

COMMUNITY SAFETY IN REGIONAL AND RURAL COMMUNITIES

Organisation: Greens NSW

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SUBMISSION

Inquiry into community safety in regional and rural communities

1. Introduction

In a short time, New South Wales witnessed an extraordinary string of violent and frightening crime in regional communities - but it was just that, extraordinary. We know that violent crime has been steadily declining for decades across the state. Crime committed by young people is not new and its causes are extremely well understood.

It wasn't clear from the headlines, but the story of youth crime in the regions is fundamentally a story of the ways governments fail communities and their young people.

The Greens NSW welcome the opportunity to address the terms of reference of the Inquiry into community safety in regional communities. This inquiry presents an opportunity for Parliament to capture comprehensively the extensive, serious thinking about crime, its causes and solutions available across New South Wales.

We are particularly concerned that law and order responses to crime ignore the impact of incarceration on a young person and communities and we hope the inquiry provides the mandate for serious reforms to our approach to crime of all kinds across the state.

It bears mentioning that most members of Parliament and most of the people involved in the preparation of this inquiry and indeed this submission have not been and will never be touched by the carceral system. Nor will our children. Most of us, I hope, had the love and support growing up to take risks and realise our potential. This is the prerogative of every child.

But not every child is so lucky, and that inequality is not a function of a child's character, nor a function of chance. It is historically, materially, and socially determined. This is the challenge we turn to today.

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2. Law and order “solutions” drive crime and harm communities

“As soon as you lock up a young person you increase the risk of recidivism by about 10 fold. In other words, if you make the choice to refuse a young person bail - and tragically, as a children's court magistrate of 22 years, I did that - you know in your heart of hearts that that increases the risk of that young person not just returning to incarceration but continuing on to a lifetime of in and out incarceration.”

David Heilpern, Former Children's Magistrate¹

Interactions with police and custodial sentences demonstrably worsen outcomes for young people and their communities. 81% of children who serve a custodial sentence will go on to commit another crime after their release.² Re-offence is more likely because of their prior interaction with the justice system. Prison is never an appropriate place for rehabilitation.

This view is shared by The Department of Communities and Justice, who in their most recent annual report put it plainly: “youth detention is closely associated with incarceration in adult life. Avoiding short-term remand can provide young people with a chance for a more positive future.”³

This view is shared by the Standing Council of Attorneys General who noted in a suppressed 2020 report that children naturally grow out of the risky, impulsive behaviour that often leads to crime, and that this process is actively impaired by detention. The authors go as far as to say that the current youth justice system causes crime. Their recommendation - explicitly dismissed by NSW Attorney General Michael Daley at Budget Estimates in March, is that “Commonwealth, State and Territory governments should raise the minimum age of criminal responsibility to 14 years of age, without exception [as] Detention creates life-long negative outcomes.”⁴

It is telling that Queensland had to suspend their human rights act to keep young people on remand in crowded, unfit accommodation during their youth crime “crackdown” in 2023. It is revealing that when the Northern Territory introduced similar bail reforms in 2022, they broke records for First Nations young people in custody. Neither stopped youth crime.

¹ Heilpern, D (2024). [Youth Justice: Changing the Conversation](#)

² Pisani, A (2022). *Long-term re-offending rates of adults and young people in NSW*, p1

³ Communities and Justice (2024). *2022–23 Annual Report*, p58

⁴ Tobin G, Pegley B (2022). *The hidden report that spells out the dismal failures of youth detention policy in Australia*, ABC News

2.1 The experience of incarceration and interactions with police

"It is the worst feeling anyone can endure."

Former youth inmate, Exit Interviews, Youth Justice 2020

Interactions with police and custodial sentences are victimising and alienating for young people at a crucial point in their psychological, social and physiological development. The damage of these experiences drives antisocial behaviour while in custody and recidivism upon release.

Many young people in remote communities and particularly First Nations young people have, at best, suspicious and, at worst, outright hostile interactions with police. Mekayla Cochrane, the Youth Lead at Just Reinvest, works with young First Nations people in Moree. At a youth justice panel in May, she described a constant, police pressure on young people in regional communities: "Young people can't walk around without the police seeing them as potential offenders. We have to act a certain way in public places."

Mekayla told the story of an 11 year old girl who, in panic, told Mekayla to put her hands on the steering wheel as cops drove past them. She told the story of a young woman in a leadership position at her high school who was surrounded by 8 police cars because they believed she had stolen the motorbike that she owned.

Cochrane says there is a well-earned, structural distrust of police among young people in regional communities: "Young people and their families are so scared of just seeing the police...in meetings, police will say they want the same outcomes as me, which is fewer young people in detention, but out in community I don't see it and I don't think community is seeing that."

Interactions between young people and the police are tense, loaded, and unequal. This dynamic continues in courts and in custody. The first-hand testimony of young people who served custodial sentences was published in 2020 by the Advocate for Children and Young People. The report details traumatic mistreatment at every stage of the custodial process and the report is important and distressing reading.

On a five hour drive between court and the correctional centre, one young person reported: "I was kickin' in the back, and bangin' on the back there when I was thirsty and I needed to go to the toilet and they just kept driving. They stopped and got themselves a feed at a servo, I smelt pies and that, and they just kept going."⁵

⁵ ACYP, *Exit Interviews: Youth Justice 2020*, p15

On arrival, young people are searched, and stripped of everything that they think of as their own. Young inmates complained that centres make no effort to support their spiritual needs: muslim young people are not woken for prayers and no spiritual instruction is available for practising Christians or young people who practise First Nations spirituality.⁶ Their days are largely confined to a squat, grey cell. They are liable to be locked in for hours at a time without notice. If they do not already experience mental illness (which they likely do) it may make them feel like, “a mental patient. No bench, disgusting room. TV’s all the way the top of the roof so you can’t put something around it to neck yourself.”⁷

Particularly concerning are reports of the confiscation and withholding of prescribed psychiatric medication, one young person reported that “my mental health was so far off I was screaming... I’m very lucky to still be okay after them just refusing to give me my medication.”⁸ This must be understood in the context of the massive overrepresentation of young people with mental illness and disabilities in detention. In Queensland, almost 80% of First Nations kids in custody suffer from mental illness⁹. At the Banksia Hill youth detention centre in Western Australia, there were over 350 instances of self-harm reported in 2022. There are just 100 inmates.¹⁰

At a time when their minds are at their most plastic, lively and adaptable inmates report boredom, and feeling “sick and tired of everything and just want to burst.”¹¹ They can do none of the crucial work of childhood. Their emotional development will be stunted. They will do worse at school. They cannot get better. They are unable to be bailed for to attend rehabilitation services. They are unable to participate in community-led justice programs like the Youth Koori Court, which demonstrably reduce the likelihood of reoffending.

Misconduct among guards is common and near-impossible to police, permanently damaging relationships between young people and figures of authority. Some were watched through gaps in the shower curtains. Some were instructed to remove their tampons as male guards watched. Some report vexatious complaints for dancing and listening to music. Several report assault and man-handling at the hands of guards, sometimes “for fun”.¹² If they wish to make a complaint about staff, the form must be provided by staff and may be withheld. What will they do then? In the words of one child, “You can’t do anything. Nobody cares.”¹³

But what is most heartbreaking is that these kids can articulate with greater clarity than most decision-makers what is wrong and how to fix it. “Just cause they live in a bad environment doesn’t

⁶ Ibid. p12

⁷ Ibid. p11

⁸ Ibid. p11

⁹ Hardy, K (2020). *Trauma of Young People in Youth Detention Centres*, Griffith University

¹⁰ Torre, G (2023). *136 Justice, health and human rights advocates urge WA Premier to close Unit 18 after death in custody*, National Indigenous Times

¹¹ ACYP, *Exit Interviews: Youth Justice 2020*, p14

¹² Ibid. p15

¹³ Ibid. p21

mean they're all bad... we come in here because we don't get much care and love on the outside, so that's what we need."¹⁴

2.2 Objections from civil society

When children are refused bail they become severed not only from access to their housing, families, community members, medications, schooling and other systems of support. The severance of which significantly increases in the likelihood that someone will reoffend, further indicting them to time spent in the carceral system. Time in custody exposes people to further harm, violence and control, resulting in them leaving more damaged than when they arrived.

Several peak bodies and legal experts have expressed concerns about the criminogenic consequences of even short periods of remand. When bail is refused, studies show that children are more likely to stay in contact with the custodial system, especially First Nations young people and young people with disabilities.

The Law Society has condemned recent reforms to crimes and bail laws in NSW as inconsistent with most of the principles set out in section 6 of the Children (Criminal Proceedings) Act 1987 (NSW) about the rights of young offenders, inconsistent with closing the gap targets, and in breach the Convention on the Rights of the Child. They say the government is making "a sacrifice" of children who are held even in short-term remand.¹⁵

Karly Warner, CEO of the The Aboriginal Legal Service, has repeatedly criticised expanded law and order measures introduced by the Minns Labor Government, saying "The evidence demonstrates that incarceration of children increases crime by compounding the trauma vulnerable children have already been through, and giving them an apprenticeship in the criminal world that leads to more serious offending later in life."¹⁶

The Bar Association has likewise criticised both the ambitions and execution of recent reforms, expressing "grave concern at the introduction of legislation that will result in greater incarceration rates of children," and that, "of still greater concern is the disproportionate impact that such legislation would have upon the incarceration rates of First Nations children in NSW."¹⁷

Instructively, the Bar's opposition to recent youth bail reforms described the relevant offences as "immature behaviour".¹⁸ This is how the actions of bored, desperate and vulnerable children must be understood. This behaviour has consequences, of course, and we must take care of those who have been hurt by young people who make mistakes, but it is an insult to the victims of crime in regional New South Wales to pretend that putting kids in jail is justice.

¹⁴ Ibid.

¹⁵ McGrath, B (2024). *Open letter to Members of the Legislative Council*. Law Society. p1

¹⁶ Warner, Moses (2024). *Stopping offending the key to kids' justice*. Sunday Telegraph

¹⁷ The NSW Bar Association (2024) *Rushed reforms will result in more children being imprisoned*

¹⁸ Ibid.

3. Underserved communities as a driver of crime

"I can remember once I refused bail to a young person in Brewarrina and there was no other transport. He was handcuffed and put on the plane with a police officer to come back with me to Dubbo - on the 8 seater plane. And as we got on I chatted to him and I said 'Oh, have you been on a plane before?' and he said 'I've never been out of Brewarrina before.'

There is a level of dislocation that occurs, particularly with young Aboriginal people. Imagine his first night in a Dubbo detention centre, for the first time away from his life, away from his family. It's cruel."

David Heilpern, Former Children's Magistrate

Law and order responses to crime have offered short-term solutions that target offenders. These interventions come far too late and address none of the structural causes of crime. It is well and widely understood that intergenerational trauma and poverty and a lack of access to adequate services are the best predictors of whether a child will take unsafe risks and end up in custody.

3.1 We are not closing the gap

"We see young black kids being typecast and treated as criminals from a very young age... When you're told you're a criminal so many times growing up, you start to think that it might be true."

Mekayla Cochrane, Youth Lead at Just Reinvest NSW¹⁹

We are squandering the potential of young First Nations people in regional communities. For many, the opportunity to lead a normal life has been disfigured by sweeping law and order measures, entrenched police hostility and a lack of culturally appropriate services in community.

Of particular concern is the recent pattern of knee-jerk, law and order legislation in response to crises from the Minns Government. Recent and proposed changes to bail laws and new police powers will massively increase the number of hostile interactions between young people,

¹⁹ Cochrane, M (2024). [Youth Justice: Changing the Conversation](#)

especially young First Nations people, as well as the number of First Nations people held on remand.

NSW Police will imminently receive expanded powers for warrantless wandering searches in a roll-out largely modelled on Queensland's 2019 experiment. A review of the program by Griffith University found that just 56 weapons charges were made following more than 13,000 wandings.²⁰ 16.5% of those wanded were Aboriginal or Torres Strait Islander people.²¹ They note that expanded warrantless search powers resulted in a significant increase in minor drug possession offences. It is a program that will force people into interactions with the police and the justice system and has the potential to create lifetime criminals over negligible offences.

The review concludes there is no evidence that wandering deters knife carrying or has led to reduced violent or other crime, but it has led to an increase in detected drug offences²², which can increase the flow of minor offenders into formal criminal justice processes.²³

At the same time, the Minns Government has introduced bail reforms for young offenders that will produce an explosion in First Nations young people held on remand. Over 60% of young people incarcerated in New South Wales are First Nations young people²⁴. At June 2023, New South Wales had the highest proportion of First Nations young people in incarceration on record. Of whom, almost four in five are on remand. The DCJ's most recent annual report specifies that "the main offences contributing to this population are car theft, break and enter, and robbery" - all three of which the Minns government singled out in dangerous bail reforms in March this year.

It is alarming to consider that these reforms immediately followed the Productivity Commission's Closing the Gap progress report released in February, condemning governments that have "limited the extent to which Aboriginal and Torres Strait Islander people have determined the pace and direction of reform, and have made other policy decisions that have undermined and contradicted these policies (such as rebutting presumptions of bail and increasing sentences for youth offences)."²⁵

The report continues, "It is too easy to find examples of government decisions that contradict commitments in the Agreement, that do not reflect Aboriginal and Torres Strait Islander people's priorities and perspectives and that exacerbate, rather than remedy, disadvantage and discrimination... This is particularly obvious in youth justice systems."²⁶

²⁰ Ransley et al, (2022). *Review of the Queensland Police Service Wandering Trial*, p94

²¹ Ibid. p96

²² Ibid. p1V

²³ Ibid. p79

²⁴ BOCSAR (2024) *Aboriginal over-representation in the NSW Criminal Justice System*, Quarterly Report

²⁵ Productivity Commission (2024). *Review of the National Agreement on Closing the Gap*, p34

²⁶ Ibid. p3

The results of these interactions are known and disastrous for First Nations young people. Prior contact with the justice system is an established risk factor for suicide and self-harm. If you are a First Nations young person (as more than half of young people in custody are), the most likely cause of your death after your release is suicide.

3.2 Vulnerable communities lack support services and opportunity

“A young person just told me she was looking forward to going back into custody because she can get a good education and cultural programs in there that she couldn’t get outside. People should be able to get routine and structure in community. We are failing young people if they believe the only way they can access support is through youth detention.”

Mekayla Cochrane, Youth Lead at Just Reinvest NSW²⁷

Trying to understand yourself as a young person is hard. Trying to understand yourself in a regional community with services and support that will not accommodate you is even harder. Many young people grow up without the promise of adequate healthcare or education, in places where the only public service available to the community later than 5pm is the police.

In many places the practical result of laying charges against a young person will mean they are transported great distances to the closest youth detention centre because of limited cell facilities at police stations and courthouses. If a child or young person is subsequently granted bail, there is then the challenge of organising suitable transport to return them to their community.

The young people who commit crimes and end up in custody are extremely likely to already suffer from complex traumas, developmental disorders, mental illness and disabilities. In South Australia, almost 90% of young people in detention have experienced both maltreatment and household dysfunction and Child Protection services had received notifications for alleged maltreatment of 83% of these children.²⁸

Many more are affected by foetal alcohol syndrome and other developmental disabilities that specifically impair risk-taking, the regulation of anti-social behaviour, aggression and mood. They suffer from the sort of complex trauma and disability that is not solved by violent engagements with police or incarceration but rather with extraordinary compassion and care and support from family and community.

²⁷ Cochrane, M (2024). [Youth Justice: Changing the Conversation](#)

²⁸ Malvaso, C, et al (2022). *Adverse childhood experiences and trauma among young people in the youth justice system*. Australian Institute of Criminology, pX

4. Preventing crime by empowering communities

Wrap around community programs that provide comprehensive, holistic, youth and family-driven ways of responding when children or youth experience serious mental health or behavioural challenges are known to have incredible results reducing the likelihood of offending. These services provide young people alternatives to incarceration. They provide rehabilitation and educational programs which help them to reach their potential and save the state millions by diverting young people from the costly process of locking them away.

Much criticism of the Minns Government's recent changes to crime and bail laws was inflected with a disappointment that these well known and well understood solutions to crime had been ignored. To address the causes of youth crime is to prevent a life of adult recidivism also. To break this cycle requires empowering and resourcing communities so that young people feel meaningfully connected to their families, friends and neighbourhoods. It is a matter of supporting communities to be connected and thrive.

It is the stated view, even of this government, that the best outcomes for young people and the community are achieved by minimising contact with the police and the criminal justice system. We can prevent and reduce contact with the criminal justice system altogether, and using the strengths of community, cultural knowledge, lived experience and data to design initiatives that will actually work.

The School of First Nations Health at the University of Wollongong has said that in order to achieve the best outcomes for young offenders and the general public, community-based, empirically supported intervention practices must be adopted as an alternative to incarceration. This is consistent with recent commentary from people who understand these issues best.

The Aboriginal Legal Service and Absec have called for "job training, safe social activities in sports and art, and an education that inspires social cohesion," and to "fast-track the community-based services and supports promised under Closing the Gap." They identify three immediately actionable solutions:

1. Resources allocated for local communities to support after-school, evening and weekend activities that engage at-risk young people.
2. Intensive and targeted programs and responses for at-risk children with appropriate referral services.
3. Formal community partnerships between police and Aboriginal controlled services.

These demands have been cosigned by over 500 legal experts and 60 community groups and these measures can work quickly without incarcerating children.

It is interesting to note that in the very Daily Telegraph coverage that catalysed this inquiry, Mayor Russell Webb of Tamworth Council explained that kids offend and end up back on the street because “there are no diversionary programs... we need to see government funding for diversionary programs, places where they can be sent to a safe environment where they can get fed and receive things like career help.”

The Department of Communities and Justice is experimenting carefully and in consultation with communities as well. The Youth on Track program has shown extraordinary promise in Dubbo. It is a holistic cooperation between department, caseworkers, young people at risk, their families and their communities. In 2021–22, participants that had been in the Youth on Track program for six months reduced their offending risk by 79 per cent. First Nations participants reduced their offending risk by 75 per cent.

The consensus on what does keep communities safe is unambiguous. It is compassion. It is deep and long-term investment in community.

4.1 Towards new models of meaningful accountability

If we have done all we can to prevent crime structurally and a young person *is* accused of committing crimes we must, rather than incarceration, turn to the hundreds of non-custodial programs which exist and are currently running in NSW today. These community-led, crime prevention and therapeutic care programs have incredible evidence of their efficacy in rehabilitating offenders and preventing recidivism.

When a young person does the wrong thing, real justice starts not with police, not with magistrates, certainly not with refusing bail for trivial offences, but with communities coming together to identify the best way to keep people accountable without ruining lives.

In the exceedingly rare circumstances where it is appropriate that a child is held in remand, the adequate resourcing of appropriate facilities with family and community support for young people refused bail with complex needs must be considered. Children with complex needs and experiencing acute distress must be afforded safe, clean, monitored facilities with proper access to mental health treatment and family and support services.

5. Conclusion

Our hope is this submission will echo the observations and recommendations from those who understand these issues best. Throughout, we have made reference to dozens of recommendations and reports from various government agencies, peak bodies, and service providers. Some are decades old, others are from recent months, but the evidence is consistent: the law-and-order approach to crime is failing and dangerous, especially applied to young people.

By locking up young people we traumatised them and force them into a carceral system that is itself criminogenic. It is a system they are likely to cycle in and out of for the rest of their lives. They will overwhelmingly be First Nations children and young people. They will overwhelmingly be children and young people with disabilities. Our communities are condemned to suffer from crime because of this cycle, too.

In NSW the average cost per young person in detention was \$2,759.13 per day in 2022-23 - over a million dollars a year. When pressed on his disinterest in raising the age of criminal responsibility at Budget Estimates, the Attorney General conceded we could “save a bucket of money by not locking up kids.” A reluctance to reform is clearly not a question of resourcing.

What, then, is the lack? Certainly not knowledge or experience. We know there is an alternative that keeps communities safe through empowerment and gives young people the best chance of the future they deserve. The people who can help communities thrive are already a part of them. They are local First Nations elders and leaders, social workers, teachers and educators, nurses and medical professionals. They know what the work is and they are eager to do it - they just need the power, resources and support to get one with it.

It is an unconscionable political failure that the facts of the matter are so widely, well and long understood and that more has not been done to date to reform our approach to crime in New South Wales. Law and order has not and will not work. To prevent crime requires extraordinary compassion and understanding and support. We have the understanding, resources, and will-power - we just need leadership.