

Aboriginal Community Controlled
Culturally Safe
Prevention of Family Violence
Legal Services and Holistic Support
Cultural and Wellbeing Workshops
Policy and Advocacy



4 October 2024

Senator Paul Scarr
Chair
Senate Legal and Constitutional Affairs References Committee
C/O Committee Secretary

Dear Senator Scarr,

Inquiry into Australia's Youth Justice and Incarceration System

Djirra welcomes the Senate Legal and Constitutional Affairs References Committee's Inquiry into Australia's youth justice and incarceration system.

Djirra is an Aboriginal Community Controlled Organisation (ACCO). We have over 22 years' experience finding solutions through Aboriginal and Torres Strait Islander women sharing their stories, journeys, and experiences. Djirra celebrates women's strength and resilience and is committed to a future without family violence. Self-determination is the foundation of everything we do. Djirra delivers holistic, culturally safe, specialist family violence support, legal, case management, and wellbeing services and programs across Victoria. We advocate for system-wide change to improve access to justice, eliminate systemic violence, and strengthen women's resilience. Djirra amplifies Aboriginal women's voices and experiences, and advocates for the investment required for real change.

Raise the age of criminal responsibility to at least 14

Djirra joins many other ACCOs and mainstream organisations, including Change the Record of which I am Co-Chair, to call on all governments within Australia to raise the age of criminal responsibility from 10 to 14 years of age, with a minimum age for incarceration of 16 years.

The consistent theme highlighted by statistics and research is the extent to which our children are over-represented across all stages of the criminal justice process. For instance, the findings in *'Our youth, our way: Inquiry into the over-representation of Aboriginal and Torres Strait Islander children and young people in the Victorian youth justice system'* were that Aboriginal and Torres Strait Islander children, in particular girls and young people, are remanded in custody and sentenced to custodial orders at higher rates than others.¹

Children do not belong in prisons. Criminalising and incarcerating Aboriginal and Torres Strait Islander children compounds the intergenerational trauma that so many of our children sadly already carry. Governments must invest in programs that build resilience and positive self-worth in our children and young people, as well as their connections to culture.

¹ *Our youth, our way: Inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system*, Commission for Children and Young People 2021

A proven example is Djirra's Young Luv program, which equips young Aboriginal and Torres Strait Islander women aged 13 to 19 years old with the know-how to stay safe, have healthy relationships and to minimise the risks of violence and criminal exploitation that increases the risk of interacting with the criminal justice system.

Intersection between child protection and criminal justice systems

Though Djirra's on the ground experience working at the frontline of Aboriginal women and children's safety, we see our women targeted, misidentified as perpetrators of violence and criminalised for matters relating to poverty, homelessness, family violence, experiences of disability (particularly acquired brain injuries) and mental health. This criminalisation and incarceration of our women directly impacts on child removal rates and the rights of Aboriginal children. It has ongoing devastating impacts on families and communities. Of the women Djirra works with in our Prison Support Program, the majority are mothers with children ensnared in the child protection system.

The intersection between child protection and criminal justice is well documented and understood. Children who are removed are more likely to interact with the youth justice system, and then into prison as an adult.² More than 10% of our children in Victoria are removed from their mums - a rate nearly double the national average³ - and family violence was a factor for 88% of Aboriginal children removed from their mums in Victoria⁴.

The removal of Aboriginal children from their mums must always be a last resort. It is not acceptable that the punitive approaches of child protection result in the devastatingly high removal of our children when the solution is simple - keep mums and kids safe together. We need adequate and sustained investment in Aboriginal-led, specialist, holistic services like Djirra and other Aboriginal-led Family Violence Prevention and Legal Services (FVPLSs).

Djirra puts women and children's safety first. More than half of all mums that we provide legal assistance to for child protection matters are reunified with their children. It is also important to note that in our work we see firsthand how women having early access to legal assistance will prevent children being removed from their mums and families.

For over 10 years Djirra has stood firmly with other FVPLSs around the country calling for an Aboriginal Child Protection Notification and Referral System (CPNRS). The establishment of a CPNRS will ensure that where there is child protection involvement, Aboriginal mums will have access to early, independent legal and non-legal support from a specialist culturally safe legal service, such as Djirra and other FVPLSs. This is critical to ensuring Aboriginal mums stay safe and together with children.

Djirra welcomes the Yoorrook for Justice Commission's report (released September 2023) which recommends the implementation of a CPNRS. Djirra also welcomes the findings of the Federal Government's Expert Panel's Rapid Review of Prevention Approaches (released August 2024), which found that early legal advice as soon as child protection is involved is an essential protective element for Aboriginal mothers.

² The Sentencing Advisory Council found that 1 in 2 children who had involvement with youth justice had experienced 5 or more child protection placements in *Crossover Kids: Vulnerable Children in the Youth Justice System Report*, 2019

³ Family Matters Report 2023, SNAICC 2023

⁴ *Always was, always will be Koorie Kids*, Commission for Children and Young People 2016

Djirra recommendations

The solutions to youth justice are complex, but strong evidence demonstrates that preventing Aboriginal children being removed from their families, mums particularly, is crucial. Djirra recommends:

- Shifting the focus from criminalisation to prevention and support for mums escaping family violence;
- Investing in specialist ACCOs like Djirra to deliver critical, specialist support; and
- All States and Territories establish and fund a CPNRS so that all Aboriginal mums have early access to culturally safe legal advice and representation no matter where they live.

Thank you for the opportunity to contribute to this important work. We would appreciate the Committee keeping us informed about any further opportunities to provide input to this critical Inquiry.

Yours sincerely,

Antoinette Braybrook AM
Chief Executive Officer, Djirra

