

Impacts of Custody and Detention on Young People

Executive Summary

Young people involved in the criminal justice system are widely recognised as ‘among the most disadvantaged’.¹ These circumstances – which include health and social inequalities² and ‘pre-existing neurodevelopmental disabilities and mental ill-health’³ – make young people more likely to become justice-involved.

A growing body of Australian and international research suggests that incarceration during adolescence can have profound immediate and ongoing adverse health effects throughout adulthood.⁴ This is particularly the case where young people are incarcerated in adult prisons and with adult offenders.⁵ Exposure to custody can increase the risk of stigmatisation,⁶ disrupt development⁷ and exacerbate mental and physical health conditions.⁸

Because young people are ‘still undergoing neurological development’,^{9*} they are ‘more prone to increased risk-taking, poor consequential thinking and a lack of impulse control’¹⁰ as well as having ‘difficulty regulating their moods’.¹¹ Their psychosocial immaturity also makes them more vulnerable to ‘peer influence, coercion, provocation and immature decision making’.¹²

McCausland and Baldry (2023) undertook a meta-analysis of a linked administrative databank of a cohort of people who have been incarcerated in NSW. They explored justice trajectories and outcomes and the way they are determined by systemic and structural factors – what they term the ‘social determinants of justice’.¹³ These include early abuse, violence and trauma, systemic racism and discrimination, poverty and unequal access to resources, and the operation of the criminal legal system itself.¹⁴ These realities mean that people from certain communities are proportionally more likely to end up in the criminal justice system. These include Indigenous people, people experiencing poverty and/or OOHC.¹⁵

Social, economic, and geographic factors that influence a person’s involvement in the criminal justice system include:¹⁶

- poor schooling experiences and rates of educational attainment
- early contact with police
- unsupported mental health and cognitive disabilities
- problematic use of alcohol and other drugs
- experiencing homelessness and unstable housing.

Various inquiries have documented the experiences of young people in detention¹⁷ and found that experiences of incarceration are often characterised by restricted access to food, fresh air and exercise, prolonged periods of isolation, placement in adult custodial settings, and physical and/or sexual assault.¹⁸

Given their vulnerability and often complex needs, and the ‘lack social and therapeutic care and support’ in youth detention contexts, youth detention centres can ‘serve as sites of ongoing trauma and violence’¹⁹ and are of limited rehabilitative value for young people.²⁰ Moreover, a wide body of research has established links between a young person’s incarceration and poor health and other adverse outcomes over their life-course including:

- increased likelihood of becoming entrenched in the criminal justice system²¹
- increased risk of death after release²²
- poorer physical health outcomes and homelessness²³
- Fragmented education and poorer educational outcomes.²⁴

Importantly, the neurological underdevelopment of young people, which may cause a young person to engage in criminal activity, may also improve their prospect of rehabilitation.²⁵ This, along with the complex needs of such young people, highlights the importance of both early intervention and diversion of young people away from the formal criminal justice system.²⁶ Not only has the use of diversions for young people corresponded with reducing rates of recidivism²⁷ but they are also more likely to be successful if the intervention is made at the earliest opportunity.²⁸

However, research has shown that Aboriginal and Torres Strait Islander young people are less likely to receive diversions: ‘Only 10% of First Nations youth were diverted compared to 30% for non-Indigenous youth in the ACT in 2023.’²⁹

Importantly, some programs described as diversionary can in reality have a net-widening and criminogenic effect – for example, for young people with cognitive disability – if not systematically focused and appropriately designed.³⁰

A report by Klauzner et al (2022) that evaluated of Youth on Track, an early intervention program for young people at risk of becoming entrenched in the criminal justice system, highlighted importance of

[c]ulturally appropriate youth interventions ... given that Aboriginal young people continue to be grossly overrepresented in the youth justice system, with nearly half of all young people in custody identifying as Aboriginal.³¹

Evaluations of such interventions (e.g. Maranguka, the Aboriginal community-led and place-based justice reinvestment program) have recorded promising outcomes, including a 23% ‘reduction in police recorded incidence of domestic violence and comparable drops in rates of re-offending’.³² These results have been shown to flow on to education, with a 31% ‘increase in year 12 student retention rates’.³³

Notes

¹ Australian Human Rights Commission (‘AHRC’), Youth Justice and Child Wellbeing Reform Across Australia Project, *‘Help Way Earlier!’: How Australia Can Transform Child Justice to Improve Safety and Wellbeing* (National Children’s Commissioner Report, 2024) (‘*Help Way Earlier!*’ Report) 16. See also Geoffrey Bellew and Jeffrey Loy, *Review of the Operation of Doli Incapax in NSW for Children under 14*

(Report of Independent Review, August 2025) 17, citing The Law Society of NSW, Submission No 9 and Youth Justice NSW, Submission No 12; Ruth McCausland and Eileen Baldry, [‘Who Does Australia Lock Up? The Social Determinants of Justice’](#) (2023) 12(3) *International Journal for Crime, Justice and Social Democracy* 37, 38; Sharynne Hamilton et al, [‘Putting “Justice” in Recovery Capital: Yarning About Hopes and Futures with Young People in Detention’](#) (2020) 9(2) *International Journal for Crime, Justice and Social Democracy* 20, 21 (citations omitted).

² Melissa Willoughby et al, [‘Violence-Related Death in Young Australians After Contact With the Youth Justice System: A Data Linkage Study’](#) (2023) 38(17–18) *Journal of Interpersonal Violence* 9923, 9936.

³ *Help Way Earlier!* Report (n 1) 76. See also *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Final Report)*, 2 November 2023) Vol.

⁴ Elizabeth S Barnert et al, [‘How Does Incarcerating Young People Affect Their Adult Health Outcomes?’](#) (2017) 139(2) *Paediatrics* 1, 7. See also Rohan Borschmann et al, [‘The Health of Adolescents in Detention: A Global Scoping Review’](#) (2020) 5(2) *The Lancet Public Health* e114; Naomi F Sugie and Kristin Turney, [‘Beyond Incarceration: Criminal Justice Contact and Mental Health’](#) (2017) 82(4) *American Sociological Review* 719; and Sarah A Pellicano et al, [‘Health and incarceration research in Australia: a scoping review’](#) (2025) 56 *The Lancet Regional Health - Western Pacific* 101500.

⁵ Ian Lambie and Isabel Randell, [‘The Impact of Incarceration on Juvenile Offenders’](#) (2013) 33 *Clinical Psychology Review* 448, 448.

⁶ Senate Legal and Constitutional Affairs References Committee, Parliament of Australia, [Inquiry into Australia’s Youth Justice and Incarceration System](#) (*Inquiry into Youth Justice*) (Interim Report, February 2025) 30 [2.59]. Note that the brief Final Report (June 2025) largely relies upon the more substantial Interim Report.

⁷ *Ibid* (Interim Report) 34–5 [2.77].

⁸ *Ibid* 18–23.

⁹ Legislative Council Legal and Social Issues Committee, Parliament of Victoria, [Inquiry into Victoria’s Criminal Justice System](#) (Report, March 2022) (*Victoria’s Criminal Justice System Report*) 685.

* Jody Kamminga et al, [Decision-Making, Emotion and Behaviour Regulation 18–25 Year-Olds A Neurodevelopmental Perspective](#) (Report, *Bugmy Bar Book*, 2025).

¹⁰ *Victoria’s Criminal Justice System Report* (n 9) 685.

¹¹ Ian Lambie and Isabel Randell, [‘The Impact of Incarceration on Juvenile Offenders’](#) (2013) 33 *Clinical Psychology Review* 448, 448.

¹² *Ibid* 450.

¹³ McCausland and Baldry (n 1) 37–8.

¹⁴ *Ibid* 45, Figure 2.

¹⁵ *Ibid* 44.

¹⁶ *Ibid* 44.

¹⁷ See, eg, *Royal Commission into the Protection and Detention of Children in the Northern Territory (Final Report)*, 2017) Vol. 2A; *Inquiry into Youth Justice* (Interim Report) (n 6).

¹⁸ See also Inspector of Custodial Services (NSW), [Use of Force, Separation and Confinement in NSW Juvenile Justice Centres](#) (Report, November 2018); Inspector of Detention Services, Office of the Queensland Ombudsman, [Cairns and Murgon Watch-Houses Inspection Report: Focus on Detention of Children](#) (Report, September 2024).

¹⁹ *Inquiry into Youth Justice* (Interim Report) (n 6) 24.

²⁰ Garner Clancey, Sindy Wang and Brenda Lin, [Youth Justice in Australia: Themes from Recent Inquiries](#) (2020) 605 *Trends & Issues in Criminal Justice* (Australian Institute of Criminology) 11, citing Victorian Auditor-General’s Office, [Managing Rehabilitation Services in Youth Detention](#) (Report, August 2018) 8.

²¹ *Victoria’s Criminal Justice System Report* (n 9) 96 citing evidence from Fiona Dowsley, Chief Statistician, Crime Statistic Agency Melbourne (21 September 2021) [Transcript](#) 3–4.

²² Stuart A Kinner et al, [Rates, Causes, and Risk Factors for Death Among Justice-Involved Young People in Australia: A Retrospective, Population-Based Data Linkage Study](#) (2025) 10(4) *The Lancet Public Health* e274, e281.

²³ Katie Page and Christie Robertson, [Pathways to Homelessness for People Exiting Custody in NSW](#) (Evidence Brief, Department of Communities and Justice (NSW), 15 January 2023) 8; Australian Institute of Health and Welfare (‘AIHW’), [National Data on the Health of Justice-Involved Young People: A Feasibility Study 2016/17](#) (Report, 2018) 5.

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- ²⁴ Chris Cunneen, [Arguments for Raising the Minimum Age of Criminal Responsibility](#) (Report, Comparative Youth Penalty Project, Jumbunna Institute for Indigenous Education and Research, 2020) 5.
- ²⁵ *Victoria's Criminal Justice System* Report (n 9) 685–6.
- ²⁶ Commission for Children and Young People, [Our Youth, Our Way: Inquiry into the Over-Representation of Aboriginal Children and Young People in the Victorian Youth Justice System](#) (Report, June 2021) 445.
- ²⁷ *Victoria's Criminal Justice System* Report (n 9) 96.
- ²⁸ Ibid 100; Office of the Children's Commissioner Northern Territory, '[Youth Diversion](#)' (Fact Sheet).
- ²⁹ Chris Cunneen et al, [ACT Government Responses to the Australian Law Reform Commission's Pathways to Justice Report Recommendations](#) (First Report, Jumbunna Institute for Indigenous Education and Research, 14 August 2024) 24. See also Chris Cunneen et al, [Review Into Over-Representation of First Nations People in the ACT Justice System](#) (Final Report, Jumbunna Institute for Indigenous Education and Research, July 2025) 33–4.
- ³⁰ Ruth McCausland and Eileen Baldry, "'I Feel Like I Failed Him by Ringing the Police': Criminalising Disability in Australia' (2017) 19(3) *Punishment & Society* 290, 296.
- ³¹ Ilya Klauzner et al 'Evaluating Youth On Track: A Randomised Controlled Trial of an Early Intervention Program for Young People Who Offend' (Crime and Justice Bulletin No 249, NSW Bureau of Crime Statistics and Research, July 2022) 2 (citation omitted).
- ³² KPMG, [Maranguka Justice Reinvestment Project](#) (Impact Assessment, 27 November 2018) 6.
- ³³ Ibid.