



Andrew Barr MLA, Chief Minister

Yvette Berry MLA, Deputy Chief Minister and Minister for Education and Early Childhood Development

Gordon Ramsay MLA, Attorney-General

Shane Rattenbury MLA, Minister for Corrections and Justice Health

Rachel Stephen-Smith, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for Children, Youth and Families

Mick Gentleman MLA, Minister for Police and Emergency Services

Suzanne Orr MLA, Minister for Community Services and Facilities and Minister for Disability

cc. Alistair Coe MLA, Leader of the Opposition

Jeremy Hanson CSC MLA, Shadow Attorney-General

We are writing as a collective of service delivery, human rights, legal and representative organisations in the ACT. We are seeking your support and urgent action to raise the age of criminal responsibility in the ACT.

As organisations, we are concerned about the damaging effects of incarceration on children and young people, particularly Aboriginal and Torres Strait Islander children, and the potentially lifelong ramifications of early contact with the criminal legal system.

We are aware that the *Age of Criminal Responsibility Working Group Review* will be presented at the Council of Attorneys-General on 27 July 2020. We understand that there will be discussion about raising the minimum age of criminal responsibility from 10 years old to 14 years old.

As the service providers and organisations who work with children and young people, and who would be primarily impacted by such a change, we strongly support raising the age to 14 years old and keeping children out of prisons. We should be supporting kids to thrive in family, community and culture, not forcing them into the quicksand of the criminal legal system.

We, and the ACT, pride ourselves on being evidence-led in our practice. We follow the best medical evidence when determining what services to deliver, and how to best deliver them to our clients.

The medical evidence on raising the age is clear.

Doctors agree that children do not have the cognitive capacity to be held criminally responsible at 10 years old.¹ Moreover, they have found that sending children to prison can cause them lifelong harm, increase rates of mental illness, trauma, and even lead to early death.²

Of the extremely young children (under 14 years old) in detention nationally, 65% are Aboriginal and Torres Strait Islander children.³ In many ways, this drives the extraordinary and tragic over-representation of Aboriginal and Torres Strait Islander people in the criminal legal system as adults.

In countries like Denmark, Finland, Norway, Sweden, Austria, Spain, Hungary, Italy, Germany, China and Russia - children under 14 years old (in some of those places, 15!) cannot be put in handcuffs and sent to prison. Australia is lagging behind the rest of the world - and our children are paying the price.⁴

The ACT has been a leader before. We are a territory that prides itself on being a progressive, evidence-led jurisdiction. We urge the ACT Government to continue this approach and raise the age of criminal responsibility.

The ACT does not have to wait for other states and territories to do the right thing. It could take action now and raise the age to 14 years old to keep young children out of prison. We request that the ACT commit to raising the age of criminal responsibility to at least 14 years old and urge other states and territories to follow suit at the Council of Attorneys General on 27 July 2020.

We look forward to hearing from you, and thank you in advance for your leadership.

Yours sincerely,

Dr Helen Watchirs - President and ACT Human Rights Commissioner

Jodie Griffiths-Cook - ACT Public Advocate and Children and Young People Commissioner

Kim Davison, Executive Director - Gugan Gulwan Youth Aboriginal Corporation

Chris Donohue, President ACT Law Society

Dr Emma Campbell, CEO - ACTCOSS

Karly Warner, CEO - Aboriginal Legal Service (NSW/ACT) Limited

Dr Joe Tucci, CEO - Australian Childhood Foundation

Genevieve Bolton, Principal Solicitor - Canberra Community Law

Dr Janet Hunt - ANTaR ACT

Will Mollison, Executive Officer - Families ACT

Cheryl O'Donnell - CEO Canberra PCYC

Susan Pellegrino, ACT State Coordinator - CREATE Foundation

Dr Justin Barker, CEO - Youth Coalition of the ACT

Julie Tongs OAM, CEO - Winnunga Nimmityjah Aboriginal Health and Community Services Ltd

Jenny Kitchin, CEO - Woden Community Service

Jeremy Halcrow, CEO - Anglicare NSW South / ACT

Mel Haley, CEO - Conflict Resolution Service

Bruce Papps, CEO - Northside Community Service ACT

Camilla Rowland, CEO - Marymead Child & Family Centre

Paul Ronalds, CEO, Save the Children Australia

Caterina Giorgi, CEO, Foundation for Alcohol Research and Education

REFERENCES:

¹ Law Council of Australia and Australian Medical Association, “Joint Policy Statement: Minimum Age of Criminal Responsibility”, 17 December 2019, at <https://www.lawcouncil.asn.au/media/media-releases/lca-and-ama-call-on-australian-governments-to-raise-the-age-of-criminal-responsibility-to-14>.

² Australian Medical Association, “AMA Calls for Age of Criminal Responsibility to be Raised to 14 Years of Age”, 25 March 2019, at <https://ama.com.au/media/ama-calls-age-criminal-responsibility-be-raised-14-years-age>.

³ Australian Institute of Health and Welfare, “Youth Justice in Australia, 2018-19”, at <https://www.aihw.gov.au/getmedia/a5a364b9-fe69-4d02-9c93-1965a69a3d93/aihw-juv-132.pdf>

⁴ Australian Human Rights Commission, “Review of the age of criminal responsibility”, Submission to the Council of Attorneys-General Age of Criminal Responsibility Working Group, 26 February 2020, at https://humanrights.gov.au/sites/default/files/ahrc_20200226_submission_cag_working_group_macr.pdf.