

30 September 2024

Committee Secretary
Senate Legal and Constitutional Affairs Committee
sent via email: legcon.sen@aph.gov.au

Dear Committee Secretary,

RE: INQUIRY INTO AUSTRALIA'S YOUTH JUSTICE AND INCARCERATION SYSTEM

Thank you for your email dated 13 September 2024 inviting the Sentencing Advisory Council to make a submission to the current inquiry into Australia's youth justice and incarceration system.

The Council is a statutory entity established under the *Sentencing Act 1991* (Vic) and has a number of statutory functions, including conducting research on sentencing matters and producing statistical information on sentencing. Over the years, the Council has published a number of reports that may be of assistance to the inquiry. Please find below a list of relevant publications that may be of interest, and a brief summary of each.

Sentencing Advisory Council publications on youth justice and related matters

1. The inquiry's terms of reference include 'the Commonwealth's international obligations ... including the rights of the child'. In [Reforming Sentence Deferrals in Victoria: Final Report](#) (May 2024), the Council recommended amending sentencing legislation in Victoria to enable courts to defer sentencing in order to 'consider or reflect the best interests of the offender's unborn, newborn or dependent child' (Recommendation 2). While this is not directly a youth justice topic, we note the evidence heard by a recent parliamentary inquiry in Victoria about the consequences of intergenerational incarceration and justice system contact for children of incarcerated parents and other caregivers.¹
2. The inquiry's terms of reference include 'youth incarceration ... across Australia' and 'the over-incarceration of First Nations children'. In [Children Held on Remand in Victoria: A Report on Sentencing Outcomes](#) (Sep 2020) the Council found that two-thirds of children held on remand did not receive a custodial sentence, and that Aboriginal and Torres Strait Islander children were significantly over-represented among remanded children.
3. In a series of [three reports published in 2019 and 2020](#), the Council found that 38% of children sentenced or diverted in the Children's Court of Victoria in 2016 and 2017 had at least some contact with the child protection system.
4. Other Council publications on youth justice that may be of interest include:
 - a. [Reoffending by Children and Young People in Victoria](#) (2016)
 - b. [Sentencing Children in Victoria: Data Update Report](#) (2016)
 - c. [Sentencing Children and Young People in Victoria](#) (2012)

¹ Parliament of Victoria, Legislative Council, Legal and Social Issues Committee, *Inquiry into Children Affected by Parental Incarceration* (2022) 31.

Sentencing Advisory Council data on youth justice and related matters

The Council also routinely publishes high-level statistical information that may be of interest to the inquiry. Using unpublished data provided to the Council by Victorian courts, as well as publicly available data published by other agencies such as the ABS, AIHW and Productivity Commission, the Council produces a number of interactive graphs on its website that show trends in:

- the [number of cases](#) sentenced in the Children's Court each year since 2004–05,
- [sentencing outcomes](#) in the Children's Court each year since 2004–05,
- the per capita detention rates of [all children](#) in each Australian state and territory, and
- the per capita detention rates of [Aboriginal and Torres Strait Islander children](#) in each Australian state and territory.

We hope some of the information in these reports, and the data published on the Council's website, will assist the Committee.

Yours sincerely,

Dr Paul McGorry
CEO, Sentencing Advisory Council
(sent on behalf of the Sentencing Advisory Council's Board of Directors)