

Raise The Age: Western Australia Frequently Asked Questions

Why are children involved in crime?

The Commissioner for Children and Young People in WA found that children and young people aged 10 to 19 years old had trouble with the police because of:¹

- Problems with family;
- Friends who were involved in criminal behaviour;
- Disengagement from school;
- Disconnection from the broader community; and
- Personal issues, such as alcohol and drug misuse and cognitive disorders and mental health issues

If we raise the age of criminal responsibility, how do we protect our communities?

The current youth justice system does not make our communities any safer. It is more similar to a revolving door of an endless cycle of incarceration. Research suggests that if we want to better protect our communities, we need to support our most vulnerable communities to thrive. Further, countries like Luxembourg have the highest minimum age of criminal responsibility in the world (18 years old), however, violent crime is considered 'rare' and crime rates have been steadily decreasing since 2014.² Clearly, there is no relation to community safety and the minimum age of criminal responsibility.

Making sure that our communities are thriving is the best approach to building safer communities. The NSW Bureau of Crime Statistics and Research found that a 10% increase in household income was estimated to reduce property crime and violent crime by 18.9% and 14.6% respectively.³

¹ Commissioner for Children and Young People Western Australia, 'Speaking Out About Youth Justice: The views of WA children and young people who have had contact with Youth Justice Services in WA', Subiaco, WA, 2016, <https://www.cyp.wa.gov.au/media/2411/final-speaking-out-youth-justice-web-version-december-2016.pdf>

² Overseas Security Advisory Council, Luxembourg 2019 Crime and Safety Report [website], <https://www.osac.gov/Country/Luxembourg/Content/Detail/Report/cf1335cc-1fa7-4fdc-8809-15f4aeb84b0c>

³ W. Wan, S. Moffat, C. Jones and D. Weatherburn, 'The effect of arrest and imprisonment on crime', NSW Bureau of Crime and Research, Sydney, NSW, 2012, <https://www.bocsar.nsw.gov.au/Publications/CJB/cjb158.pdf>

What do we do with children aged 10 to 13 years if they're not put in prison?

Children who have engaged in offending behaviour often come from complicated backgrounds – likely from broken families experiencing inter-generational trauma, drug misuse, family violence and more. It is therefore no surprise that more than half of children in detention have been in child protection services, and that 90% of children in Banksia Hill were found to have undiagnosed neuro-disabilities.⁴

Children entering the criminal justice system are vulnerable and need intensive support, rehabilitation and guidance. There are many innovative initiatives that have been working in Western Australia and Australia that have supported children and families while reducing crime. This includes the Olabud Doogethu justice reinvestment project in Halls Creek WA, which has reduced burglary, motor vehicle theft and stealing offences by 58%, 35% and 28% respectively in its first 18 months.⁵ Other initiatives in WA, such as the Youth Partnership Project and Target 120 have focused on providing intensive support on vulnerable children. Clearly, there is no shortage of innovative initiatives and that there are alternative pathways available.

If we don't have harsh penalties, aren't we encouraging children to commit crimes knowing that they could get away with it?

Globally, there is overwhelming evidence that harsh criminal penalties don't discourage people from committing crimes in the first place. In fact, it has been found that the severity of punishment has no real deterrent effect nor does it prevent the likelihood of re-offending (also known as 'recidivism').⁶ Further, improving socio-economic factors, such as increased household income, has been proven to be more effective in reducing crime, in comparison to harsher punishments.⁷ If we want to prevent crime from happening, then we need to focus on supporting communities to thrive while focusing on children and family's well-being.

⁴ Telethon Kids Institute, Nine out of ten young people in detention found to have severe neuro-disability [media release], <https://www.telethonkids.org.au/news--events/news-and-events-nav/2018/february/young-people-in-detention-neuro-disability/>

⁵ Olabud Doogethu, 'Olabud Doogethu: Smart Justice in the Heart of the Kimberley', Olabud Doogethu, Halls Creek, WA, 2020, https://olabuddoogethu.org.au/wp-content/uploads/2020/12/prospectus-booklet-olabud_WEB.pdf

⁶ University of New South Wales, Do harsher punishments deter crime? [website], <https://newsroom.unsw.edu.au/news/business-law/do-harsher-punishments-deter-crime>

⁷ W. Wan, S. Moffat, C. Jones and D. Weatherburn, 'The effect of arrest and imprisonment on crime', NSW Bureau of Crime and Research, Sydney, NSW, 2012, <https://www.bocsar.nsw.gov.au/Publications/CJB/cjb158.pdf>

If children commit crime, then they should do the time. Why should these children be free from punishment?

Children that get in trouble with the police are often vulnerable and at-risk, often coming from complicated backgrounds that need intensive support, rehabilitation and guidance. Current efforts, such as incarcerating children, are ineffective and expensive and most importantly, does not improve safety in the community. In fact, it is more akin to a revolving door of cycles of incarceration, in which more than half (55%) of children in Banksia Hill in 2019-20 had been incarcerated previously.⁸ There is an urgent need to break this cycle for children. Through support, rehabilitation and guidance, we can help children thrive and create better futures.

Shouldn't children know right from wrong?

The global scientific and medical consensus states that children's ongoing neurological development continues until their early twenties. This means that children's rational decision-making, ability to communicate, regulate emotion and more are still developing. In addition to this, children who often come from traumatic backgrounds also are neurodevelopmentally diverse and face complex challenges, such as Foetal Alcohol Spectrum Disorder (FASD). It is no surprise then that 90% of children were found to have neuro-disabilities in Banksia Hill.⁹ It is clear that the argument that children should know 'right from wrong' is more complex and nuance.

What happens if a child commits a dangerous or violent offence?

Often, children who commit dangerous and violent acts have a long history of unaddressed problems and issues that spans several years. If we want to prevent children from committing dangerous and violent acts, then we need to ensure we are identifying at-risk and vulnerable children at an early stage and providing tailored support, before it reaches a crisis point.

In 2020-21, the WA Government invested \$637m in increasing police presence and prison expansion, but only \$65m in early intervention, prevention and rehabilitation.¹⁰ Clearly, the current justice system only responds to crime when it happens, but we

⁸ Department of Justice, 'Annual Report, 2019/20', The Department of Justice, WA, The Government of Western Australia, 2020, https://www.wa.gov.au/sites/default/files/2020-09/Department-of-Justice-Annual-Report-2019-2020_0.pdf;

⁹ Telethon Kids Institute, Nine out of ten young people in detention found to have severe neuro-disability [media release], <https://www.telethonkids.org.au/news--events/news-and-events-nav/2018/february/young-people-in-detention-neuro-disability/>

¹⁰ The Government of Western Australia, 'Western Australia State Budget 2020-21, Budget Paper, No. 2, Budget Statements Volume 2', Perth, WA, The Government of Western Australia, <https://www.ourstatebudget.wa.gov.au/2020-21/budget-papers/bp2/2020-21-wa-state-budget-bp2-vol2.pdf>

believe we can build safer futures if we prevent crime from happening in the first place.

How are children going to be rehabilitated and better educated if they're not being sent to prison?

The assumption that children going into detention centres and receive rehabilitation and high-quality education could not be further from the truth. Detention centres traumatise children which has seen self-harm incidents and attempted suicides every year, while offering a low standard of education that is poorly resourced and understaffed.¹¹ Banksia Hill's practices of strip searching and solitary confinement also have traumatising effects on children.¹² When it comes to rehabilitation, unfortunately more than half (55%) of children who were in Banksia Hill in 2019-20 had been incarcerated before,¹³ suggesting that there is a failure in our system to guide these children on the right path. Clearly, children who are incarcerated do not get rehabilitated and are not provided the education and tools necessary to break endless cycle of crime.

Shouldn't parents be responsible for their children?

Undoubtedly all parents want the best possible future for their children. However, some families are faced with systemic disadvantage such as poverty and inter-generational trauma. Research shows that children whose parents have been incarcerated are more likely to suffer from a multitude of health, social, and welfare disadvantages and end up in the criminal justice system themselves.¹⁴ As a community, we should all stand behind families to thrive and ensure that they are given the best tools, guidance and support in life to guide their children to the best possible future.

¹¹ The Office of Inspector of Custodial Services, 'Signs of Improvement at Banksia Hill, But Will It Last?', [https://www.parliament.wa.gov.au/publications/taledpapers.nsf/displaypaper/4011265a60417dfd92b148a448258287002e16b0/\\$file/1265.pdf](https://www.parliament.wa.gov.au/publications/taledpapers.nsf/displaypaper/4011265a60417dfd92b148a448258287002e16b0/$file/1265.pdf)

¹² The Office of Inspector of Custodial Services, 'Signs of Improvement at Banksia Hill, But Will It Last?', [https://www.parliament.wa.gov.au/publications/taledpapers.nsf/displaypaper/4011265a60417dfd92b148a448258287002e16b0/\\$file/1265.pdf](https://www.parliament.wa.gov.au/publications/taledpapers.nsf/displaypaper/4011265a60417dfd92b148a448258287002e16b0/$file/1265.pdf)

¹³ Department of Justice, 'Annual Report, 2019/20', The Department of Justice, WA, The Government of Western Australia, 2020, https://www.wa.gov.au/sites/default/files/2020-09/Department-of-Justice-Annual-Report-2019-2020_0.pdf

¹⁴ V. Saunders and M. McArthur, 'Children of Prisoners: Exploring the needs of children and young people who have a parent incarcerated in the ACT.', SHINE for Kids, Canberra, ACT, Australia Catholic University, 2013, https://www.shineforkids.org.au/documents/research/ChildrenofPrisoners_NeedsAnalysis_Oct2013.pdf.

In addition to this, a majority of Australians (65%) prefer the government to spend money on social services, rather than sending children into detention while nearly half (45%) believe that sending children away into detention actually makes their communities less safe.¹⁵ Breaking the cycles of inter-generational trauma and incarceration is difficult, but it is possible if we can invest in culturally-appropriate and community-led services and solutions.

How does Australia’s minimum age of criminal responsibility compare to the rest of the world?

Australia’s minimum age of criminal responsibility is among the lowest in the world. Globally the current median minimum age of criminal responsibility is 14 years old, and the average is 13.5 years.¹⁶ In February 2021, over 30 nations including Canada, France and Germany condemned Australia’s failure to raise its minimum age of criminal responsibility and incarceration of children.¹⁷

¹⁵ The Australian Institute, Most Australians Agree Children As Young as 10yo Do Not Belong in Prison [media release], <https://australiainstitute.org.au/post/most-australians-agree-children-as-young-as-10yo-do-not-belong-in-prison/>.

¹⁶ National Children’s Commissioner, ‘Children’s Rights Report 2016’, Australian Human Rights Commission, Sydney, NSW, 2016, https://humanrights.gov.au/sites/default/files/document/publication/AHRC_CRR_2016.pdf

¹⁷ D. Hurst, ‘More than 30 countries condemn Australia at UN over high rates of child incarceration’, The Guardian, 21 January 2021, <https://www.theguardian.com/australia-news/2021/jan/21/china-attacks-australia-at-un-over-baseless-charges-as-canberra-criticised-for-keeping-children-in-detention>