

COMMUNITY SAFETY IN REGIONAL AND RURAL COMMUNITIES

Organisation: New South Wales Bar Association

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INQUIRY INTO COMMUNITY SAFETY IN REGIONAL AND RURAL COMMUNITIES
Legislative Assembly Committee on Law and Safety

June 2024

SUBMISSION | NEW SOUTH WALES
BAR ASSOCIATION

Promoting the administration of justice

The NSW justice system is built on the principle that justice is best served when a fiercely independent Bar is available and accessible to everyone: to ensure all people can access independent advice and representation, and fearless specialist advocacy, regardless of popularity, belief, fear or favour.

NSW barristers owe their paramount duty to the administration of justice. Our members also owe duties to the Courts, clients, and colleagues.

The Association serves our members and the public by advocating to government, the Courts, the media and community to develop laws and policies that promote the Rule of Law, the public good, the administration of and access to justice.

The New South Wales Bar Association

The Association is a voluntary professional association comprised of more than 2,400 barristers who principally practise in NSW. We also include amongst our members judges, academics, and retired practitioners and judges.

Under our Constitution, the Association is committed to the administration of justice, making recommendations on legislation, law reform and the business and procedure of Courts, and ensuring the benefits of the administration of justice are reasonably and equally available to all members of the community.

If you would like any further information regarding this submission, please contact the Association's Department of Policy and Law Reform on 02 9232 4055.

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A. Introduction

1. The New South Wales Bar **Association** thanks the Legislative Assembly **Committee** on Law and Safety for the opportunity to make a contribution to the **Inquiry** into ‘Community Safety in regional and rural communities’. The Association has made previous submissions to the NSW Parliament on a range of related issues including [the adequacy of youth diversion programs in NSW](#), [the review of the age of criminal responsibility in NSW](#) and the [incarceration rates of First Nations peoples](#) which we invite the Committee to consider.
2. There are many well-known risk factors that are associated with children and young people coming into contact with the criminal justice system.¹ These factors include an array of vulnerabilities, experiences of disadvantage including dislocation from education, mental illness, lack of access to stable housing, limited employment opportunities, family violence and youth disengagement.² Often, the interplay of these risk factors for young people results in complex disadvantage, which is often geographically concentrated and persistent in regional and rural areas.³ The risk factors identified above for young people coming into contact with the justice system are often further compounded for First Nations peoples.⁴ This has contributed to the grossly disproportionate incarceration of First Nations young people.⁵
3. Acknowledging the underlying factors of youth crime requires recognition that community safety cannot be enhanced by criminal justice responses alone. Meaningful and sustainable change requires significant investment to ensure children and young people, including those with complex needs, have stable housing, are engaged in education and have access to support services they need in their own communities. This will require identifying service gaps in regional and rural communities, consultation with those communities about how best to address service shortages and significant resources to deliver the services required to support children and young people in those areas. Until equality of access to services is seriously addressed, community safety in regional and rural communities will remain at risk.

¹ Australian Institute of Criminology, ‘[Australia’s youth: Crime and violence](#)’ (25 June 2021).

² C Malvaso, et al., Australian Institute of Criminology, ‘[Adverse childhood experiences and trauma among young people in the youth justice system](#)’, *Trends and Issues in crime and criminal justice* no. 651 (June 2022).

³ Australian Institute of Health and Welfare, ‘[Youth justice in Australia 2020-21](#)’ (31 March 2022).

⁴ The Law Council of Australia, The Justice Project Final Report – Part 1, ‘[Aboriginal and Torres Strait Islander People](#)’ (August 2018).

⁵ Australian Institute of Health and Welfare, ‘[Youth detention population in Australia 2022](#)’ (13 December 2022).

4. With respect to decisions and delivery of services to First Nations children and young people, it is critical that these decisions are led by First Nations people whom the services are designed to support, and that investment is directed at building the capacity of First Nations organisations to deliver services and supports.
5. There is a long history of inquiries considering the issues which are the subject of this Inquiry.⁶ It is critical that the reports and recommendations are carefully considered, and that this Inquiry takes account of and builds upon that comprehensive work to reduce duplication and to ensure its findings are properly evidence based.
6. The Association is of the view that the following key issues should be central to this Inquiry and will provide solutions to its aims:
 - a. Raising the age of criminal responsibility from 10 to 14 years of age;
 - b. Supporting and expanding diversion opportunities for young people;
 - c. Reforming the *Young Offenders Act 1997* (NSW) and the *Bail Act 2013* (NSW);
 - d. Expanding the availability and quality of bail supervision and bail support for young people; and
 - e. Increasing funding for, and the expansion of, services to support young people.
7. The Association acknowledges the legitimate concerns expressed by regional and rural communities across NSW about community safety, and the serious and long-lasting impacts of crime on victims and their families. A focus on addressing the risk factors associated with

⁶ See, for example, Parliament of NSW Committee on Children and Young People, [Child Protection and Social Services System](#) (December, 2022); Parliament of NSW Committee on Children and Young People, [Support for Children of Imprisonment Parents in NSW](#) (June, 2022); NSW Parliament Legislative Council Select Committee, [The High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody](#) – Report No 1 (April, 2021); NSW Parliament, [Special Commission of Inquiry into Crystal Methamphetamine and Other Amphetamine-Type Stimulants](#) (January, 2020); NSW [Ministerial Review into the Riot at Frank Baxter Detention Centre 21 and 22 July 2019](#) (August, 2019); NSW Inspector Of Custodial Services, [Use of Force, Separation, Segregation and Confinement in New South Wales Youth Justice Centres](#) (November, 2018); NSW Legislative Assembly Committee on Law and Safety, [Inquiry into the Adequacy of Youth Diversionary Programs in New South Wales](#) (September, 2018); The Law Council of Australia, [The Justice Project - Final Report](#) (August, 2018); Northern Territory [Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory](#) (November 2017); Australian Law Reform Commission, Pathways to Justice – [An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples – Final Report](#) (December, 2017); Audit Office of NSW, [Re-integrating young offenders into the community after detention](#) (April, 2016).

juvenile crime underscores the importance of implementing evidence-based solutions rather than punitive measures that may entrench the underlying problems.

8. The Association strongly supports increased funding for youth diversion and justice reinvestment (including resources to support raising the age of criminal responsibility and other legislative reform) to provide the greatest long-term return on investment, to reduce recidivism, increase community safety, improve the wellbeing of children and provide children and young people with opportunities to contribute positively to their communities.

B. Raising the age of criminal responsibility from 10 to 14 years of age

9. The Association maintains its strong support of reform to raise the age of criminal responsibility in NSW from 10 to 14 years of age, and advocates for culturally competent treatment, education and rehabilitation as an alternative to the criminalisation of children under the age of 14.⁷ This position was articulated in our [submission](#) to the Council of Attorney-General's Working Group on the Review of the Age of Criminal Responsibility and is reflected in the Law Council of Australia's Policy Statement on Minimum Age of Criminal Responsibility.⁸ We enclose a copy of our submission.
10. Since then, the Standing Council of Attorneys-General Age of Criminal Responsibility Working Group Report has provided advice on support services that could be provided to children aged below any revised age of criminal responsibility.⁹ The Report identifies 'key concepts' that should underpin all elements of minimum age reform, including regard for the best interests of the child, community safety and the experience of victims, and emphasises the need for holistic, locally and culturally tailored, evidence based approaches.¹⁰
11. By raising the age of criminal responsibility, children under the age of 14 would be removed from the criminal justice system from the point of intervention. A change to the age of criminal responsibility should be viewed as part of a holistic reform that shifts the focus from punitive

⁷ See NSW Bar Association Submission, Council of Attorneys-General – [Age of Criminal Responsibility Working Group Review](#) (4 March 2020).

⁸ Australian Medical Association and Law Council of Australia, [Joint Policy Statement on the Minimum Age of Criminal Responsibility](#) (17 December 2019); Law Council of Australia, [Responses to Children under the Minimum Age of Criminal Responsibility Position Paper](#) (Addendum to the Policy Statement on the Minimum Age of Criminal Responsibility) (25 June 2022).

⁹ Standing Council of Attorneys-General, [Age of Criminal Responsibility Working Group Report](#) (September 2023).

¹⁰ *Ibid*, p 8.

to rehabilitative and welfare-oriented responses for young people. Community-led, evidence-based solutions provide a more durable and cost-effective approach to increasing community safety.¹¹

C. Supporting and expanding diversion opportunities for young people

12. The Association strongly supports greater resourcing of diversionary programs for young offenders in regional and rural communities.¹²
13. Diversionary programs are those which seek to ‘divert’ a young person away from the criminal justice system, and instead direct them towards treatment, education and rehabilitation that addresses their offending behaviour. Opportunities for diversion can be ‘located, created and conceptualised at every stage of a young person’s life and at every point of contact with the justice system’.¹³ Diversionary programs may include:
 - a. early intervention programs that address vulnerabilities to stop a young person engaging in criminal behaviour;
 - b. pre-court diversion options that the police and courts can use under the *Young Offenders Act 1997* (NSW) (see below at [32]-[38]);
 - c. pre-sentence diversion; and
 - d. post-conviction diversion.¹⁴
14. The rationale for diversionary programs is clear and compelling. Diversionary programs can help break the concerning nexus that exists between early contact with the criminal justice system and subsequent juvenile and adult re-offending. Early and frequent contact with the police, courts and detention is a recognised pathway towards repeated criminal offending and

¹¹ Parliament of Australia Legal and Constitutional Affairs Committee, ‘[Value of a justice reinvestment approach to criminal justice in Australia](#)’ Report (June 2013), ch 7; Parliament of Australia Senate Finance and Public Administration References Committee, ‘Inquiry into Access to Legal Assistance Services’, [Submission 11](#), Just Reinvest NSW (30 April 2015).

¹² The NSW Bar Association’s [submission](#) to the ALRC Discussion Paper on Incarceration Rates of Aboriginal and Torres Strait Islander Peoples supported the fundamental premise of justice reinvestment that a fiscal mechanism is required to support the long-term and sustainable funding of early intervention, crime prevention and diversionary measures.

¹³ NSW Parliament Legislative Assembly of NSW Committee on Law and Safety, Inquiry into the Adequacy of Youth Diversionary Programs in NSW, [Submission 19](#), President of the Children’s Court of NSW (8 February 2018).

¹⁴ NSW Parliament Legislative Assembly of NSW Law and Safety Committee, [Report on the Adequacy of Youth Diversionary Programs in New South Wales](#) (September 2018), [1.6].

imprisonment during adulthood.¹⁵ Youth detention, in particular, is associated with poor physical and mental health outcomes, social exclusion, relationship disruption and disengagement from education. These social harms often lead to recidivism and cyclical involvement with the criminal justice system.¹⁶

15. Diversionary programs more effectively target the underlying causes of offending behaviour, rather than merely the consequences of it.¹⁷ It is the common experience of lawyers working with young people in the criminal justice system that factors such as socio-economic disadvantage and poverty, poor mental health, abuse and neglect, trauma and family violence impact a child's development and contribute to their offending behaviour. Young people with intellectual and psychosocial disabilities are also at greater risk of involvement in the criminal justice system, recidivism and incarceration,¹⁸ as are children in Out-of-Home-Care.¹⁹
16. There is a moral and practical imperative to ensure that vulnerable children are provided adequate treatment, care and support, rather than being drawn into the criminal justice system. The community is better protected in the longer term by efforts to prevent and reduce offending.
17. The need for diversionary programs is particularly acute in remote, rural and regional areas. Young people in those areas are less likely to be diverted from the criminal justice system than those who have committed an offence in a metropolitan area.²⁰ This may be due to both an underutilisation of existing diversionary options and the insufficient availability of quality diversionary programs.²¹ This emphasises the need to both adequately fund diversionary

¹⁵ C Cunneen, 'Arguments for Raising the Minimum Age of Criminal Responsibility', (Research Report Comparative Youth Penalty Project, University of New South Wales, 2017), citing e.g. Chen et al., 'The Transition from Juvenile to Adult Criminal Careers' (Research Paper, BOCSAR, 2005); J Payne, 'Recidivism in Australia: Findings and Future Research' (Research and Public Policy Series No. 80, Australian Institute of Criminology, 2007); W Agnew-Pauley and J Holmes, 'Re-offending in NSW' (NSW Bureau of Crime Statistics and Research Issue paper no 108, August 2015).

¹⁶ See The Senate Legal and Constitutional Affairs References Committee, [Value of justice reinvestment approach to criminal justice in Australia](#) (June 2013), [2.60], [3.22]-[3.23].

¹⁷ Australian Law Reform Commission, [Seen and heard: Priority for children in the legal process](#) (ALRC Report 84), [18.37].

¹⁸ Australian Human Rights Commission, [Information concerning Australia's compliance with Convention on the Rights of Persons with Disabilities](#) (25 July 2019); see also NSW Health and NSW Juvenile Justice, [2015 Young People in Custody Health Survey: Key Findings for All Young People](#) (2016).

¹⁹ M Davis, 'Family is Culture – Final Report. Independent Review into Aboriginal Out-of-Home Care in NSW' (2019); A Zhou, 'Pathways of Care Longitudinal Study: Outcomes of Children and Young People in Out-of-Home Care in NSW Offending Among Young People in Contact with the Out-of-Home Care System' *Research Report No. 18* (2020), p 28.

²⁰ NSW Parliament Legislative Assembly of NSW Law and Safety Committee, [Report on the Adequacy of Youth Diversionary Programs in New South Wales](#) (September 2018), [3.3].

²¹ *Ibid*, ch 3.

programs, and also educate and train participants in the criminal justice system about their availability. Together, this will encourage a cultural shift towards youth diversion.

18. The Association emphasises the important role of First Nations controlled organisations in the provision of diversionary programs. It is a shameful reality that First Nations children are grossly overrepresented in the criminal justice system. In the June quarter of 2023, First Nations young people represented 63 per cent of all young people in custody nationally, despite being only 5.7 per cent of the total population aged 10-17 years old.²² In December 2023, 61.5 per cent of detainees in NSW were First Nations, an increase of 52.9 per cent since December 2021. The rates of First Nations young people on remand had increased by 64.7 per cent since December 2021, while short term remand rates (that is, those who spend less than 2 days on remand) had increased by 19 per cent over the previous 12 months.²³
19. First Nations organisations are best placed to lead efforts to develop culturally safe and competent alternatives to detention for First Nations young people. These organisations should be appropriately resourced and structurally integrated into diversion processes. We urge this Inquiry to recommend implementation of the priority reforms pursuant to the [National Agreement on Closing the Gap](#) as a framework for working with First Nations Controlled Organisations to address the needs of First Nations children and young people in rural and regional communities.²⁴
20. While the wellbeing of children and young people should be the paramount consideration, a fiscal opportunity exists to reallocate funding from the criminal prosecution and detention of children to their treatment, education and rehabilitation. According to evidence given by the NSW Department of Communities and Justice (**DCJ**) in Budget Estimates on 30 August 2022, it costs \$1,956 per child per day to hold a child in youth detention; equivalent to up to \$713,940 per year.²⁵ It is understood this figure is approaching \$1 million per child, per year in 2023-24.²⁶ The Association supports the fundamental premise of the Justice Reinvestment

²² Australian Institute of Health and Welfare, [Youth detention population in Australia 2023](#) (December 2023).

²³ NSW Bureau of Crime Statistics and Research, [Closing the Gap Quarterly Report on Aboriginal overrepresentation in the criminal justice system](#) (December 2023).

²⁴ Department of the Prime Minister and Cabinet, Parties to the National Agreement on Closing the Gap, [‘Priority Reform Areas for Joint National Action’](#).

²⁵ NSW Parliament Portfolio Committee No. 5 – Regional NSW and Stronger Communities, [Transcript of Committee Proceedings](#), ‘Examination of proposed expenditure for the portfolio areas’ (30 August 2022), p 43-44.

²⁶ NSW Department of Communities and Justice, “Customer Service and Digital Government, Emergency Services, Youth Justice”, Portfolio Committee No. 8 - Customer Service, Budget Estimates 2023-2024 hearing of 31 October 2023, p 63.

framework as a sound fiscal mechanism to support long-term and sustainable funding of diversionary measures.²⁷

Youth Koori Court

21. While the Association expresses its support for a broad range of diversionary mechanisms, this submission highlights the work of the Youth Koori Court as an exemplar example of a culturally safe, holistic and coordinated approach to diversion. The Association has supported the Youth Koori Court since its inception as a pilot program in Parramatta in 2015.
22. The Youth Koori Court has the same powers as the Children's Court, but modifies court procedures to better involve Aboriginal and Torres Strait Islander young people, their families and their communities.²⁸ The Youth Koori Court uses a deferred sentencing model.²⁹ On acceptance into the program, a young person is allocated a casework co-ordinator. A conference is held between the young person, their caseworker, Elders and other First Nations community members, the young person's legal representative, family members, other support officers and the magistrate. Participants are seated at an oval table, and a young person is encouraged to speak openly about their offending and the key issues that are contributing to their behaviour.³⁰
23. As part of this process, young people are assisted in developing an Action and Support Plan (**ASP**) that identifies and addresses risk factors. The plan is individually tailored and can meet a wide variety of needs, including housing, education, employment and personal health. The plan also reinforces cultural connections and knowledge.³¹
24. The young person's efforts and progress on the ASP over a period of months is taken into account when the young person is sentenced.³² Successful completion of a program is acknowledged with a culturally appropriate graduation ceremony. In 2022, the graduation rate

²⁷ See NSW Bar Association submission, [Submission 88](#) to ALRC Pathways to Justice Report, [186]; NSW Parliament Legislative Assembly of NSW Committee on Law and Safety, Inquiry into the Adequacy of Youth Diversionary Programs in NSW, [Submission 21](#), Just Reinvest NSW (13 February 2018).

²⁸ Children's Court NSW, Youth Koori Court (webpage available [here](#)).

²⁹ Relying on the powers in the *Children (Criminal Proceedings) Act 1987*, s 33(1)(c2).

³⁰ Uncle D Williams et al., "Youth Koori Court, Review of Parramatta Pilot Program", Western Sydney University Aboriginal and Torres Strait Islander Employment and Engagement Advisory Board, 2017 (available [here](#)).

³¹ Ibid.

³² Ibid.

was approximately 60 per cent of participants.³³ Participants were 40 percent less likely to be sentenced to a Juvenile Custodial Order.³⁴

25. In 2018, Judge Peter Johnstone (then President of the Children’s Court NSW) stated:

“The Youth Koori Court is an excellent example of a holistic process which involves interventions and collaboration amongst professionals to identify relevant risk factors which impact on a young person’s continued involvement with the justice system, and actively monitors the holistic interventions implemented to address these risk factors.”³⁵

26. In June 2022, an independent evaluation of the Youth Koori Court commissioned by the DCJ made the following key findings:³⁶

- a. There was overwhelming support for the Youth Koori Court from its staff and stakeholders, as well as participants and their family members, based on the perception and experience of the Youth Koori Court achieving better outcomes for First Nations young people and for the criminal justice system.
- b. The Youth Koori Court is successful in identifying participant needs and risk factors to reduce offending, in areas of empowerment, housing, health, employment, education and skills, safety and social/cultural outcomes.
- c. The Youth Koori Court made the greatest contribution to the intermediate outcomes for participants in the areas of:
 - i. empowerment – increasing trust in the system;
 - ii. social and cultural – reconnection to and engagement with cultural support;
 - iii. safety – reduced probability of being sentenced to detention and reduced probability of reoffending.³⁷
- d. Every dollar invested in a Youth Koori Court results in a \$2 return to the community.³⁸

³³ Inside Policy on behalf of the NSW Department of Communities and Justice, [An evaluation of the Youth Koori Court Process](#) (6 June 2022).

³⁴ E Ooi and S Rahman, NSW Bureau of Crime Statistics and Research, ‘[The impact of the NSW Youth Koori Court on sentencing and re-offending outcomes](#)’, *Crime and Justice Bulletin No 248* (April 2022).

³⁵ NSW Parliament Legislative Assembly of NSW Committee on Law and Safety, Inquiry into the Adequacy of Youth Diversionary Programs in NSW, [Submission 19](#), President of the Children’s Court of NSW (8 February 2018).

³⁶ Inside Policy on behalf of the NSW Department of Communities and Justice, [An evaluation of the Youth Koori Court Process](#) (6 June 2022).

³⁷ See also E Ooi and S Rahman, NSW Bureau of Crime Statistics and Research, ‘[The impact of the NSW Youth Koori Court on sentencing and re-offending outcomes](#)’, *Crime and Justice Bulletin No 248* (April 2022).

³⁸ Inside Policy on behalf of the NSW Department of Communities and Justice, [An evaluation of the Youth Koori Court Process](#) (6 June 2022), p 7.

27. The Youth Koori Court currently only operates in Parramatta, Surry Hills and Dubbo. The court in Dubbo was the third to open, in July 2023, and the first to operate in a regional area.³⁹ The Association is eager to see the expansion of the Youth Koori Court to service more communities, to support and divert as many young people as possible.
28. Access to alternatives to incarceration, such as through the Youth Koori Court, to ensure any alternative sentencing options are viable and continue to be safe for the community, is undermined by the lack of available services in regional and rural communities (see below from [65]).⁴⁰ This has resulted in increased rates of incarceration, despite evidence that detention is neither a deterrent nor effective in reducing recidivism for young people.⁴¹
29. The Association encourages continued qualitative and quantitative evaluation of the Youth Koori Court. In particular, it is noted that the June 2022 independent evaluation called for a closer examination of withdrawals and discharges from the program in order to improve the graduation rate from the Youth Koori Court program.
30. More broadly, the Association supports the expansion of community-based sentencing options in regional and rural areas, including through the availability of accessible and appropriate critical support services and diversionary programs, considered further below. The Association reiterates that culturally appropriate and tailored sentencing has the capacity to target the underlying causes which contribute to a young person's offending, and to address the offending behaviour in a proportionate manner. Structuring a sentence around an individual's circumstances, which can be most effectively achieved through diversionary models such as the Youth Koori Court, may render the sentencing outcomes more realistic and achievable, particularly as the young person is provided with some form of indirect ownership over their own sentencing outcomes.⁴²

³⁹ Z Marlan, ABC Western Plains, [‘Youth Koori Court opens in Dubbo to offer troubled Indigenous youths ‘another way’](#) (21 July 2023).

⁴⁰ Australian Law Reform Commission, Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC Report 133) [‘Availability and flexibility of community-based sentencing options’](#) (11 January 2018).

⁴¹ J Payne, Australian Institute of Criminology, [‘Recidivism in Australia: findings and future research’](#), Australian Institute of Criminology, *Research and Public Policy Series No. 80* (2007).

⁴² Australian Law Reform Commission, Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples, NSW Bar Association Submission, [Submission 88](#), (15 September 2017), p 14.

D. Reforming the *Young Offenders Act 1997 (NSW)* and the *Bail Act 2013 (NSW)*

31. There are two key pieces of State legislation which have the capacity to divert youth away from the criminal justice system: the [Young Offenders Act 1997](#) (NSW) (the **Young Offenders Act**) and the [Bail Act 2013](#) (NSW) (the **Bail Act**).

Young Offenders Act 1997 (NSW)

32. The first point of contact for young people who enter the juvenile justice system is interaction with the police. It is at this point that the system is ‘most flexible and there are multiple avenues to divert a child from the path to detention’.⁴³
33. An important tool for diverting young people away from the criminal justice system is the Young Offenders Act. In NSW, the Young Offenders Act allows young people between the ages of 10 and 17 years who meet certain criteria to be dealt with by way of a Youth Justice Conference, formal caution or formal warning.⁴⁴ In 2022-23, NSW Police diverted 8,038 young offenders, approximately 42 per cent of the total number of young people proceeded against by NSW Police.⁴⁵
34. At the outset, the Association notes that while the Young Offenders Act is an effective tool shown to reduce the likelihood of re-contact with the criminal justice system,⁴⁶ the diversionary options available under the Act are not uniformly or consistently applied across NSW.⁴⁷ In particular, studies indicate that First Nations young people are more likely to be arrested than their non-Indigenous counterparts, and are more likely to be taken to court (even after factors such as the type of offence, offending history and background factors were accounted for).⁴⁸ Research undertaken by Weatherburn and Thomas in 2022 has shown that First Nations

⁴³ Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, [Final Report](#) (November, 2017), p 212.

⁴⁴ *Youth Offenders Act 1997* (NSW), s 3(a).

⁴⁵ NSW Bureau of Crime Statistics and Research, [Youth Offending](#) (3 April 2024).

⁴⁶ T Cunningham, Australian Institute of Criminology, [Pre-court diversion in the Northern Territory: Impact on juvenile reoffending](#), *Trends & Issues in Crime and Criminal Justice* No. 339 (2007).

⁴⁷ NSW Bureau of Crime Statistics and Research, The Impact of the NSW *Young Offenders Act 1997* on likelihood of custodial order, *Crime and Justice Bulletin* No 166 (January 2013).

⁴⁸ In 2008, the Australian Institute of Criminology examined differences in juvenile diversionary rates for Aboriginal and Torres Strait Islander and non-Indigenous offenders in New South Wales, South Australia and Western Australia. It found that Aboriginal and Torres Strait Islander offenders were more likely to be referred to a court than non-Indigenous offenders whereas non-Indigenous offenders in all three states were significantly more likely to receive a police caution; Snowball, L, Australian Institute of Criminology, [‘Diversion of Indigenous juvenile offenders’](#), *Trends and Issues in Crime and Criminal Justice* (June 2008).

children are more likely to be prosecuted as opposed to cautioned than non-First Nations children.⁴⁹ Of First Nations children aged 13 and under, 9.3 per cent were prosecuted rather than cautioned compared to 3.1 per cent of non-First Nations young people.⁵⁰

35. It is important that this Inquiry examine NSW Police policies and procedures and how they are applied in the community, to assess whether police are doing so in a way that may be counterproductive to (or supportive of) diversionary efforts. This exercise would provide an opportunity for a comprehensive external review to identify ways in which policies and procedures could be strengthened, identify training needs and increase the number of young people being diverted from the criminal justice system.
36. In June 2020, the Association considered reforms to the Young Offenders Act in its submission in response to the NSW Government's Consultation Paper "Review of the *Young Offenders Act 1997* (NSW)" (the **Review**). The Association made a series of recommendations as to how the Act should be amended. We enclose a copy of this submission. The Association maintains its support for the expansion of diversion opportunities under the Young Offenders Act in relation to:
 - a. particular strictly indictable offences;
 - b. certain traffic offences committed by 16 and 17-year-old drivers in limited circumstances;
 - c. less serious sexual offences such as sexual touching and sexual act offences;⁵¹
 - d. the supply of prohibited drugs or plants (i.e. *Drug Misuse and Trafficking Act 1985* (NSW), ss 25, 23(1)(b)); and
 - e. Table 2 offences in the *Criminal Procedure Act 1986* (NSW).
37. The Association is of the view that an expansion of diversion opportunities is likely to reduce a young person's propensity to re-offend where evidence demonstrates that diversion mitigates the criminogenic risks involved with early contact with the criminal justice system.⁵²

⁴⁹ Don Weatherburn and Brendan Thomas, 'The influence of Indigenous status on the issue of police cautions' *Journal of Criminology* 56(2) (22 December 2022).

⁵⁰ Ibid.

⁵¹ *Crimes Act 1900* (NSW), ss 61KC, 61KD, 61KE, 61KF, and sexual intercourse offences involving children between 10 and 16 years old (i.e. *Crimes Act 1900* (NSW), s 66C).

⁵² See, for example, D Weatherburn and S Ramsey, NSW Bureau of Crime Statistics and Research, '[Offending over the life course: Contact with the NSW criminal justice system between age 10 and age 33](#)', *Issue Paper No. 132* (April 2018),

38. The Association is aware that the review of the Young Offenders Act has been underway for a significant period of time and urges the NSW Government to progress this reform, taking into account the further feedback from stakeholders, including the Association. The review of the Young Offenders Act provides opportunities for impactful reform which is welcomed by the Association.

Reducing criminalisation

39. Consistent with the purpose of diversion, the Association urges caution against policies that would increase the criminalisation of young people, such as increasing surveillance and penalties. These policies would be counterproductive to diversionary efforts, increasing the number of young people coming into contact with the criminal justice system.
40. One example of such a policy was the NSW Police Force's use of the Suspect Target Management Program (**STMP**) on children and young people. The STMP is a "proactive policing" strategy that encourages increased monitoring of and interactions with "targets" identified by police intelligence officers to be a risk of offending. A long-running investigation by the Law Enforcement Conduct Commission (**LECC**) into the application of the STMP on children and young people concluded:

"Most young STMP targets have complex needs, but police mostly ignored these when they applied the STMP to them. This was, or may have been, unreasonable, unjust, oppressive or improperly discriminatory in its effect..."

It is arguable that by relying on STMP, police have prioritised policing strategies that tended towards young people experiencing increased interactions with the criminal justice system and an increased likelihood of incarceration – contrary to the principles of the established statutory frameworks and common law principles for young offenders in NSW..."⁵³

41. The LECC's conclusions were consistent with the findings of the Youth Justice Coalition in 2017 that:

"The use of the STMP in relation to children is at odds with the aims and principles of the Young Offenders Act. The findings of our research indicate that the STMP, when used on children, is a 'parallel system' to the Young Offenders Act. The STMP is an

p 6; J Craig et al., 'A Little Risk Goes a Long Bad Way: Adverse Childhood Experiences and Life-Course Offending in the Cambridge Study' 53 *Journal of Criminal Justice* 34 (2017), p 35.

⁵³ Law Enforcement Conduct Commission, [Operation Tepito – Final Report](#), 'An investigation into the use of the NSW Police Force Suspect Targeting Management Plan on children and young people' (October 2023), p 13.

inappropriate parallel system because it conflicts with Young Offenders Act's principles, not least its aim to divert young people from criminal proceedings. In contrast, the objective of the STMP appears to be to proactively increase police contact to communicate to the young person that they are being monitored and are under surveillance. The STMP is also being used to detect and prosecute minor offences. The negative impacts of the SMTP on young people in our research indicates it is not in the best interests of young people.”⁵⁴

42. In October 2023, in response to the LECC's report, the NSW Police discontinued the use of the STMP for young people.⁵⁵ The Association welcomed that change.
43. The failings of the application of the STMP to children highlights a broader lesson – that intrusive or intensive policing strategies may conflict with and undermine diversionary initiatives, and ultimately be counterproductive. This lesson should guide the NSW Government's response to youth crime across regional and rural NSW.
44. In this context, the Association notes with concern the likely impact on young people of the Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Bill 2024 (the **Bill**) which was introduced in the NSW Legislative Assembly on 15 May 2024. It is likely that First Nations children will be particularly disadvantaged by the Bill, especially in regional areas of NSW. In the Orana Mid-Western Police Command, for example, First Nations people made up 77 per cent of searches in 2022-23. State-wide, First Nations people were 4.9 times more likely to be searched.⁵⁶ In our view, the Bill will result in unnecessary criminalisation of young people and increased interaction with police, further entrenching regional disparity and impacting negatively on young persons' attitudes to police more generally.

Bail Act 2013 (NSW)

45. The Bail Act plays a crucial diversionary role in allowing young people to remain out of detention, and thereby increase prospects of these young people accessing therapeutic

⁵⁴ V Sentas and C Pandolfini, Youth Justice Coalition NSW, '[Policing Young People in NSW – A study of the Suspect Targeting Management Plan](#)' (2017), p 43.

⁵⁵ Law Enforcement Conduct Commission, '[Operation Tepito – Final Report](#)', p 3; T Rose, The Guardian, "[Highly intrusive: NSW Police dump proactive policing of children after watchdog warns it could be unlawful](#)" (30 October 2023).

⁵⁶ P Farrell et al., ABC News, '[A dangerous numbers game](#)' (18 March 2024).

alternatives, treatment and support. Supporting young people in this way is more likely to reduce reoffending than detainment.⁵⁷

46. In March 2024, the NSW Government amended the Bail Act to include a temporary, additional bail test for young people between 14 and 18 years charged with committing certain serious break and enter offences or motor vehicle theft offences while on bail for the same offences.
47. The Association continues to hold grave concern about these changes to the Bail Act.⁵⁸ This concern appears to be held more widely amongst the legal profession. In [*R v RB* \[2024\] NSWSC 471](#), Her Honour Justice Lonergan published the first decision dealing with the new provision. At [53], her Honour makes the following observations about the provision:

“I appreciate in these circumstances the following remarks are obiter, but given the initial Crown position was to submit that s 22C [of the *Bail Act*] applied, I considered its effect and operation and wish to make some observations about it, including a concern that it operates in an unfairly discriminatory way upon a section of the community, children aged 14 to under 18, who have been widely and specifically recognised as a group that need support and guidance, not incarceration and disconnection from their family and the community.

...

... [T]he *Bail Act* s 22C now provides for a higher bar... obstructing release for children aged 14 to 17 years and 364 days charged with certain offences, than the regime which applies to adults in exactly the same circumstances.

...

Read in context, noting the clear purpose and intention of the provision articulated in the Second Reading Speech, s 22C has the effect of singling out a group of persons, children alleged to have committed certain (as yet unproved) offences, and requiring that they satisfy a higher test, of uncertain meaning and application, before they can be released on bail than any other applicants, including adults charged with offences of the same nature in the same situation.

...

It is the requirement that a court refrain from releasing a child accused of certain offences unless it can conclude to a level approaching certainty (although not actually certainty)

⁵⁷ J Ravulo, University of Wollongong, ‘The role of holistic approaches in reducing the rate of recidivism for young offenders’ *The Judicial Review Journal* 14(2) (2019), p 124-145.

⁵⁸ See NSW Bar Association Media Release, [‘Rushed reforms will result in more children being imprisoned’](#), (13 March 2024).

that the child will not commit a further serious indictable offence where there is no such requirement regarding an adult.”

48. As expressed by Lonergan J, the test pursuant to s 22C imposes a higher threshold than any test that applies to adults under the Bail Act. Such a position should not be condoned as a matter of public policy. The introduction of the higher threshold undermines the important principle in the *Children (Criminal Proceedings) Act 1987* (NSW), which provides that the penalty imposed on a child for an offence should be ‘no greater than that imposed on an adult who commits an offence of the same kind’.⁵⁹ While the refusal of bail is not a ‘penalty’, it cannot be ignored that detaining a child on remand, is a curtailment of that child’s liberty and wellbeing, and inevitably has a punitive effect.
49. The legislation is also contrary to long-standing international human rights principles under the [United Nations Convention on the Rights of the Child](#) (the **UNCRC**) which states that “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection”.⁶⁰ In particular, the Bill is inconsistent with article 37(b) (the detention or imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time) and article 40 (including the presumption of innocence and measures for dealing with such children without resorting to judicial proceedings).
50. Further to this, and as detailed above, there is a significant cost associated with the detention of a child (including children on remand).⁶¹ The steep increase in detention that will be caused by the proposed legislative amendments will result in a significant and unjustifiable expense to taxpayers.
51. The Association notes that s 22C of the Bail Act will sunset after 12 months, in March 2025. The Association urges for the provision not to be made ongoing. To gain a true understanding of the extent of the impact of s 22C and other policies or laws which have the effect of increasing the rates of detention, this Inquiry should undertake a comprehensive examination of the impacts of detention on young people.

⁵⁹ *Children (Criminal Proceedings) Act 1987* (NSW), s 6(e).

⁶⁰ UN General Assembly, [Convention on the Rights of the Child](#), United Nations Treaty Series vol. 1577 (20 November 1989), Preamble.

⁶¹ NSW Parliament Portfolio Committee No. 5 – Regional NSW and Stronger Communities, [Transcript of Committee Proceedings](#), ‘Examination of proposed expenditure for the portfolio areas’ (30 August 2022), p 43-44; NSW Department of Communities and Justice, Portfolio Committee No. 8 – Customer Service, ‘Customer Service and Digital Government, Emergency Services, Youth Justice’ [Budget Estimates 2023-2024](#) (31 October 2023), p 63.

52. It is widely recognised that ‘incarceration fails to meet the developmental ... needs of youth offenders and is limited in its ability to provide appropriate rehabilitation’.⁶² International research also suggests that ‘incarceration during adolescence and early adulthood is independently associated with worse physical and mental health outcomes during adulthood’.⁶³ The 2022 [Inquiry into Victoria’s Criminal Justice System Report](#) found:⁶⁴

“Being held in corrections facilities can be extremely damaging for children and young people. As noted by the Human Rights Law Centre, exposure to these facilities can increase the risk of stigmatisation and the likelihood of experiencing physical and psychological harm. Detention also results in disruptions to family life, development, education and employment. The Youth Junction, a youth services organisation, described the impact of time spent in custody for its clients:

‘The periods of time spent in custody had negatively impacted upon their ability to engage in therapeutic interventions on an ongoing basis, and [the] primary focus for a significant proportion was initially on issues of safety such as temporary accommodation. Time in custody also destabilised the stability achieved in the community within their individual circumstances prior to being remanded.’”

E. Expanding the availability and quality of bail supervision and bail support for young people

53. In the event that a young person is not diverted, the child will come into contact with the court system. This may involve bail proceedings. Issues arise in regional and rural areas regarding the availability of bail support services for young people.
54. Members of the Association have expressed concern in relation to the limited support and supervision that is offered by Youth Justice NSW for children and young people who apply for bail who have not pleaded guilty or been found guilty of an offence.
55. Youth Justice offer ‘Bail Support’ and ‘Bail Supervision’.⁶⁵ It is acknowledged that Youth Justice do not have a legislative responsibility to provide these services.

⁶² For example, see I Lambie and I Randell, ‘The Impact of Incarceration on Juvenile Offenders’ 33 *Clinical Psychology Review* 448 (2013), 448; E Barnert et al., ‘How Does Incarcerating Young People Affect Their Adult Health Outcomes?’ 139(2) *Pediatrics* 1 (2017), p 7.

⁶³ E S Barnert et al., ‘How Does Incarcerating Young People Affect Their Adult Health Outcomes?’ 139(2) *Pediatrics* 1 (2017), p 7.

⁶⁴ Parliament of Victoria Legislative Council Legal and Social Issues Committee, [‘Inquiry into Victoria’s Criminal Justice System Report – Volume 1’](#) (24 March 2022), p 445.

⁶⁵ NSW Government Department of Communities and Justice, [‘Youth Justice Remand Intervention and Bail Services Factsheet’](#) (May 2023).

56. Bail Supervision is provided for by a condition of bail where the young person has pleaded guilty or has been found guilty of one or more of the subject offence(s). Bail Supervision is not provided where guilt has not been established; Youth Justice explains that this policy seeks to balance providing support with minimising ‘unnecessary monitoring and breach action’.⁶⁶ Youth Justice also state that this policy ‘supports Youth Justice to deploy resources in the most effective way possible to achieve its core function to reduce re-offending by young people’.⁶⁷
57. Youth Justice commenced offering Bail Support⁶⁸ services in January 2023. This option is available for children and young people who have not pleaded guilty or been found guilty of an offence.
58. According to Youth Justice, Bail Support cannot be a condition of bail as participation is voluntary:
- “...It permits Youth Justice staff to provide support to willing young people, without the support being mandated by Court. This support may include different referrals but includes linking to local community-based services, connecting with cultural groups or mentors, and liaising with the Department of Education about school attendance. Bail support is short-term assistance that is not intended to bring the young person into the Youth Justice service system.”⁶⁹
59. Youth Justice further states that ‘any condition to accept Bail Support of Youth Justice (or any condition in similar terms) does not place an obligation on Youth Justice to provide this support’.⁷⁰
60. In [*R v GW*](#) [2023] NSWSC 664, Her Honour Justice Yehia observed that:
- “‘Bail support’ is formulated on a case-by-case basis and the adequacy of ‘bail support’ in any given case will depend upon the efforts made to provide the wrap-around services that may be required.”⁷¹

⁶⁶ NSW Government Department of Communities and Justice, ‘[Youth Justice Remand Intervention and Bail Services Factsheet](#)’ (May 2023), p 3.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ [*R v GW*](#) [2023] NSWSC 664, [42].

61. Whilst the Association understands the rationale and benefits associated with not taking enforcement action by Youth Justice in relation to children and young people who are provided 'bail support', we have concerns in relation to:
- a. Whether the difference in approach between Bail Support and Bail Supervision may have the unintended consequence of reducing a child's likelihood of being granted bail because a judicial officer may be concerned that non-compliance will not be reported; and
 - b. Whether the quality of Bail Support is consistent across NSW, acknowledging that the quality of Bail Support is (at least in part) a function of the adequacy of services available to support children, which are scarcer in regional and remote areas. Members of the Association practising in rural and regional communities have also expressed concerns that Bail Support varies in availability and quality from place to place.
62. The Association strongly supports this Inquiry examining Youth Justice's Bail Support program and how it is applied across the State. The Inquiry should examine issues including:
- a. Where is 'Bail Support' currently available in NSW?
 - b. Is the same level of 'Bail Support' available to children across NSW?
 - c. If the answer to (b) is no, what steps are being taken to ensure consistency?
 - d. Should Bail Supervision be available for children and young people who have not pleaded guilty or been found guilty of an offence?
 - e. How many children are currently receiving 'Bail Support' and 'Bail Supervision'?
 - f. Whether it would be beneficial for Youth Justice to collect data in relation to:
 - i. the number of reports made for non-compliance with 'Bail Supervision'; and
 - ii. in instances where children and young people are reported for non-compliance, whether this results in a continuance or refusal of bail?
 - g. Whether relevant legislation should be amended to require Youth Justice to provide Bail Supervision and/or Support?
63. The success of any Bail Support or Bail Supervision program is not a matter for Youth Justice alone. Reducing the rates of young people in detention and keeping communities safe is also

dependent upon the availability and adequacy of supports and services which children and young people need in towns and communities across the State, as considered below.

64. While the Association welcomes recent funding for bail support services in Moree, including \$8.75 million-dollar bail accommodation and support service,⁷² greater investment is required to ensure children across the State are accessing necessary bail support and services. The Association commends the NSW Government's approach to community consultation and stakeholder engagement in Moree, and supports ongoing consultation across regional and rural areas in order to ensure interventions are evidence-based and effective.

F. Increasing funding for, and the expansion of, services to support young people

65. It is well established that there are inadequate support services that reduce risk of offending and re-offending in rural and regional areas for young people.⁷³ Bridging the significant gap between the needs of young people living in these areas (including, for example, stable housing, healthcare, education), and the resources available to them, necessitates a focus beyond the individual to ensure systems, institutions and social arrangements are working together to reduce youth offending. Effective strategies are comprehensive, community-based, and integrated. Such strategies may involve opportunities for education, mentoring, conflict resolution training and engagement with youth and their families.
66. The lack of availability of services in regional and rural areas and the link to youth crime has been documented comprehensively, including in the Law Council of Australia's 'The Justice Project' Report on '[Rural, Regional and Remote \(RRR\) Australians](#)' (Part 1) and '[Critical Support Services](#)' (Part 2). The Report concluded some of the key challenges facing these areas included scarce and over-stretched services, a general shortage of lawyers, lack of specialist and culturally appropriate services, lack of early intervention programs for young people, and an

⁷² NSW Government Media Release, '[NSW Government takes action to make communities safer and support young people in regions](#)' (12 March 2024).

⁷³ See, for example, Australian Institute of Health and Welfare, '[Rural and remote health](#)' (30 April 2024); Outpost Consulting on behalf of the Australian Government Department of Education, Skills and Employment, '[Research into support services for tertiary students in RRR areas – Final Report](#)' (December 2021); K Ellem et al., 'Services to young people with complex support needs in rural and regional Australia: Beyond a metro-centric response', *Children and Youth Services Review* 99 (April 2019); The House of Representatives Standing Committee on Social Policy and Legal Affairs, '[Inquiry into homelessness in Australia – Final Report](#)' (4 August 2021). Also see, for example, Inquiries detailed at n 6.

absence of diverse sentencing and diversion options.⁷⁴ The availability of services in regional areas, for example drug and alcohol rehabilitation services, and the extent to which these services are under-resourced, was covered in depth by Portfolio Committee No. 2 – Health and Community Services’ [Inquiry into the Provision of Drug Rehabilitation Services in Regional, Rural and Remote NSW](#). The resulting recommendations made by the Committee as to the provision of treatment services in regional, rural and remote areas of NSW are appropriate and extensive, and supported by the Association.

67. This Inquiry provides an opportunity to undertake a comprehensive mapping exercise of services and supports which are available (or unavailable) in regional and rural communities. This should include an examination of the availability of housing, education and health services and supports, including in relation to mental health, disability and drug and alcohol treatment. Such an examination would be an invaluable means of identifying the extent of service gaps in communities and regions, the degree of disparity between areas and identifying those communities which should be prioritised for urgent funding and support.
68. An important aspect of service provision includes ensuring recreational activities are available to young people in regional and rural areas. Research shows that communities that demonstrate a high level of organisation and cooperation are better positioned to channel youth behaviour towards positive outcomes.⁷⁵ Such organisations and programs are useful in strengthening adults’ capacity to support youth and increasing the number and quality of developmental activities for youth. Community-oriented (youth-centred) organisations promote multiple supportive relationships between young people, adults and peers, and provide youth with meaningful opportunities for involvement and membership, as well as activities that are challenging and engaging. There are numerous successful examples of community centres and programs that integrate service delivery through a range of youth-targeted activities.⁷⁶
69. In providing services and support to young people, there is a need for emphasis on community-based consultation and place-based strategies which aim to reduce youth offending. In the absence of services and supports being available in regional and rural areas, communities rely

⁷⁴ The Law Council of Australia, The Justice Project Final Report – Part 1, ‘[Critical Support Services](#)’ (August 2018); The Law Council of Australia, The Justice Project Final Report – Part 1, ‘[Rural, Regional and Remote \(RRR\) Australians](#)’.

⁷⁵ J Stewart et al., Australian Institute of Criminology, [Indigenous Youth Justice Programs Evaluation](#), *AIC Reports – Special report* (2014).

⁷⁶ See, for example, ‘[Arrernte Boxing](#)’, [PCYC ‘Rise Up’ Programs](#); Just Reinvest NSW, [Moree Youth Forum Report](#) (17-18 March 2022).

on fly-in, fly-out services (and zoom-in, zoom-out services) including lawyers and healthcare providers, in order to counter chronic shortages. While this provides some short-term benefits in terms of increasing equity and access to services, there are significant disadvantages. Providing short-term support in communities reduces the ability of communities to develop sufficiently well-resourced and qualified local workforces within the community itself. The Association strongly advocates for the expansion of support services including access to stable, secure housing options, bail accommodation and support, alcohol and rehabilitation services,⁷⁷ counselling and mental health services and family violence support services.

70. People living with disability are significantly over-represented in the criminal justice system, in particular First Nations young people living with cognitive and psychological disabilities.⁷⁸ People living with disability also have disproportionately high levels of contact at earlier stages of the criminal justice process.⁷⁹ Given this overrepresentation, we recommend that this Inquiry examine the availability and quality of services in detention centres to connect and assist young people with National Disability Insurance Scheme (**NDIS**) services and supports. As recommended by the [Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#), the NSW Government should consider specific initiatives to strengthen coordination between the criminogenic-related supports and disability-related supports, including through joint funding arrangements.⁸⁰ Establishing supports in the community through children with disabilities' entitlements to NDIS funding would support children on bail, offer possible sentencing alternatives and assist children who are sentenced to control orders to transition back to community.
71. Finally, given the overrepresentation of Aboriginal and Torres Strait Islander young people in detention, funding and resources must be directed towards First Nations led and culturally safe community programs and supports which have proven to be very successful in reducing rates of youth crime and recidivism.⁸¹ Comprehensive information about First Nations-led

⁷⁷ See NSW Parliament Legislative Council Portfolio Committee No. 2 – Health and Community Services, [Inquiry into the Provision of drug rehabilitation services in regional, rural and remote New South Wales](#) (6 August 2018).

⁷⁸ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, '[Final Report – Volume 8, Criminal justice and people with disability](#)' (29 September 2023).

⁷⁹ Ibid, p 31.

⁸⁰ Ibid, p 207-228.

⁸¹ The impact of First Nations youth justice programs was considered in depth by the Australian Institute of Criminology (J Stewart et al., Australian Institute of Criminology, [Indigenous Youth Justice Programs Evaluation](#), *AIC Reports – Special report* (2014)). The successful implementation of First Nations community led programs has been widely reported recently, for example: S Collard, The Guardian, '[Proud of my community': youth crime drops dramatically in Groote Eylandt](#)' (4 December 2022).

‘programs that work’ is available [here](#),⁸² and the Association urges the Inquiry to consider a similar evidence-based approach to youth diversion and justice reinvestment.

G. Conclusion

72. From an economic perspective, funding for justice reinvestment and youth diversion provides the greatest long-term return on investment, with sustainable benefits including increased community safety, reduced re-offending and significant cost savings. There is also substantial evidence that intervening early to support children and young people at risk will divert them from entering the juvenile justice system.
73. Responding to legitimate community concerns about community safety is an important role and responsibility of the NSW Government and of this Inquiry. A responsible response is evidence-based and builds on programs and policies which have been evaluated as effective in reducing the risk of reoffending. Misconceptions around juvenile crime can play an unhelpful role in shaping the law and order policy debate. The often-misleading negative views of young people and their involvement in crime can wrongly divert the policy discussion towards more punitive approaches, rather than solutions which aim to support children and young people and their families in the long-term through engagement in services and diversion from the criminal justice system. It is these evidence-based solutions in which the NSW Government should invest to ultimately improve the wellbeing of our children and young people and keep communities safe.
74. The Association thanks the Legislative Assembly’s Committee on Law and Safety for the opportunity to make a submission and for its consideration of the issues we have raised. Please contact Harriet Ketley, Director Policy and Law Reform at [REDACTED] if you would like any further information or to discuss this submission.

⁸² Smarter Justice for Safer Communities, ‘Programs that work’ (webpage available [here](#)).