

Inquiry into Australia's youth justice and incarceration system 2024

Submission to the Senate

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Executive summary

UNICEF Australia welcomes the opportunity to provide a submission to the Senate on the Inquiry into Australia's youth justice and incarceration system 2024.

UNICEF's work across 190 countries is underpinned by the United Nations Convention on the Rights of the Child (UNCRC) to protect and improve the lives of children and young people. In Australia, we defend these rights, amplify the voices of children and young people and help them fulfill their potential across every aspect of their childhood.

UNICEF Australia is deeply concerned about the state of youth justice in this country. The use of solitary confinement, inadequate access to education and healthcare and evidence of physical and psychological abuse within the youth justice system do not align with the rights of the child and are at odds with our obligations under international law. The 'tough on crime' approaches and strong disciplinary measures taken against children and young people also fail to address the underlying causes of offending and disproportionately impact on First Nations children, children living with poverty and disadvantage, and children with complex needs such as disabilities, mental ill-health and trauma.¹

Youth justice processes and practices should never operate to undermine children's rights, but instead, should always seek to empower and uphold them. UNICEF Australia believes that a youth justice system that consistently works in children's best interests and actively promotes their rights, will lead to better, fairer and more beneficial outcomes for children and wider society.²

This submission provides our recommendations for urgent reform in Australia's youth justice system including raising the age of criminal responsibility to at least 14 years across all jurisdictions, investing in community-based preventative and diversionary programs as alternatives to incarceration, incorporating human rights protections for children into domestic law,³ and establishing a structure that promotes a nationally coordinated approach to child rights and youth justice in Australia.

We draw on our expertise as both a nationally and internationally leading child rights organisation but acknowledge that many of the issues in the youth justice system in Australia disproportionately impact Aboriginal and Torres Strait Islander children, families and communities and need First Nations-led solutions. Our submission is intended to complement and support the leadership and self-determination of Aboriginal and Torres Strait Islander Peoples in addressing youth justice for their children and young people.

¹ Australian Human Rights Commission. (2024, September 12). Children's Commissioner welcomes Senate Inquiry into child justice.

<https://humanrights.gov.au/about/news/childrens-commissioner-welcomes-senate-inquiry-child-justice>

² UNICEF Australia. (2024). Calling for urgent youth justice reforms. Retrieved from <https://www.unicef.org.au/calling-for-urgent-youth-justice-reforms>

³ Committee on the Rights of the Child. (2019). General comment No. 24 (2019) on children's rights in the child justice system. United Nations.

<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-24-2019-childrens-rights-child>

Summary of recommendations

a) The outcomes and impacts of youth incarceration in jurisdictions across Australia

Reduce the number of children and young people in the youth justice system and improve outcomes by:

- 1. Increasing investment in community-led prevention, rehabilitation and reintegration programs that support children with a tailored approach to prevention, diversion, and restoration.*
- 2. Increasing child-sensitivity in the justice system and adoption of the best interests of the child principle to all investigations and court procedures.*

b) The over-incarceration of First Nations children

Increase support for and reduce the over-incarceration rates of First Nations children in Australia's youth justice system by:

- 3. Implementing comprehensive reforms that address structural inequalities and other forms of discrimination within the justice system, including workforce training, investing in First Nations-led solutions and evidence-based policy and practice.*
- 4. Investing in specialised prevention and early intervention programs for First Nations children and young people, prioritising Aboriginal Community Controlled Organisations to design and deliver these programs.*

c) The degree of compliance and non-compliance by state, territory and federal prisons and detention centres with the human rights of children and young people in detention

Improve compliance with human rights standards and minimise harm of children and youth in detention by:

- 5. Undertaking a national assessment of all jurisdictions against international child rights laws and develop a monitoring framework with nationally consistent standards for monitoring detention facilities, including accountability and transparency mechanisms for ongoing compliance.*
- 6. Prohibiting the practices of force, solitary confinement, and the use of isolation in child and youth detention facilities.*
- 7. Investing in the upskilling of youth justice staff and the development of nationally consistent minimum training requirements to increase workforce understanding of trauma-informed and culturally safe responses, and the benefits of rehabilitative responses to children and young people.*

d) The Commonwealth's international obligations in regard to youth justice including the rights of the child, freedom from torture and civil rights

Strengthen the Commonwealth's adherence to international human rights obligations by:

- 8. Adopting a rights-based approach to youth justice that prioritises the best interests of the child and ensures all policies and practices comply with international human rights standards (including the United Nations Convention on the Rights of the Child, United Nations Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment & United Nations Declaration on the Rights of Indigenous Peoples).*

e) The benefits and need for enforceable national minimum standards for youth

Better protect child and youth rights and improve nationwide outcomes for children and young people by:

- 9. Introducing national minimum standards that include provisions for the humane treatment of children, evidence-based preventive and diversionary approaches, access to education and culturally safe healthcare, and a minimum criminal age of 14.*

f) Justice consistent with our international obligations

Please see recommendations outlined under d) the Commonwealth's international obligations in regard to youth justice including the rights of the child, freedom from torture and civil rights.

g) Any related matters

Improve nationwide coordination of youth justice and the prioritisation of child safety and well-being by:

- 10. Establishing child safety and well-being as a national priority through the development of a National Taskforce and 10-year cross portfolio roadmap for reform of the child and youth justice systems.*
- 11. Developing a National Children's Plan to support nationwide commitment and coordinated action on issues affecting children and young people, including embedding rights in youth justice as a core priority.*

Detailed Recommendations

a) The outcomes and impacts of youth incarceration in jurisdictions across Australia

UNICEF Australia has deep concerns about the outcomes and impacts of youth incarceration across all jurisdictions in Australia, including:

- **Development:** Incarceration can significantly disrupt a young person's natural development. Adolescence is a critical period for emotional, social, and cognitive growth which is hindered in a detention environment, making it harder for young people to mature and develop healthy coping mechanisms.⁴
- **Education:** Incarceration often interrupts a young person's education, making it difficult for them to reintegrate into the school system upon release.⁵ This educational disruption can have long-term impacts on their employment prospects and overall life opportunities.
- **Health:** The environment in detention centres can be stressful and traumatic, contributing to mental health issues such as anxiety, depression, and post-traumatic stress disorder (PTSD).⁶ The lack of adequate mental health support in these facilities can exacerbate these problems.
- **Social:** Being incarcerated can lead to stigmatisation and social exclusion. Young people may face discrimination and negative labelling, which can affect their self-esteem and hinder their ability to build positive relationships and integrate into society.⁷
- **Families and communities:** The incarceration of a young person can have ripple effects on their family and community. Families may experience emotional and financial strain, and communities may lose the potential contributions of these young individuals.⁸
- **Reoffending:** Studies have shown that young people who are incarcerated are more likely to reoffend compared to those who receive community-based interventions.⁹ The experience of detention can reinforce criminal behaviour rather than rehabilitate, leading to a cycle of reoffending.

UNICEF strongly supports alternatives to incarceration that focus on early intervention, prevention, rehabilitation and support, rather than punishment. Investment in prevention and diversion allows us to better identify the needs of children early, re-directing them away from the criminal justice system to programs and supports that are better placed to respond to their needs. Diversion programs and community-led rehabilitative approaches can be used to address the underlying causes of offending, thereby increasing the likelihood of success, helping young people to avoid the negative consequences of detention and lead productive lives. There is also strong domestic and international evidence that suggest these approaches have far more positive outcomes for children, young people and the community.¹⁰

⁴ Mendel, R. A. (2023). Why youth incarceration fails: An updated review of the evidence. The Sentencing Project. Retrieved from <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>

⁵ Donchik, L. (2019). Challenges with school reentry for incarcerated youth and inadequacies of collaborative service provision by schools and agencies. In Handbook on Promoting Social Justice in Education. Springer. Retrieved from https://link.springer.com/referenceworkentry/10.1007/978-3-319-74078-2_115-1

⁶ Nurse, J., Woodcock, P., & Ormsby, J. (2003). Influence of environmental factors on mental health within prisons: Focus group study. BMJ, 327, 480. Retrieved from <https://www.bmj.com/content/327/7413/480>

⁷ Brew, B., Alani, F., Li, A., & Wildeman, C. (2022). Sticky stigma: The impact of incarceration on perceptions of personality traits and deservingness. Social Forces, 100(4), 1910-1934. Retrieved from <https://doi.org/10.1093/sf/soab091>

⁸ Australian Institute of Health and Welfare. (2020). The health and wellbeing of Australia's prisoners 2020. Retrieved from <https://www.aihw.gov.au/reports/prisoners/health-and-wellbeing-of-australias-prisoners-2020>

⁹ Australian Institute of Health and Welfare. (2020). Young people returning to sentenced youth justice supervision 2018–19. Retrieved from <https://www.aihw.gov.au/getmedia/48ae3545-83c5-46f1-96d4-9fac034fc71b/aihw-juv-127.pdf.aspx?inline=true>

¹⁰ Save the Children (2023) Putting children first: A rights respecting approach to youth justice in Australia. Retrieved from <https://www.savethechildren.org.au/getmedia/4befc9d7-c9de-4088-b591-547714fc8673/Putting-children-first-A-rights-respecting-approach-to-youth-justice-in-Australia-April-2023.pdf.aspx>

The use of child-sensitive approaches in the justice system and adoption of the best interests of the right of the child during investigations helps children and young people to avoid formal criminal proceedings, preventing them from receiving a criminal record, and thereby supporting their access to opportunities throughout their life.

Recommendation

Reduce the number of children and young people in the youth justice system and improve outcomes by:

- 1. Investing in community-led rehabilitation and reintegration programs that support children with a tailored approach to prevention, diversion and restoration.*
- 2. Increasing child-sensitivity in the justice system and adoption of the best interests of the child principle to all investigations and court procedures.*

b) The over-incarceration of First Nations children

The over-incarceration of Aboriginal and Torres Strait Islander children and young people in Australia does not align with the rights of the child and are at odds with our obligations under international law. It is rooted in historical and ongoing injustices, including the impacts of colonisation, systemic inequalities, and intergenerational trauma.¹¹

The *Royal Commission into Aboriginal Deaths in Custody 1991* highlighted the systemic discrimination in the justice system which has separated children from their families, dismantled family structures and cultural connections and incarcerated Aboriginal and Torres Strait Islander children at unprecedented rates.¹² The *Bringing Them Home Report 1997* documented the forced removals of Aboriginal and Torres Strait Islander children and assimilation policies and practice that have profound impacts for families and communities and persist today through systems of oppression and intergenerational trauma.¹³

Today, Aboriginal and Torres Strait Islander children are 26 times more likely to be incarcerated than their non-Indigenous peers¹⁴ and the latest Annual Data Report on the Agreement by the Productivity Commission highlights that there has been no progress on the number of Aboriginal and Torres Strait Islander children in incarceration.¹⁵

Structural problems require structural solutions, which is why UNICEF Australia recommends urgent and comprehensive reforms to the youth justice system that prioritise addressing the well documented impacts of colonisation, ongoing systemic barriers and other forms of discrimination that permeate. Reforms should include training and education across all justice workforces; investing in First Nations-led solutions and upholding the rights of Aboriginal and Torres Strait Islander Peoples to self-determination on issues that affect them; and undertaking a process of embedding evidence-based policy and practice across the justice sector. Only through structural reform such as these can we realise a future for all of Australia's children based on self-determination and justice, and truth about our shared history is a crucial step in this journey.

Recommendation

Increase support and reduce the over-incarceration rates of First Nations children in Australia's youth justice system by:

¹¹ Darwin, L., Vervoort, S., Vollert, E., & Blustein, S. (2023). Intergenerational trauma and mental health. Australian Institute of Health and Welfare. <https://www.indigenoussmhspc.gov.au/getattachment/6f0fb3ba-11fb-40d2-8e29-62f506c3f80d/intergenerational-trauma-and-mental-health.pdf?v=1309>

¹² Royal Commission into Aboriginal Deaths in Custody. (1991). National Report. Retrieved from <https://www.royalcommission.gov.au/>

¹³ Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families. (1997). Human Rights and Equal Opportunity Commission. Retrieved from [bringing_them_home_report.pdf](https://www.humanrights.gov.au/bringing-them-home-report) (humanrights.gov.au)

¹⁴ Amnesty International Australia. (2022, September 8). The overrepresentation problem: First Nations kids are 26 times more likely to be incarcerated than their classmates. Amnesty International Australia. <https://www.amnesty.org.au/overrepresentation-explainer-first-nations-kids-are-26-times-more-likely-to-be-incarcerated/>

¹⁵ Amnesty International Australia. (2022, September 8). The overrepresentation problem: First Nations kids are 26 times more likely to be incarcerated than their classmates. Amnesty International Australia. <https://www.amnesty.org.au/overrepresentation-explainer-first-nations-kids-are-26-times-more-likely-to-be-incarcerated/>

3. *Implementing comprehensive reforms that address structural inequalities and other forms of discrimination within the justice system, including workforce training, investing in First Nations-led solutions and evidence-based policy and practice.*
4. *Investing in specialised prevention and early intervention programs for First Nations children and young people, prioritising Aboriginal Community Controlled Organisations to design and deliver these programs.*

c) The degree of compliance and non-compliance by state, territory and federal prisons and detention centres with the human rights of children and young people in detention

We have seen varying degrees of compliance with human rights standards across state, territory and federal detention centres in the absence of uniform standards and oversight. While improvements have been made in some states, such as the introduction of education and mental health support programs in NSW¹⁶ and an increased focus on rehabilitation and education in Victoria¹⁷, there are still significant concerns regarding policy and practice across all states and jurisdictions when it comes to child rights.¹⁸

UNICEF Australia is particularly concerned about:

1. The use of solitary confinement
2. Inadequate access to education and healthcare
3. Physical and psychological abuse

Research shows that pre-existing psychological concerns, cognitive impairments, and experiences of abuse and neglect can significantly increase the risk the likelihood of a child or young person engaging with the criminal justice system.¹⁹ Practices such as solitary confinement, physical or psychological abuse can worsen existing psychological or cognitive issues in children and young people and is particularly harmful during critical stages of brain development.²⁰

Yet, the use of force, solitary confinement and inadequate support services are apparent across all states and territories and require immediate attention. In Queensland, the removal of the ‘detention as a last resort’ principle from its youth justice laws is a concerning backstep to a ‘tough on crime’ approach.²¹ In the Northern Territory, plans to lower the minimum age of criminal responsibility to 10 and reintroduce spit hoods defy international standards and expert advice.²² Ensuring all facilities across Australia are brought into line with human rights obligations is crucial. Urgent reforms are needed to ensure that all children and young people in detention are treated with dignity and respect, in line with international human rights standards. We also encourage Governments to better invest in building the capacity of staff across youth justice systems. This includes training in trauma-informed care, cultural safety, broader mental health services, and in the benefits of rehabilitative rather than strong disciplinary responses to children and young people.

Recommendation

Improve compliance with human rights standards and minimise harm of children and youth in detention by:

¹⁶ NSW Department of Communities and Justice. (n.d.). Forensic mental health reforms. Retrieved from <https://dcj.nsw.gov.au/legal-and-justice/laws-and-legislation/policy-reform-and-legislation/forensic-mental-health-reforms.html>

¹⁷ Victorian Auditor-General’s Office. (2018). Managing rehabilitation services in youth detention. Retrieved from <https://www.audit.vic.gov.au/report/managing-rehabilitation-services-youth-detention>

¹⁸ Victorian Ombudsman. (2019). Unlawful and wrong: Solitary confinement and isolation of young people in Victorian prison and youth justice centres. Retrieved from <https://www.ombudsman.vic.gov.au/our-impact/news/unlawful-and-wrong-solitary-confinement-and-isolation-of-young-people-in-victorian-prison-and-youth-justice-centres-ombudsman/>

¹⁹ Australian Institute of Health and Welfare (2022) Young people under youth justice supervision and their interaction with the child protection system 2020-2021. Retrieved from <https://www.aihw.gov.au/reports/youth-justice/young-people-under-youth-justice-supervision/summary>

²⁰ Australian Human Rights Commission (2024) Section 4: Key evidence-based actions for reform of child justice and related systems, ‘Help way earlier’ – How Australia can transform child justice to improve safety and wellbeing. Sydney: Australian Human Rights Commission

²¹ ABC News. (2024). Queensland government to remove ‘detention as a last resort’ from youth justice laws. Retrieved from <https://www.abc.net.au/news/2024-05-01/qld-government-remove-detention-as-a-last-resort-youth-justice/103788566>

²² Brennan, D. (2024). Peak bodies for doctors and lawyers call for raising of the age, end to politicisation of youth justice. National Indigenous Times. Retrieved from <https://nit.com.au/23-08-2024/13292/peak-bodies-for-doctors-and-lawyers-call-for-raising-of-the-age-end-to-politicisation-of-youth-justice>

5. *Undertaking a national assessment of all jurisdictions against international child rights laws and developing a monitoring framework with nationally consistent standards for monitoring detention facilities, including accountability and transparency mechanisms for ongoing compliance.*
6. *Prohibiting the practices of force, solitary confinement, and the use of isolation as punishment in child and youth detention facilities.*
7. *Investing in the upskilling of youth justice staff and the development of nationally consistent minimum training requirements to increase workforce understanding of trauma-informed and culturally safe responses, and the benefits of rehabilitative responses to children and young people.*

d) The Commonwealth's international obligations in regard to youth justice including the rights of the child, freedom from torture and civil rights

Australia has international obligations under both the UN Convention on the Rights of the Child (UNCRC) and the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). As signatory to these important frameworks, the Commonwealth of Australia is required to protect the rights of every child, ensure freedom from torture and uphold civil rights.²³

Current practices in youth detention centres across Australia repeatedly fall short of these standards. UNICEF Australia emphasises the importance of the Commonwealth's adherence to its international obligations concerning youth justice to ensure the protection and promotion of the rights of children and young people in detention. Specific international obligations relating to youth justice in Australia include:

1. Upholding the Rights of the Child

As a signatory to the United Nations Convention on the Rights of the Child (CRC), the Commonwealth is mandated to protect children's rights in all aspects of life, including within the justice system. Key obligations include:

- **Best Interests of the Child:** All actions concerning children should prioritise their best interests (Article 3). This principle is often compromised in the current youth justice system, where punitive measures overshadow rehabilitative approaches.²⁴
- **Right to Education and Development:** Children in detention must have access to education and opportunities for personal development (Article 28). However, educational disruptions and inadequate support in detention centres hinder this right.²⁵

2. Ensuring Freedom from Torture and Inhumane Treatment

Australia is also bound by the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). This includes:

- **Prohibition of Torture:** Any form of torture or inhumane treatment is strictly prohibited (Article 2)²⁶. In its 'Concluding Observations on the Sixth Periodic Report of Australia' (2022), the Committee Against Torture noted its 'serious concerns' in relation to practices such as solitary confinement, use of restraints, and verbal and racial abuse.²⁷ It recommended the explicit prohibition of force, and ending the practice of

²³ United Nations. (n.d.). Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Retrieved from <https://legal.un.org/avl/ha/catcidtp/catcidtp.html>

²⁴ United Nations. (1989). Convention on the Rights of the Child. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

²⁵ United Nations. (1989). Convention on the Rights of the Child. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

²⁶ United Nations. (1984). Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Retrieved from <https://legal.un.org/avl/ha/catcidtp/catcidtp.html>

²⁷ Committee Against Torture, 2022, Concluding Observations on the Sixth Periodic Report of Australia, retrieved from; https://www.ombudsman.gov.au/_data/assets/pdf_file/0029/117884/CAT_C_AUS_CO_6_50827_E-Concluding-Observations.pdf

solitary confinement for children to bring the child justice system fully in line with Australia's obligations under the UNCAT.²⁸

- **Adequate Conditions of Detention:** Detention conditions must meet international standards, ensuring the dignity and well-being of children. Reports of poor conditions and mistreatment in some facilities highlight significant non-compliance.²⁹

3. Protecting Civil Rights and Freedoms

The International Covenant on Civil and Political Rights (ICCPR) further reinforces the rights of children in the justice system:

- **Right to Fair Treatment:** Children must be treated with humanity and respect for their inherent dignity (Article 10). The over-incarceration of First Nations children and the lack of culturally appropriate support services indicate systemic failures in upholding this right.³⁰
- **Right to Legal Representation:** Children have the right to legal assistance and to be heard in judicial proceedings (Article 14). Ensuring access to legal representation and fair trials is crucial for protecting their civil rights.³¹

The incarceration of Aboriginal and Torres Strait Islander children often violates international human rights standards, including the UN Convention on the Rights of the Child (UNCRC) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). These children deserve the opportunity to thrive within their communities, not to be further marginalised through incarceration.

Aligning Australia's youth justice practices with international obligations requires comprehensive reforms, a shared commitment from all states and territories, and coordinated action at a national level. This includes adopting a rights-based approach, prioritising rehabilitation over punishment, and ensuring that all children are treated with dignity and respect. An overarching vehicle for such action, as well as a range of other considerations for children and young people, is the development of a National Children's Plan that embeds youth justice as a core priority.

Please see response g) Any related matters for more information on a National Children's Plan.

Recommendation

Strengthen the Commonwealth's adherence to international human rights obligations by:

8. Adopting a rights-based approach to youth justice that prioritises the best interests of the child and ensures all policies and practices comply with international human rights standards (including the United Nations Convention on the Rights of the Child, United Nations Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment & United Nations Declaration on the Rights of Indigenous Peoples).

e) The benefits and need for enforceable national minimum standards for youth

Establishing enforceable national minimum standards for youth justice is essential to ensure consistency and compliance with human rights across all jurisdictions. These standards should include provisions for the humane treatment of children, access to education and healthcare, and the prohibition of inhumane practices like solitary confinement. The current variation in standards and practices across Australia, and the egregious breaches of human rights on children and young people in detention highlight the pressing need for these standards to:

²⁸ Ibid.

²⁹ United Nations. (1984). Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Retrieved from <https://legal.un.org/avl/ha/catcidtp/catcidtp.html>

³⁰ United Nations. (1966). International Covenant on Civil and Political Rights. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

³¹ United Nations. (1966). International Covenant on Civil and Political Rights. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

- **Ensure consistency and equity:** Enforceable national minimum standards will help to ensure that all children and young people, regardless of their location, receive the same level of care and protection. This consistency helps to eliminate disparities between different states and territories, promoting equity in the treatment of youth across the country.³²
- **Improve outcomes:** Standards provide a clear framework for best practices in youth justice, which can lead to better outcomes for young people. This includes reduced reoffending rates, improved mental health, and better educational and vocational opportunities.³³
- **Increase accountability and oversight:** National standards create a benchmark against which the performance of youth justice systems can be measured. This accountability ensures that facilities and programs are regularly reviewed and held to high standards, promoting continuous improvement.³⁴
- **Promote best practices:** Enforceable standards encourage the adoption of best practices across all jurisdictions. This can lead to innovations in youth justice that improve outcomes for young people and reduce the overall costs associated with youth offending.³⁵
- **Protect human rights:** Enforceable standards help ensure that the rights of children and young people are upheld in accordance with international human rights obligations. This includes protection from inhumane treatment, access to education, and the right to rehabilitation.³⁶
- **Build public confidence:** Having clear, enforceable standards can increase public confidence in the youth justice system. It demonstrates a commitment to treating young people fairly and humanely, which can enhance community support for youth justice initiatives.³⁷

Recommendation

Better protect child and youth rights and improve nationwide outcomes for children and young people by:

9. Introducing national minimum standards that include provisions for the humane treatment of children, evidence-based preventive and diversionary approaches, access to education and culturally safe healthcare, and a minimum criminal age of 14.

f) Justice consistent with our international obligations

Please see response under d) The Commonwealth's international obligations in regard to youth justice including the rights of the child, freedom from torture and civil rights.

g) Any related matters

To improve the outcomes for children and young people in incarceration, better address issues with compliance across state, territory and federal prisons and detention centres, improve Commonwealth adherence to international obligations in regard to youth justice, and to develop enforceable national minimum standards for youth, child safety and well-being should be made a national priority. Currently there is no pathway for coordinated, nation-wide reform of the child and youth justice system.

The establishment of a National Taskforce and the development of a 10-year cross portfolio roadmap for reform of the child and youth justice systems would support improved coordination across all levels of government.

³² Youth Justice Board for England and Wales. (2019). National standards for youth justice services. GOV.UK.

<https://www.gov.uk/government/publications/national-standards-for-youth-justice-services>

³³ Youth Justice Board for England and Wales. (2019). National standards for youth justice services. GOV.UK.

<https://www.gov.uk/government/publications/national-standards-for-youth-justice-services>

³⁴ Youth Justice Board for England and Wales. (2019). Standards for children in the youth justice system. GOV.UK.

<https://www.gov.uk/government/publications/national-standards-for-youth-justice-services>

³⁵ Youth Justice Board for England and Wales. (2019). Standards for children in the youth justice system. GOV.UK.

<https://www.gov.uk/government/publications/national-standards-for-youth-justice-services>

³⁶ Youth Justice Board for England and Wales. (2019). Standards for children in the youth justice system. GOV.UK.

<https://www.gov.uk/government/publications/national-standards-for-youth-justice-services>

³⁷ Youth Justice Board for England and Wales. (2019). Standards for children in the youth justice system. GOV.UK.

<https://www.gov.uk/government/publications/national-standards-for-youth-justice-services>

However, these initiatives should sit within a broader national plan that prioritises child safety and well-being and encourages nationally coordinated responses to issues affecting children and young people.

A National Children's Plan (The Plan) could provide this structure, establishing a clear vision for children and young people in Australia and providing a long-term, comprehensive and overarching framework for all policy and decision-making that affects children and young people. The Plan would include clear policy and investment commitments, and implementation plans to ensure they are translated into effective action.

The Plan would include a number of policy focus areas identified as indicative priorities to address the most significant underlying drivers of children's rights violations and impediments to better outcomes for children and young people in Australia. One of these twelve policy focus areas would include *Rights in youth justice*.

The Plan would be grounded in a small number of overarching principles reflecting a child rights framework, including the four principles of the Convention on the Rights of the Child itself – freedom from discrimination (Article 2), the best interests principle (Article 3), the right to life, survival and development (Article 6) and the right to be heard (Article 12). This would assist in promoting a rights-based approach to youth justice in Australia and would encourage adherence to our international obligations regarding youth justice.

UNICEF Australia and 54 Reasons (Save the Children Australia) as part of the Australian Child Rights Taskforce have developed a Blueprint for a National Children's Plan, which we would be very happy to share and discuss further. A National Children's Plan would unify existing policy arrangements with a child-centred and rights-based focus, supporting a nationally coordinated response to youth justice in Australia.

Recommendation

Improve nationwide coordination of youth justice and the prioritisation of child safety and well-being by:

10. Establishing child safety and well-being as a national priority through the development of a National Taskforce and 10-year cross portfolio roadmap for reform of the child and youth justice systems

11. Developing a National Children's Plan to support nationwide commitment and coordinated action on issues affecting children and young people, including embedding rights in youth justice as a core priority.

About UNICEF Australia

UNICEF believes in a fair chance for every child and we are the world's leading organisation working to protect and improve the lives of children in over 190 countries. At UNICEF Australia we work to protect and promote children's rights by advocating for the rights of children in Australia and overseas.

UNICEF Australia would welcome the opportunity to expand further on the measures we have outlined in this submission.