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Committee Secretary
Senate Legal and Constitutional Affairs References Committee

By email: legcon.sen@aph.gov.au

Dear Ms Dunstone,

Submission: Inquiry into Australia's youth justice and incarceration system

Please accept this report (**attached**) as my submission to the Committee's Inquiry.

This research was conducted in 2022 and was jointly funded by the Queensland Department of Justice and Attorney-General and the Queensland Department of Child Safety, Seniors and Disability Services.

Whilst there have been some important legal developments since then in Queensland – including the re-introduction of the offence of breach of bail for children, the removal of 'detention as a last resort' in the Youth Justice Principles, and the use of watchhouses as places of indefinite detention for children – the findings of this research remain relevant and important.

The report addresses the following aspects of the terms of reference for this Inquiry:

a.	The outcomes and impacts of youth incarceration in jurisdictions across Australia	Chapter 1 discusses youth detention in relation to children in Queensland. It highlights the high rates of remand and the over-reliance on detention as a response to youth crime.
b.	the over-incarceration of First Nations children	Chapter 6 focuses on Aboriginal and/or Torres Strait Islander children, and outlines culturally appropriate responses to their offending. Part 7.7 discusses Murri Courts.
c.	the degree of compliance and non-compliance by state, territory and federal prisons and detention centres with the human rights of children and young people in detention	Chapter 2 discusses the reality of accused children's lives, their vulnerabilities, and the pathways to youth justice. In particular, it raises the overlap between youth justice and child protection involvement. Chapter 3 discusses Queensland's human rights obligations.
d.	the Commonwealth's international obligations in regards to youth justice including the rights of the child, freedom from torture and civil rights	Chapter 3 discusses human rights in a youth justice context.
f.	justice consistent with our international obligations	Chapter 7 outlines alternatives to detention, with an emphasis on diversion. Chapter 5 discusses alternatives to remanding children in custody.

Regarding the desirability of introducing nationally enforceable minimum standards for youth (e), I agree with the National Commissioner for Children that a Cabinet Minister for Children and Young People should be appointed. I also support her recommendation that a federal *Human Rights Act* and *Children's Act* be passed.

I am firmly of the view that the **age of criminal responsibility should be raised to 14 years** across Australia, to bring us into line with the recommendations of the UN Committee on Children's Rights. I submit that this should be legislated by the Federal Parliament so that inconsistent state laws will be rendered invalid to the extent of their inconsistency.

I would add that I am currently completing a study on the experiences of children in watchhouses in Queensland. The results of this study will provide further information on the degree of compliance by places of detention with the human rights of children and young people (c). Once this study has been completed, I will forward any outputs to the Committee for their consideration.

Thank you for the opportunity to make submission to the Inquiry.

Yours sincerely,

Tamara Walsh