit motor vehicle theft or break and enter offences and share material to advertise their involvement in the criminal behaviour²² – are short sighted and misguided. Far from increasing community safety and wellbeing, these punitive legislative changes will simply see more children unable to meet their bail conditions, and disproportionately more First Nations young people detained. This will further entrench the intergenerational disadvantage that First Nations children experience as a result of systemic discrimination, and will pose even greater challenges to community safety and wellbeing in the long-term.

While we understand the varied and complex pressures on the NSW Government to respond to regional communities' demand for greater safety –

²⁰ Luke Butcher, Andrew Day, Debra Miles, and Garry Kidd, [A Comparative Analysis of the Risk Profiles of Australian Young Offenders From Rural and Urban Communities](#) (2019): 13.

²¹ In particular the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Convention on the Rights of the Child.

²² [New bail and performance crime laws passed to prevent youth crime](#), NSW Government Attorney General, 22 March 2024.

including pressure from farmers and landholders whose properties and businesses are being affected – enacting harmful ‘law and order’ legislative changes only gives the illusion of solving a problem which we cannot arrest and detain our way out of. Law and order measures consistently fail to address the deep structural causes of youth offending.²³

ANTAR reminds the Committee on Law and Safety that once bail is denied, children are more likely to be trapped in the CJS. A lack of appropriate services to support young people to obtain bail and meet bail conditions has been found to potentially contribute towards the high number of young people on custodial remand, particularly for Aboriginal and Torres Strait Islander young people and young people from regional or remote areas.²⁴ ANTAR is particularly concerned with the detention of children for offences for which they will not ultimately receive a custodial penalty, with detention of children always being an option of last resort under the *Children (Criminal Proceedings) Act 1987* (NSW). We note that any arrest or detention of a child that is not used only as a measure of last resort and for the shortest appropriate period of time is in direct contravention of the UN Convention on the Rights of the Child under Article 37 (b), which Australia has ratified.²⁵

We note that the NSW Government believes this new ‘post and boast’ offence will target performance crime, where offenders post footage of their law-breaking online.²⁶ ANTAR understands this reasoning is based on the logic of deterrence. The vast research on youth crime and detention from a legal, criminological and neuroscientific perspective, however, is very clear that there is scant evidence that deterrent sentencing works for children, and that the principles that underpin deterrent sentencing are in fact at odds with the way children make decisions.²⁷

²³ Elaine Barclay, Russell Hogg & John Scott, ‘Young people and crime in rural communities’ in Hogg, R, Scott, J, Barclay, E, & Donnermeyer, J (Eds.) *Crime in rural Australia*. The Federation Press, Australia, (2007): 12.

²⁴ Inquiry into Adequacy of Youth Diversionary Programs in NSW, Mission Australia (2018): 22.

²⁵ [Convention on the Rights of the Child](#), United Nations Human Rights Office of the High Commissioner (1989).

²⁶ [New bail and performance crime laws passed to prevent youth crime](#), NSW Government [media release], 22 March 2024.

²⁷ Thomas Crofts, Enys Delmage and Laura Janes, ‘[Deterring Children From Crime Through Sentencing: Can It Be Justified?](#)’, *Youth Justice*, 23(2), (2023), 182-200. For a comprehensive review of the deterrent

Furthermore, research shows that the earlier a child is exposed to the CJS, the more likely they are to reoffend,²⁸ meaning the criminalisation of young people makes the community *less* safe.²⁹ A study on peer influence found that detention of youth increases exposure to peers facing similar challenges and decreases exposure to positive adult interaction, failing to reduce recidivism and in fact exacerbating it.³⁰ Likewise, research on labelling theory suggests that adolescents who are convicted for 'delinquent' behaviour may undergo a process of stigmatisation, alteration of personal identity, reduced prosocial opportunities and increased association with peers engaged in problematic behaviour, all of which can contribute to further criminal behaviour.³¹

More recent research on justice-involved rural youth supports this claim, with results suggesting that rural youth who have been arrested are significantly more likely to withdraw from or be rejected by 'normative' peers (that is, friends who have not been engaged with the CJS), often 'hardening' the stigma attached to CJS involvement.³²

Simply put, the vast body of evidence is clear that the current punitive 'tough on crime' approach not only does not work, it increases the chances that young people will re-offend. In light of this, ANTAR urges the NSW Government to stop capitulating to pressure from sections of the NSW population who are pushing for a law and order approach to community safety in regional and rural areas without a deep understanding of what truly contributes to, and undermines, it.

effect of detention (or lack thereof), see Don Weatherburn Sumitra Vignaendra Andrew McGrath, ['The specific deterrent effect of custodial penalties on juvenile re-offending'](#), *Report to the Criminology Research Council* (February 2009).

²⁸ ['Review of the age of criminal responsibility'](#), Australian Human Rights Commission (26 February 2020): 11.

²⁹ Ben Smee, ['Australians urged to ditch 'tough on crime' mindset for youth justice as it does not work'](#), *The Guardian*, 25 January 2023.

³⁰ Mary Gifford-Smith, Kenneth A. Dodge, Thomas J. Dishion and Joan McCord, ['Peer Influence in Children and Adolescents: Crossing the Bridge from Developmental to Intervention Science'](#), *Journal of Abnormal Child Psychology*, 33(3), (2009): 255–265.

³¹ Murray, J., Blokland A., Farrington D.P., Theobald D., 'Long term effects of conviction and incarceration on men in the Cambridge Study in Delinquent Development' in *Labeling Theory* (eds. Farrington, D.P. and Murray, J). Transaction Publishers (2014): 210.

³² Zachary R. Rowan, Adam Fine, Laurence Steinberg, Paul J. Frick, Elizabeth Cauffman, ['Labeling effects of initial juvenile justice system processing decision on youth interpersonal ties'](#), *Criminology*,

Instead, any government serious about improving community wellbeing in a transformative and sustainable way must:

- a) raise the minimum age of criminal responsibility to 14, without exception;
- b) invest in ensuring greater regional and remote access to culturally responsive diversionary and justice reinvestment programs (including to early intervention services);
- c) develop meaningful and effective community-based alternatives to policing, particularly focused on culturally safe first responders for First Nations youth;
- d) commit to public education that raises awareness about the importance of restorative, trauma-informed and needs-based rehabilitative care – as opposed to arrests and detention – as the solution; and
- e) make the necessary investments in solving the structural challenges of socioeconomic disadvantage, barriers to employment and education, lack of social opportunities and discrimination which contribute to youth justice involvement.

Raising the age

The aforementioned punitive measures are further exacerbated by the NSW Government's inaction on raising the minimum age of criminal responsibility from 10 to 14 despite overwhelming evidence to support this decision. Raising the age is in fact a key strategy in a coordinated approach to divert youth from crime and away from contact with the CJS.³³

In 2019, the United Nations Committee on the Rights of the Child (CRC) urged Australia to bring its child justice system fully into line with the Convention on the Rights of the Child by raising the MACR to 14.³⁴ The CRC supports a MACR of at least 14 years of age with no exceptions or conditions, a decision that is supported by a large volume of documented evidence in the fields of child development, psychology and neuroscience which show that the areas of the

³³ Inquiry into the adequacy of youth diversionary programs in NSW, Parliament of Australia, [Public Interest Advocacy Centre submission no. 15](#) (2018): 13.

³⁴ [Concluding observations on the combined fifth and sixth periodic reports of Australia](#), UN Committee on the Rights of the Child, 1 November 2019: 14.

brain responsible for higher function – including planning, reasoning, judgement and impulse control – are not fully developed until a person is in their early 20s.³⁵ Children under the age of 14 have not yet developed the social, emotional and intellectual maturity to properly understand the ramifications of their actions and thus cannot be considered criminally responsible.³⁶

As part of its efforts to increase community safety in regional and remote areas, ANTAR urges the NSW Government to raise the age to 14 as a minimum with no exceptions, and to ensure that no children under the age of 16 are sentenced to detention or subjected to remand or watch-houses of any kind.

With respect to First Nations children, who are disproportionately impacted by the current MACR, the Standing Council of Attorneys-General (SCAG) Age of Criminal Responsibility Working Group Report very clearly states that MACR reform is particularly vital for the safety and wellbeing of First Nations peoples and communities. Following the SCAG report, ANTAR urges the NSW Government, as part of raising the age, to prioritise and be led by the principle of First Nations self-determination. This must necessarily include the long term sustainable resourcing of a strong and well-supported ACCO sector who are trusted to respond to Aboriginal and Torres Strait Islander children displaying negative behaviours or who have complex needs.³⁷

Justice reinvestment

A vast network of service providers, community organisations, NGOs and programs exist across NSW to support children at risk of offending, many of which operate from a holistic and preventative justice reinvestment approach. This approach seeks to address the root causes of offending and contact with the CJS and works on the principle that early intervention, prevention and

³⁵ Gluckman & Hayne [Improving the Transition: Reducing Social and Psychological Morbidity During Adolescence](#), Office of the Prime Minister's Science Advisory Committee (2011): 24–25

³⁶ Sophie Trevitt and Bill Browne, [Raising the Age of criminal responsibility discussion paper](#), The Australia Institute (July 2020): 11.

³⁷ Age of Criminal Responsibility Working Group Report (2023): 31.

rehabilitation are far more effective – and cheaper – than continuing to imprison the most marginalised members of our communities.³⁸

In NSW, the Bourke Maranguka Justice Reinvestment project³⁹ has recorded a 38% reduction in charges across the top five juvenile offence categories, with an impact assessment finding the project achieved savings of \$3.1 million in 2017.⁴⁰

ANTAR commends the NSW Government on its roll out of \$7.5 million in justice reinvestment grants for community-led First Nations programs and reiterates the importance of continuing to adequately fund and expand this preventative and rehabilitative approach across the state, including by supporting communities to identify and access flexible and sustainable funding from different sources.⁴¹ It is also crucial that funding is provided for early-stage community-led processes aimed at determining justice reinvestment readiness.⁴²

The many place-based models of justice reinvestment across the state are clear evidence that there *are* working solutions to reducing crime, creating safer and stronger communities, meeting the needs of children and young people and addressing the shocking over-representation of First Nations children in criminal justice systems. With sustainable and secure resourcing and funding, this network of organisations are ready and able to do the work of reducing youth crime and increasing community safety under a raised MACR, working along the spectrum of CJS involvement from early intervention through to post-release support. For a full list, including a list of First Nations-led place-based approaches, we strongly recommend the Committee refer to the Justice Reform Initiative's March 2024 report, [Alternatives to Incarceration in NSW](#).

³⁸ [Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples](#), Australian Law Reform Commission Report 133 (2017): 131.

³⁹ [Justice Reinvestment in Bourke](#), Just Reinvest

⁴⁰ Lorana Bartels, '[Australian governments should follow the ACT's lead in building communities, not prisons](#)', The Conversation, 21 February 2019.

⁴¹ [Feedback for the Attorney General's Department \(AGD\) on national justice reinvestment \(JR\) funding roll-out](#), Justice Reinvestment Network Australia (September 2022): 3.

⁴² *ibid*

Terms of reference

In what follows, we will address terms of reference a), b), c) and f).

a) Drivers of youth crime / protective factors

We note that the Inquiry's first term of reference seeks to better understand the drivers of youth crime in regional and rural areas in NSW. While we will address these below, we wish to point out the critical need for research and policy solutions – particularly when considering First Nations children in regional and rural communities who are at risk of justice-involvement – that are holistic, culturally relevant and strengths-based. As such, we urge the NSW Government in its policymaking to consider and be guided by the many First Nations-led solutions on protective and positive cultural factors which lower the risk of First Nations children being driven into the CJS.

For example, research suggests that culturally specific protective factors for First Nations youth include cultural resilience and supportive family environments, personal characteristics that facilitate self-esteem and confidence, family characteristics based on strong attachment and social bonds, and a positive sense of cultural identity.⁴³

Furthermore, we wish to note that while it is important to pay attention to and, where possible, mitigate individual risk factors for youth at risk of CJS involvement, research suggests that the clearest indicators of risk of interaction with the criminal legal system are overwhelmingly structural and environmental.⁴⁴ That is, poverty and inequality, lack of access to housing and employment, as well as interaction with the child protection system and family

⁴³ Troy Allard, '[Understanding and preventing Indigenous offending](#)', Indigenous Justice Clearinghouse (2010) as cited in Indigenous young people in the juvenile justice system, Australian Institute of Health and Welfare, Bullet 109 (November 2012): 4. See also: Homel, R., Lincoln, R. and Herd, B., 'Risk and Resilience: Crime and violence prevention in Aboriginal communities', 32 (2) *The Australian and New Zealand Journal of Criminology*, (1999): 189.

⁴⁴ '6.1 Drivers of incarceration' in [Wiyi Yani U Thangani \(Women's Voices\): Securing Our Rights, Securing Our Future Report](#), Australian Human Rights Commission (2020): 167.

violence (itself a symptom of the intergenerational trauma that has been caused by the ongoing structure of settler-colonialism in Australia).⁴⁵

Thus it is ANTAR's position that any attempt to improve regional and rural community safety must prioritise and be driven by social supports and programs that address root causes of social disadvantage as led by First Nations youth, families and communities themselves. These strategies should be accompanied by systemic reform to – or abolition of – paternalistic, punitive and discriminatory systems of child protection, policing and youth detention, which never have and never will solve issues of poverty and disadvantage.

Understanding risk and protective factors in youth crime

The individual contributors to children engaging in crime in rural areas are similar in many ways to those in urban areas: socioeconomic stress, family breakdown, quality of parent/child relationships, abuse and neglect, neuro-disability, negative experiences at school, peer pressure, and substance use.⁴⁶ There are, in addition, structural aspects of contemporary regional and rural life that impose intersecting layers of social vulnerabilities and pressures onto children (and which disproportionately impact First Nations children), often leading to justice involvement, including:

- a) over-policing and high visibility
- b) lack of service delivery and support
- c) lack of economic and social opportunities
- d) barriers to education and employment, including lack of access due to limited or no public transport
- e) lack of access to early intervention and diversionary services
- f) discrimination, including systemic racism

We will comment on these selectively below.

Over-policing and high visibility

⁴⁵ '[Intergenerational trauma & family violence in Aboriginal & Torres Strait Islander communities](#)', Professor Victoria Hovane, and Dr Mark Wenitong, ANROWS keynote address, 2018.

⁴⁶ Elaine Barclay, Russell Hogg & John Scott, 'Young people and crime in rural communities' in Hogg, R, Scott, J, Barclay, E, & Donnermeyer, J (Eds.) *Crime in rural Australia*. The Federation Press, Australia (2007): 1.

“Whenever police see me, they just see a suspect. It leaves you with a sense of distrust, and you start to feel down about yourself as to why you are treated poorly by them when you’ve done nothing wrong to begin with.”

Participant, Mounty Yarns

Research suggests that the small populations and high levels of mutual recognition in regional and rural communities lead to more visibility of young people’s activities and, in many cases, more surveillance and over-policing.⁴⁷ In addition, young people’s activities tend to be conducted in public spaces, with youth often ‘hanging out’ in groups in and around commercial areas and thus more likely to attract the attention of other residents as well as police, irrespective of whether their behaviour is considered ‘antisocial’.⁴⁸ This is particularly concerning for First Nations young people, who are already disproportionately targeted by police, and who both have a greater chance of being prosecuted by police and a lower chance of receiving a caution than non-Indigenous youth.⁴⁹

The vast over-representation of First Nations children at all stages of the CJS is widely recognised as beginning with disproportionate police intervention.⁵⁰ Police function as ‘gate-keepers’ whose discretion wields the power to control who will enter the system and how they will enter, often to the disadvantage of First Nations children.⁵¹ Research shows that police intervene in situations involving First Nations people in “unnecessary and provocative ways”, particularly for minor or non-violent offences.⁵² First Nations children are 2.9

⁴⁷ Barclay et al. ‘Young people’, 1.

⁴⁸ Barclay et al. ‘Young people’, 8.

⁴⁹ Luke and Cunneen 2001: 134.

⁵⁰ [‘Seen and heard: priority for children in the legal process’](#) Australian Law Reform Commission Report 84 (1997)

⁵¹ Chris Cunneen, Barry Goldson, Sophie Russell, ‘Juvenile Justice, Young People and Human Rights in Australia’ *Current Issues in Criminal Justice* 23 (2016): 173.

⁵² For more on the role of policing in Indigenous incarceration see Chris Cunneen, *Conflict, Politics and Crime: Aboriginal Communities and the Police*, Allen & Unwin (2001)

times less likely to be cautioned than they are to appear in court.⁵³ This suggests that for First Nations children, preventing initial contact with police is paramount.

It is of particular concern to ANTAR, then, that the NSW Government is already taking steps to increase the number of police officers in NSW, especially in regional areas.⁵⁴

Barriers to education and employment

Young people living in regional and rural communities in NSW experience greater challenges to thrive in education or find employment. Research by the Brotherhood of St Laurence found that 17 of the 20 postcodes with the highest rates of youth unemployment were in regional or remote Australia.⁵⁵ In NSW, the Hunter Valley and Mid North Coast regions have youth unemployment rates that are respectively more than nine and seven percentage points higher than the state average.⁵⁶ Similarly, a 2021 study on community-based options for reducing youth crime in NSW found that the top two most common risk factors for involvement in crime or with the juvenile justice system were school absence and unemployment.⁵⁷

For young people in regional and rural areas, restricted mobility due to a lack of public transport presents an additional barrier to their access to educational opportunities and employment, as well as to social, recreational and entertainment activities.⁵⁸ In fact, BOCSAR's Crime in Regional and Rural NSW in 2023: Trends and Patterns report itself states that regional vehicle theft is more likely to be opportunistic and often for the purpose of transport.⁵⁹ It is worth

⁵³ Troy Allard *et al.* 'Police diversion of young offenders and Indigenous over-representation'. *Trends & issues in crime and criminal justice* no. 390. (2010): 4.

⁵⁴ Minister for Police and Counter-terrorism Yasmin Catley, in '[NSW Government takes action to make communities safer and support young people in regions](#)', NSW Government [press release], 12 March 2024.

⁵⁵ [Australia's youth unemployment hotspots: snapshot](#), Brotherhood of St Laurence (2016): 3.

⁵⁶ *Ibid*, 4.

⁵⁷ Kim Edmunds, Laura Wall, Scott Brown, Andrew Searles, Anthony P. Shakeshaft and Christopher M. Doran, '[Exploring Community-Based Options for Reducing Youth Crime](#)' *International Journal of Environmental Research and Public Health* (2021) 2.

⁵⁸ Elaine Barclay, Russell Hogg and John Scott, Young people and crime in rural communities (2007): 5.

⁵⁹ Alana Cook and Jackie Fitzgerald, '[Crime in Regional and Rural NSW in 2023: Trends and Patterns](#)', NSW Bureau of Crime Statistics and Research (March 2024): 11.

noting that while most crime rates in Regional NSW were considerably lower in 2023 compared to 2004, motor vehicle theft is one of the four major offences that have significantly increased in Regional NSW over the five years from 2019 to 2023.⁶⁰

Research highlights that particularly in rural towns, congregations of idle young people with little or no spending power are commonly perceived as a threat to trade, tourism and small town civic values.⁶¹ This focus on ‘youth as trouble’, and particularly on First Nations youth, often leads to increased surveillance through policing and closed circuit television to monitor central business districts. For young people, this surveillance is often experienced as persecution, which breeds resentment and leads to retaliatory behaviour.⁶²

This research confirms that youth programs that address the social, employment and educational needs of First Nations children – or a combination of these – are critical to addressing community safety and wellbeing.

Lack of access to early intervention and diversionary services

The Committee’s third term of reference acknowledges the need for improved wraparound and diversionary services available for youth and families in regional and rural areas that are better matched to individuals and integrated into a coordinated approach. ANTAR strongly supports this goal, with a particular emphasis on First Nations community-led diversionary services.

While there are numerous successful diversionary programs in NSW – backed up by strong evidence that these programs, when culturally appropriate, are effective in reducing recidivism and preventing long-term involvement with the CJS for First Nations people⁶³ – it is also the case that First Nations young people, particularly those in non-urban areas, do not receive the benefit of diversion at the same rate as non-Indigenous youth.⁶⁴

⁶⁰ Cook and Fitzgerald, ‘Crime in regional and rural NSW’, 18.

⁶¹ Barclay et al, ‘Young people’, 11.

⁶² Rob White and Chris Cunneen, *Social class, youth crime and justice*. In: Goldson, Barry, and Muncie, John, (eds.) *Youth Crime and Justice*. Sage Publications, London, UK (2006): 17-29.

⁶³ Victorian Aboriginal Legal Service [Submission to the Inquiry into Victoria’s Criminal Justice System](#) (September 2021): 162.

⁶⁴ Chris Cunneen, Rob White and Kelly Richards, *Juvenile Justice: Youth and Crime in Australia*, Oxford University Press, 1st edition, Melbourne (2002): 172.

This is in part due to gaps in the availability of these programs in regional and rural areas, barriers to access, and resource limitations.⁶⁵ It is also due to discriminatory or unequal treatment by police who have the discretion to decide who receives cautions or diversionary measures and who enters the CJS. For example, in NSW, more than 80% of First Nations people police dealt with for small-scale cannabis use were pursued through the courts, rather than given access to cautions and diversion programs, compared to 52% of the non-Indigenous population.⁶⁶ BOCSAR data shows that between 2013 and 2017, police were four times more likely to issue cautions to non-Indigenous people.⁶⁷

It is critical that culturally relevant and trauma-informed pre-charge diversion programs are more significantly invested in and developed in order to be available to all First Nations children across regional and rural NSW. Further, ANTAR strongly recommends that legislation and policing practices are both amended to favour pre-charge referrals to diversion programs using 'On Country' place-based models, the effectiveness and benefits of which are explored in a comprehensive discussion paper led by Professor Chris Cunneen, Dr Amanda Porter and Professor Larissa Behrendt for the Jumbunna Institute for Indigenous Education and Research.⁶⁸

Regarding availability of juvenile diversion, best practice principles set out that diversionary options should be:

- a) available at all stages of the criminal justice process including the point of decision-making by the police, the prosecution or other agencies and tribunals;
- b) not restricted to minor offences but available to all individuals, including those who have previously participated in diversionary

⁶⁵ Inquiry into Adequacy of Youth Diversionary Programs in NSW, Mission Australia (2018): 2.

⁶⁶ Michael McGowan and Christopher Knause, '[NSW police pursue 80% of Indigenous people caught with cannabis through courts](#)', The Guardian, 10 June 2020.

⁶⁷ *ibid*

⁶⁸ Chris Cunneen, Amanda Porter and Larissa Behrendt, '[Discussion Paper: Aboriginal Youth Cautioning](#)', Jumbunna Institute (2018): 57.

programs as well as those who have previously breached conditions.⁶⁹

Furthermore, it is crucial that appropriate diversionary services are not only available but accessible for First Nations children with cognitive and intellectual disabilities, complex trauma and mental health challenges. Given the high rates of neurodisability, mental health disorders and complex trauma among justice-involved First Nations children and children who are incarcerated, appropriate modifications (including greater flexibility and support) must be made to diversionary options in order to be equitable and accessible.⁷⁰

As with many community services, the staff providing vital support to young people through diversionary programs are overwhelmed by high demand and limited resources.⁷¹ Staff shortage, especially in rural, regional and remote areas, is a significant issue.⁷² As such, it is ANTAR's recommendation that the current NSW Police incentives which include the lump sum payment of \$36,000 per annum for police officers willing to relocate to regional areas, along with subsidised housing and travel allowances, be redirected to community services staff who are trained in the delivery of culturally safe diversionary programs, enabling them to transfer to or remain in regional and remote areas.

Furthermore, we recommend increased and sustainable funding for the training and development of First Nations individuals with lived experience of the CJS to lead the design and delivery of these community-based diversion programs. Along with lived experience, these individuals have cultural, social and linguistic knowledge and skills that give them unique abilities to better understand, empathise with and assist First Nations youth. Creation of a peer workforce will address the staff shortage issue as well as reduce the current pressures on NSW police officers who perform a range of functions including mental health assistance and youth welfare in regional and rural areas for which they are not trained.

⁶⁹ [Preventing Crime and Promoting Rights for Indigenous Young People with Cognitive Disabilities and Mental Health Issues](#), Australian Human Rights Commission (2008): 42.

⁷⁰ [Age of Criminal Responsibility Working Group Report](#) (2023): 27

⁷¹ Inquiry into Adequacy of Youth Diversionary Programs in NSW, Mission Australia (2018): 21.

⁷² *ibid*

Discrimination and systemic racism

“The police need cultural awareness training and basic respect. It is like it is a burden to do their job ... The police need to sit down and actively engage on a personal level. And the cultural training for the police needs to be localised so they know what has happened in this area.”

Kempsey women, Wiyi Yani U Thangani⁷³

First Nations young people living in regional and rural areas face an additional layer of disadvantage in the form of racial discrimination, with interpersonal racism affecting the perception of youth by other community members, as well as pervasive institutional and systemic racism leading to racial profiling and harsher policing (though this is by no means limited to non-urban areas).⁷⁴

Recent internal police data obtained by the Redfern Legal Centre reveals that NSW police use force against First Nations individuals at drastically disproportionate levels, a systemic issue spanning the country that was recognised more than 30 years ago during the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) and has been more recently exposed in the Yoorrook Commission’s truth-telling work.⁷⁵

RCIADIC provided comprehensive detail on the role of policing and police relations in the cycle of offending, with recommendation 177 specifically calling out discriminatory attitudes in policing and custodial settings and recommending:

That appropriate screening procedures should be implemented to ensure that potential officers who will have contact with Aboriginal people in their duties are not recruited or retained by police and prison

⁷³ [Wiyi Yani U Thangani Women’s Voices, Securing our rights, Securing our future Report](#), Australian Human Rights Commission (2020): 173.

⁷⁴ Adeshola Ore, [‘Victoria’s police chief apologises for systemic racism and discrimination against Indigenous Australians’](#), The Guardian, 8 May 2023.

⁷⁵ Christopher Knause, [‘NSW police use force against Indigenous Australians at drastically disproportionate levels, data shows’](#), The Guardian, 31 July 2023.

departments while holding racist views which cannot be eliminated by training or re-training programs.⁷⁶

It is unacceptable that 33 years on from RCIADIC, most of the 339 recommendations remain unimplemented or ignored and many outcomes central to the concern of RCIADIC have continued to worsen.⁷⁷ A 2021 report revisiting the RCIADIC recommendations 30 years on found that systemic racism continues to be experienced by First Nations people through the law enforcement system.⁷⁸

In light of this, NSW Police's recent incentive scheme to encourage more police officers into remote and 'special remote' communities – particularly without knowledge of the local context and culture – is inappropriate and potentially dangerous.⁷⁹ ANTAR urges the Committee, and the NSW Government more broadly, to revisit and take seriously the RCIADIC recommendations, almost all of which remain relevant to this day.

b) Prioritising relationships

While a co-ordinated, whole of government approach to community safety in regional and remote NSW communities is necessary, research suggests it poses significant management, coordination and logistical challenges in the context of crime prevention.⁸⁰ Importantly, this research suggests that whole of government approaches to crime reduction inevitably mean redefining roles, responsibilities and relationships, as well as power sharing.⁸¹ This is particularly relevant in terms of the NSW Government's stated commitment to working in partnership with First Nations communities.

⁷⁶ [Towards social justice? An Issues paper](#), RCIADIC Recommendations (2013): 24.

⁷⁷ Anthony, T., Jordan, K., Walsh, T., Markham, F., & Williams, M. ['30 years on: Royal Commission into Aboriginal Deaths in Custody recommendations remain unimplemented'](#) (Working Paper No. 140/2021), Centre for Aboriginal Economic Policy Research, Australian National University (2021): 2.

⁷⁸ Anthony et al, '30 years on', 11.

⁷⁹ [Regional incentives](#), NSW Police.

⁸⁰ For more on whole of government approaches to crime prevention in Australia, see Peter Homel's, ['The Whole of Government Approach to Crime Prevention'](#), Trends & Issues in Crime and Criminal Justice No. 287, Australian Institute of Criminology (November 2004).

⁸¹ Peter Homel, ['The Whole of Government Approach to Crime Prevention'](#), Trends & Issues in Crime and Criminal Justice No. 287, Australian Institute of Criminology (November 2004): 5.

The Productivity Commission's recent review of the Closing the Gap National Agreement made abundantly clear that when it comes to progressing the Agreement's Priority Reforms, all levels of Government continue to engage in a lack of power sharing needed for joint decision-making, and fail to acknowledge and act on the reality that Aboriginal and Torres Strait Islander people know what is best for their communities.⁸² ANTAR wishes to remind the Committee that until and unless the NSW Government addresses the power imbalance in its systems, policies and ways of working – including by fundamentally shifting the way it works with and is led by First Nations communities and organisations – a whole of government approach to crime reduction will fail.

Further, ANTAR wishes to note that a whole of government approach requires not just coordinated, collaborative and integrated ways of working, but is ultimately about prioritising long-term and reciprocal relationships. In particular, there are two sets of relationships that are central to the efficacy of early intervention and diversionary interventions for young people – firstly, the relationships between at risk young people and their families, first responders, service providers, mentors etc; and secondly, those between the communities in which a program is embedded, including the service provider(s), government agencies and personnel (including first responders, court workers, social workers etc), policy workers and those who make funding decisions.⁸³

Particularly when it comes to First Nations young people, the research is clear that the inter-relationships – including the nature, composition and intensity of these relationships – within program design and delivery as well as between the individual, their community, service providers and the system more broadly are vital for achieving successful and positive justice outcomes.⁸⁴ Research on night patrols in regional and rural NSW (Dubbo and Bourke) found that the establishment of community relationships were foundational to these

⁸² [Review of the National Agreement on Closing the Gap Study Report Volume 1](#), Productivity Commission, Australian Government (2024): 3.

⁸³ Ape-Esera and Lambie, 2000 as cited in Rachel Stringfellow, Juan Tauri and Kelly Richards, [Prevention and early intervention programs for Indigenous young people in Australia and Aotearoa New Zealand](#): Research Brief 32, Indigenous Justice Clearinghouse, Australian Institute of Criminology (May 2022): 2.

⁸⁴ Rachel Stringfellow, Juan Tauri and Kelly Richards, [Prevention and early intervention programs for Indigenous young people in Australia and Aotearoa New Zealand](#): Research Brief 32, Indigenous Justice Clearinghouse, Australian Institute of Criminology (May 2022): 2.

interventions, and that both crime prevention and community safety can be achieved by focusing on improving relationships as a mechanism of change.⁸⁵

This means that in order to increase community safety in regional and rural NSW, the NSW Government must employ not just a whole of government approach but a relational whole-of-community approach to addressing the needs of First Nations young people.

Furthermore, research on prevention and early intervention programs for First Nations young people in Australia at risk of justice involvement suggests the following elements of best practice in terms of overall approach:

- First Nations community involvement in the design and delivery of services and programs;
- Building on existing community strengths;
- Addressing young people's needs in a holistic way; and
- Collaborative approaches, including between government and non-government and First Nations and non-Indigenous stakeholders and organisations, as well as collaboration with First Nations young people themselves.⁸⁶

c) Expanding community-based wraparound and diversionary services

Research from the Jumbunna Institute on diversion and youth cautioning for First Nations individuals suggests that diversionary mechanisms are more powerful when they are delivered in a culturally appropriate way.⁸⁷ This includes not only how the programs are delivered but also the location in which they are delivered. As such, ANTAR recommends that culturally appropriate 'On Country'

⁸⁵ Amanda Porter, '[Decolonizing policing: Indigenous patrols, counter-policing and safety](#)' *Theoretical Criminology*, 20 (4) (2016): 548-565.

⁸⁶ Rachel Stringfellow, Juan Tauri and Kelly Richards, '[Prevention and early intervention programs for Indigenous young people in Australia and Aotearoa New Zealand](#)': Research Brief 32, Indigenous Justice Clearinghouse, Australian Institute of Criminology (May 2022): 1.

⁸⁷ Professor Chris Cunneen, Dr Amanda Porter, Professor Larissa Behrendt, '[Discussion Paper: Aboriginal Youth Cautioning](#)', Jumbunna Institute for Indigenous Education and Research University of Technology, Sydney (2018): 7.

diversionary services are made available to all First Nations young people living regionally and rurally.

'On Country' models adopt a highly localised, holistic and whole-of-community approach to working with First Nations young people, Elders, community and partner organisations.⁸⁸ The Maranguka Justice Reinvestment project in Bourke, NSW is an example of a highly successful 'On Country' diversionary practice. Along with utilising a whole of community approach which works in partnership with existing service providers, 'On Country' diversionary programs are rooted in principles of self-determination, social connectedness and belonging, as well as connection to Country and cultural practices. These are strengths and evidence-based protective factors which enable First Nations young people to feel strong and resilient.⁸⁹

Please see the Jumbunna Institute's [discussion paper on Aboriginal youth cautioning](#), led by Professor Chris Cunneen, Dr Amanda Porter and Professor Larissa Behrendt, for a comprehensive discussion of diversionary best practice when working with First Nations youth – including the barriers and enablers to diversionary options – which operate from a framework which respects First Nations sovereignty and shared jurisdiction/decision-making.

We note that the recent changes to bail laws as well as the introduction of a 'post and boast' offence might, in part, be aimed at reassuring regional and rural communities who are demanding the NSW Government play a more active role in tackling crime and improving community safety by taking a 'law and order' approach. There is compelling research, however, to suggest that when exposed to strong community-based social or diversionary programs which address the root causes of crime, rural communities consistently display a strong preference for these youth-based social programs rather than more traditional punitive measures and/or increased police presence. In rural and regional communities where there is concern about youth unemployment and

⁸⁸ Professor Chris Cunneen, Dr Amanda Porter, Professor Larissa Behrendt, '[Discussion Paper: Aboriginal Youth Cautioning](#)', Jumbunna Institute for Indigenous Education and Research University of Technology, Sydney (2018): 57.

⁸⁹ Ibid, 43. For connection to land and culture as protective factors in rural settings, see also, 'The role of community patrols in improving safety in Indigenous communities', Resource sheet no. 20 produced by the Closing the Gap Clearinghouse (July 2013): 4.

associated youth crime and antisocial behaviour, public perception of a community program designed to address the needs of high risk young people has the potential to be a powerful determinant of program acceptability, uptake, success, and sustainability.⁹⁰

Two examples of widespread community support for social programs in regional/rural NSW are highlighted below.

Case studies: BackTrack Armidale and Down the Track, Lake Cargelligo

**"I've been doing Down the Track for a while and I just love it...
Heaps of people used to get arrested and it helped kids stay
out of juvenile."**

Down the Track participant, Jimeal Thorpe

In a recent study on community preferences for reducing youth crime in a rural setting in Armidale, NSW, respondents consistently demonstrated a preference for social programs such as BackTrack to address youth crime and community safety in the Armidale area as opposed to greater police presence.⁹¹

Established in Armidale in 2006, BackTrack is a multi-component, community-based program for 14-17 year-old high risk young people. It offers wrap-around wellbeing and youth support, hands-on skills training, education, and activities that build self-confidence, responsibility, leadership and belonging.⁹² BackTrack also provides vocational, on the job training that is deliberately aligned with the regional job market through their program BackTrack Works.⁹³

⁹⁰ Edmunds et al, 'Exploring community-based', 8.

⁹¹ Kim Edmunds, Laura Wall, Scott Brown, Andrew Searles, Anthony P. Shakeshaft and Christopher M. Doran, '[Exploring Community-Based Options for Reducing Youth Crime](#)', *Int. J. Environ. Res. Public Health* 18, 5097 (2021)

⁹² '[Who we are](#)', BackTrack, nd.

⁹³ [BackTrack Works](#), nd.

After great success, the BackTrack program has now been adapted and implemented in several other rural communities including Dubbo, Lake Cargelligo, Broken Hill, Hawkesbury River, Moree, Macksville and Toowoomba. Part of the success of this model is that the principles and methods are adapted to suit the unique needs of the communities, reflecting a highly flexible, individualised and place-based model that is designed from the ground up based on the particular needs and strengths of each rural community.

While BackTrack itself is not a First Nations-led program, its flexible, holistic, trauma-informed and restorative approach lends itself to working with First Nations youth, and offers principles of best practice that can be scaled and adapted. One such example is the 'Down the Track' project, an offshoot of BackTrack, which runs in the rural communities of Lake Cargelligo and Murrin Bridge in Central West NSW and 90% of whose participants are First Nations teenagers.⁹⁴ The program offers positive based diversionary activities, education, and training, designed to support pathways into real and sustainable jobs and community connection, with an emphasis on respect and acknowledgement of culture.⁹⁵ The program design is highly individualised and flexible, allowing youth with complex needs to re-enter or leave the program on their terms and accept referrals from service systems, self and family.⁹⁶ Down the Track has contributed to a significant decrease in local young people crime since 2016.

In 2020, Down the Track secured \$140,000 from the NSW Government in order to continue its vital operations, but like many community-based diversionary programs, the short term funding cycle contributes to uncertainty, stress and a drain on staff capacity.⁹⁷ ANTAR strongly urges the NSW Government to fund these programs sustainably across the longer term as well as to provide resources and funding for their expansion across the state.

⁹⁴ Adam Kereszy, ['Up the Creek' with 'Down the Track': investing in the next generation of ecologists](#), FLOW Monitoring Evaluation Research, Australian Government, nd.

⁹⁵ ['Our Mission and Vision'](#), Down the Track, nd.

⁹⁶ *ibid*

⁹⁷ Kathleen Ferguson, ['Program that diverts Lake Cargelligo teenagers from juvenile justice, secures funding for another year'](#), ABC News, 8 May 2020.

f) Need for culturally safe first responders

Two of the Inquiry's terms of reference refer to police staffing and range of functions, including d) staffing levels and workforce issues, including police staffing and f) the range of functions being performed by NSW police officers, including mental health assistance and youth welfare, on behalf of other agencies in regional and rural areas, and the supports required to assist police.

While we have addressed the problems of over policing and systemic racism in policing above, we focus here on the need for culturally safe first responders as alternatives to NSW police officers in rural and regional areas, particularly where it concerns First Nations youth and those with mental health concerns, neuro-disability and other complex needs. First Nations Peoples at risk of justice involvement, and particularly young people, require a trauma-informed, culturally safe, community-based and holistic social service response, not police interaction.

This is supported by Principles 5 and 6 of the SCAG Age of Criminal Responsibility Working Group Report, which outline the importance of utilising community-based first responders instead of police, particularly when responding to Aboriginal and Torres Strait Islander children. Principle 6 explicitly recommends that where a child has engaged in negative behaviours, police contact should be minimal as early interaction with police can frame further engagement with the criminal justice system.⁹⁸

By contrast, alternative policing and alternative first responder models reduce criminal justice system involvement and lessen the likelihood of arrest by 58%, halve the rate of crime and justice system involvement, significantly reduce levels of specific crime, improve health and wellbeing (especially for people with mental health conditions) and address the social drivers of incarceration while avoiding contact with police.⁹⁹

⁹⁸ [Age of Criminal Responsibility Working Group Report](#) (2023): 42.

⁹⁹ [Alternatives to Incarceration in South Australia](#), Full Report, Justice Reform Initiative (2023): 10.

Non-police first responders, including Aboriginal community-controlled organisations (ACCOs), barefoot and youth night patrols and other culturally appropriate services, are better able to limit the criminalisation of social issues and connect children with diversionary programs and supports they need. These services are currently drastically underfunded, particularly in regional and rural communities in NSW. ANTAR urges the NSW Government to prioritise and provide long term funding to culturally safe, trauma-informed first responders as an alternative to policing in order to be available to all First Nations children in regional and rural communities.

By building capacity for and sustainably funding a workforce of culturally safe first responders in regional and rural communities – as well as making sure NSW police are aware of these services in the event that they need to redirect children to them – the NSW Government can reduce the pressure on police staffing and ensure that mental health and youth welfare needs are being met by a social sector with the training and capacity to do so.

ANTAR notes and welcomes the recent NSW Government commitment to expand the Safe Aboriginal Youth Patrol Program (SAY) to an additional five Closing the Gap (CTG) priority locations. As the program is expanded, we wish to remind the Government that research on best practice of First Nations night patrols, and in particular the SAY model in NSW, shows that attempts to standardise the SAY program are doomed to fail, with ongoing improvements in the program instead best supported by a collaborative and flexible process to create overarching principles that can be adapted and operationalised by local programs in ways that best suit their communities.¹⁰⁰

Likewise, as the SAY program expands, it is imperative that external agencies refrain from imposing too many rules and regulations on a community patrol, as this can reduce the patrol's flexibility in how it operates.¹⁰¹ Finally, in order to see long-term community change, funding to SAY programs must be long term,

¹⁰⁰ Margaret Sims, Trudi Cooper, Elaine Barclay, John Scott, 'Making Sense of Indigenous Youth Night Patrols', *Administration & Society* Vol. 51(4) (2019): 670.

¹⁰¹ [The role of community patrols in improving safety in Indigenous communities](#), Resource sheet no. 20 produced by the Closing the Gap Clearinghouse, Australian Government (July 2013): 2.

stable and ongoing, and include funding for ongoing training and retraining for SAY program staff.¹⁰²

Conclusion

We thank the Committee on Law and Safety for the opportunity to contribute to the Inquiry through this submission.

It is our sincere hope that by highlighting a few of the many incredible First Nations and community-led initiatives across the state that are working with youth in flexible, holistic, restorative, trauma-informed and rehabilitative ways, it is made abundantly clear that a network of services and programs exist which can and already *do* address the particular needs of regional and rural communities seeking greater social cohesion, safety and wellbeing. What the many decades of research, policy submissions and program evaluations show is that First Nations communities – including children – have the solutions and are ready and willing to implement them in ways that benefit not just their children, but all of our children and communities at large. It is the job of the NSW Government to use its resources – and re-allocate them, where necessary – to provide stable long term funding and capacity for First Nations-led solutions, and to scale and expand them as needed.

Furthermore, community safety in regional and rural NSW would be greatly enhanced by the NSW Government demonstrating leadership through evidence-based policymaking rather than politically motivated reforms in respect of addressing youth offending. We know what works, and it is not a law and order approach. In particular, it cannot be overstated the extent to which raising the minimum age of criminal responsibility from 10 to 14 is a crucial component of what must be a holistic, child-centred and community-based approach to addressing the needs of youth and communities.

¹⁰² Trudi Cooper, Margaret Sims, John Scott, Pamela Henry, Elaine Barclay, and Terence Love, '[Evaluation of Indigenous justice programs Project D. Safe Aboriginal Youth Patrol programs in New South Wales and Northbridge policy and Juvenile Aid Group in Western Australia](#)' Final Report (2014): 7.

In line with Article 3 of the United Nations Convention on the Rights of the Child, the best interests of the child should be the NSW Government's primary consideration in all actions concerning children. Where the NSW Government receives political pressure to adopt 'tough on crime' policies in addressing community safety concerns, rather than quoting hand-picked statistics on youth offending, the focus should be on raising public awareness of and education on the deleterious impact of such policy approaches on the wellbeing of 'at risk' young people. In order to substantially improve community safety over the long term, the NSW Government should focus on greater investment in young people and community-based supports, not police and statutory responses. The NSW Government should also be led by its international human rights obligations towards children.

There is an abundance of evidence revealing the remarkable success of structural and holistic approaches to responding to youth crime. This evidence is clear: where the determinants of the offending behaviour are identified, deeply understood and responded to in trauma-informed, restorative and needs-based ways, substantial benefits flow for both the affected young person and our wider communities.

For further questions or assistance on any issues raised in this submission, please contact:



Blake Cansdale
ANTAR National Director

