



Indigenous Allied Health Australia submission: Youth Justice and Child Wellbeing Reform across Australia

Indigenous Allied Health Australia (IAHA) is a national not-for-profit, community controlled and member-led, Aboriginal and Torres Strait Islander allied health organisation. IAHA's vision is one where all Aboriginal and Torres Strait Islander people and future generations are thriving in ongoing connection to self, spirit, and place.

IAHA affirms that all Aboriginal and Torres Strait Islander peoples, especially our children, have the right to enjoy the full protection and guarantees against all forms of violence and discrimination, consistent with the United Nations Declaration on the Rights of Indigenous Peoples¹ and the United Nations Convention on the Rights of the Child², which enshrine global minimum standards. IAHA recognises the strengths, resilience and achievements of Aboriginal and Torres Strait Islander children and young people while acknowledging and addressing the systemic barriers and challenges they may face. By promoting a strengths-based approach and providing necessary support and opportunities, we can create an environment that fosters success, wellbeing, and the thriving of Aboriginal and Torres Strait Islander children and future generations.

IAHA welcomes the opportunity to address the key questions posed by the National Children's Commissioner regarding opportunities for reform of youth justice systems across Australia. While IAHA notes the strengthened political imperative at the national level to raise the age of criminal responsibility right now, more than ever, there is also a heightened public consciousness that demands a new and better approach to youth justice.

IAHA urges the need to recast the foundations of the youth justice system to align with a child-rights approach, that improves outcomes for children, young people, families, and the system through greater investment in a spectrum of prevention, early intervention, and diversion, that is inclusive of cultural approaches and approaches to working with families. While IAHA acknowledges recent gains and efforts in certain jurisdictions to better utilise prevention and early intervention across the system that supports culturally safe practices, the current state of the youth justice system in Australia is concerning, with punitive and incarceration-focused approaches remain standard practice. These policies and practices directly undermine the key outcomes that governments are seeking to achieve, including the reduction of recidivism, preventing further harm to children in detention and improving community safety.

¹ <https://humanrights.gov.au/our-work/un-declaration-rights-indigenous-peoples-1#:~:text=The%20United%20Nations%20Declaration%20on,the%20rights%20of%20Indigenous%20peoples.>

² <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child.>

This is particularly the case for Aboriginal and Torres Strait Islander children and young people, who are overrepresented across youth and adult justice systems in Australia and are detained in youth detention facilities at unacceptably high rates³. The Australian Institute of Health and Welfare reported Aboriginal and Torres Strait Islander young people aged 10-17 were about 19 times more likely as non-Indigenous Australians to be under youth justice supervision, and about 24 times as likely to be in detention on an average day in 2021-22,⁴ while making up just 6 per cent of the national youth population⁵. It is well documented that the overrepresentation of Aboriginal and Torres Strait Islander people across youth and adult justice systems are often a result of policing approaches influenced by systemic racism, discrimination, and racial profiling and underlying social inequities^{6,7}.

For those who do interact with the justice system, the abuse and mistreatment of Aboriginal and Torres Strait Islander children and young people is a significant and ongoing concern in detention centres across Australia. In addition to reviews to detention practices in Western Australia and the Northern Territory, during the past six months we have heard damning reports, highlighting shocking allegations of abuse in Queensland youth detention facilities and the disturbing use of isolation, separation, and lock downs of children in Victoria's youth detention centres^{8,9}.

IAHA contends that taking a health promotion approach in the justice system acknowledges that punitive measures do not seek address the underlying causes, rather, leading to cycles of offending. A health promotion approach provides avenues for children and young people to access the care and support they need, including multidisciplinary healthcare. By incorporating culturally safe and responsive community-led programs, restorative justice principles, and trauma-informed practices, the justice system can contribute to healing, reconciliation, and the overall wellbeing of Aboriginal and Torres Strait Islander people, families, and communities.

An immediate national response is needed. IAHA provides additional comments against the following matters identified within the call for submission below:

1. What factors contribute to children's and young people's involvement in youth justice systems in Australia?

IAHA recognises the myriad factors that contribute to children's and young people's interaction with the youth justice systems in Australia. For Aboriginal and Torres Strait Islander children and young people, risk factors and/or drivers for young people's involvement in youth justice systems are often complex and multifaceted, which includes but is not limited to:

- Intergenerational trauma and ongoing impacts of colonisation, dispossession and racism and discrimination

³ <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2022/contents/understanding-youth-detention-in-australia/aboriginal-and-torres-strait-islander-people>.

⁴ <https://www.aihw.gov.au/reports/australias-welfare/youth-justice>.

⁵ <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2022/contents/understanding-youth-detention-in-australia/aboriginal-and-torres-strait-islander-people>.

⁶ <file:///C:/Users/SadhanaSeriamlu/Downloads/c05.pdf>.

⁷ <https://www.penalreform.org/blog/over-policing-of-aboriginal-children-in-australia/>.

⁸ <https://www.bbc.com/news/world-australia-64960479>.

⁹ <https://www.sbs.com.au/nitv/article/yoorook-hears-racist-treatment-of-aboriginal-children-by-vic-police/xhbj5l5e>.

- Socioeconomic inequities including higher rates of poverty, unemployment and inadequate housing leading to increased levels of stress
- Health and development complexities such as Fetal Alcohol Spectrum Disorder, intellectual and other forms of disability including hearing and vision loss, and mental health issues
- Lack of access to culturally safe support services such as education, health, legal, substance misuse and housing services, and its impact on individual self-determination, including ability to leave violent situations.

By not addressing these root causes, IAHA highlights the risk of undermining intended outcomes of reducing offending and recidivism and improving community safety.

2. What needs to be changed so that youth justice and related systems protect the rights and wellbeing of children and young people? What are the barriers to change, and how can these be overcome?

Children and young people, like all people, have human rights that must be recognised and promoted to ensure they are safe, supported and protected that enable them to grow and thrive, giving every child the best possible opportunity in life, laying a strong foundation for their success and wellbeing.

Child rights are relevant across all aspects of youth justice – from preventing contact with youth justice in the first place, to initial police contact, remand and bail, court processes and procedures, sentencing and detention. While all jurisdictions recognise that children and young people have rights, and to varying degrees have enshrined some of these principles in policy and legislation in the context of youth justice, in practice children and young people’s access to their rights have been limited. For Aboriginal and Torres Strait Islander children and young people, these rights are often diminished due to institutional and systemic racism and discrimination¹⁰.

There are several changes that should be prioritised urgently to ensure youth justice policies and practice align with human rights obligations at a minimum, however, further improving outcomes and providing long-term and sustainable policy solutions, informed by evidence and lived experiences. As a member of the Partnership for Justice Health IAHA echoes the partnerships submission for all jurisdictions to raise the age of criminal responsibility to at least 14 years old and ending the detention of children and young people, an approach which is backed by strong international evidence.

IAHA believes Australia has an opportunity to positively influence the youth justice system through a rights-based approach that is at the core to address underlying causes, and structural and systemic issues, providing the impetus for a genuine shift to prevention and early intervention that is widely recognised as the best, and most cost-efficient, way to achieve better outcomes. For Aboriginal and Torres Strait Islander children and young people, this includes:

- Equitable access to high-quality services that are affordable, culturally safe, and responsive, and timely, across the whole system, including child protection, family, mental health, disability, and homelessness services

¹⁰ <https://www.theguardian.com/australia-news/2022/apr/01/half-of-australias-youth-detainees-are-indigenous-children-research-finds>.

- This should include a philosophical shift within justice and custodial contexts to invest in the wellbeing of young people, to understand its role as a health promotion opportunity and to ensure access to multidisciplinary care and services.
- Skilled and adequately funded workforce, including Aboriginal and Torres Strait Islander youth justice officers and greater uptake of allied health services within youth justice and related settings, to improve access to assessment and treatment, alongside improvements to Medicare and NDIS to ensure young people receive the care they need
 - Ensuring all parts of the youth justice system and the intersections with other systems are delivering trauma-informed and culturally safe and responsive programs including through mandatory and ongoing cultural safety training.
- Improved educational and workforce participation which involve support for parents and caregivers to return to work or education, improved access to childcare, training and development opportunities, and creation of flexible and family-friendly workplaces
- Greater access to wrap-around supports for transition back into the community (e.g. cultural and family healing programs)
- Increased recognition and promotion of cultural determinants of health that promote positive health and wellbeing outcomes
- Improved coordination and commitment toward addressing the ongoing impacts of racism, colonisation, intergenerational trauma, and past and current government policies and practices, including the resultant inequities across the social determinants of health and wellbeing outcomes
- Improved detention practices to reflect international standards and the evidence base about effective practices

IAHA asserts that genuine and sustainable investment and whole-of-government buy-in and action across all levels is required in strengthening youth justice outcomes for children and young people, including Aboriginal and Torres Strait Islander children and young people.

Ongoing monitoring, evaluation, and research, with Aboriginal and Torres Strait Islander leadership, are also crucial to assess the effectiveness of reforms and drive continuous improvement.

3. Can you identify reforms that show evidence of positive outcomes, including reductions in children's and young people's involvement in youth justice and child protection systems, either in Australia or internationally?

Investment needs to be reflective and inclusive of strengthening the wellbeing and development of Aboriginal and Torres Strait Islander children and young people more broadly, including successful programs that have proven to be critical, effective and positive for Aboriginal and Torres Strait Islander children and young people, for generations, including First 2000 Days and early intervention, Circle sentencing, Aboriginal-led courts and place-based youth reinvestment programs.

These are real-life examples that are clearly leading the way towards achieving Target 11 of the *new National Agreement on Closing the Gap: Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system*. These are unique examples of what can be achieved for mob by mob, which IAHA asserts is still lacking across many levels in Australia, and which is essential for realising the strategic priorities under the National Agreement on Closing the Gap.

Evidence also suggests that investment in youth more broadly – across education, health, employment and participation in decision-making processes - have proven to yield positive outcomes in the overall wellbeing of children and young people, including the reduction in children's and young people's involvement in youth justice and child protection systems, leading to positive social and economic outcomes, that contribute to a reduction of operational costs overall.

The IAHA High School to Deadly Careers (HS2DC) program and the IAHA National Aboriginal and Torres Strait Islander Health Academy (IAHA National Academy) are examples of successful programs. The HS2DC program has been an enabler in engaging Aboriginal and Torres Strait Islander young people and communities in conversations on education, training and career goals, empowering and supporting them to identify aspirations and opportunities and to engage with positive role models. The IAHA National Academy is another strategy that provides a supportive pathway for Aboriginal and Torres Strait Islander students in years 10 to 12 to complete their schooling and obtain an industry-recognised vocational qualification. These pathways continue to embed strengths-based practices, engage with culture and cultural determinants of health as a protective factor, reduce stigma and promote healthy and help seeking behaviours, and maintain engagement with education and training as a social determinant through the provision of holistic support. IAHA believes these pathways that embed place-based and culturally appropriate principles, are essential to increase Aboriginal and Torres Strait Islander workforce participation and leadership and investment is needed to provide equitable access to these opportunities.

It is also well established that trusting, consistent and culturally safe relationships with workers are a key factor in engaging and supporting children and young people in youth justice systems. For Aboriginal and Torres Strait Islander children and young people, Aboriginal and Torres Strait Islander allied health workforce has and continues to be effective and well placed to provide culturally safe care that is holistic and trauma-informed to meet their needs – from early identification to management of trauma and referral to other appropriate services such as legal services, accommodation, and community organisations. This includes allied health professionals such as social workers, psychologists, counsellors, occupational therapists, and other roles which promote the wellbeing of families.

4. From your perspective, are there benefits in taking a national approach to youth justice and child wellbeing reform in Australia? If so, what are the next steps?

IAHA argues there are significant benefits to taking a national approach to youth justice and child wellbeing reform in Australia. A national approach allows for consistent standards, coordination, and sharing of best practices across states and territories through a community co-design process, reducing disparities and inequities in the treatment and outcomes of children and young people in the justice and child protection systems. In this way, it must be aspirational. Target 11 of the *new National Agreement on Closing the Gap* is an example that demonstrates the effectiveness of a national approach.

A national approach will enable adoption of a shared understanding of cultural safety that plays a crucial role in reform measures for Aboriginal and Torres Strait Islander children and young people. This ensures policies, programs and practices embrace and embed Aboriginal and Torres Strait Islander ways of knowing, being and doing, building upon the inherent strengths of Aboriginal and Torres Strait Islander people, families and communities, and to align with their needs and aspirations.

Additionally, a national approach allows for consistent data collection and evaluation mechanisms, facilitating comprehensive and standardised data on youth justice and child wellbeing indicators, enabling evidence-based decision-making, policy development, and program evaluation.

To advance a national approach to youth justice and child wellbeing reform in Australia, IAHA highlights the following steps to be considered:

- Legislation to amend the Commonwealth Crimes Act to raise the age of criminal responsibility to at least 14 in all jurisdictions without exception
- Implementation of all relevant outstanding recommendations from the report of the Royal Commission into Aboriginal Deaths in Custody and the Bringing Them Home report
- Engagement and consultation with Aboriginal and Torres Strait Islander children and young people, communities, leaders and organisations to ensure their participation and decision-making in the reform process (e.g. truth-telling)
- Investment in Aboriginal and Torres Strait Islander-led initiatives that address the needs and aspirations of children and young people in the justice system, including community-led diversion programs, culturally safe support services and healing programs.
- Investment in workforce development for Aboriginal and Torres Strait Islander people, including allied health, that seeks to genuinely build the availability, capacity and cultural safety of professionals working in youth justice and child wellbeing.
- Establishment of ongoing monitoring, reporting and accountability mechanisms that includes regular reporting on progress, outcomes, and compliance with human rights and cultural safety standards.

IAHA encourages the application of reforms to be consistent with the *United Nations Convention on the Rights of the Child*, the *United Nations Convention on the Elimination of All Forms of Racial Discrimination*, the *United Nations Declaration on the Rights of Indigenous Peoples*, and the *National Agreement on Closing the Gap*.

This can be in a form of truth-telling processes that can drive change, influence government to move away from tough-on-crime rhetoric and policy and demonstrate the power and strength of Aboriginal and Torres Strait Islander people and their cultures. IAHA believes this would achieve real gains across the youth justice system and social sector more broadly.

Further information

Please contact IAHA on (02) 6285 1010 or via email to policy@iaha.com.au should you require further information on any issues raised in this submission.