

# Position Statement: Minimum Age of Criminal Responsibility

## Position

The minimum age of criminal responsibility for domestic and family violence offences should be raised to at least 16.

Raising the minimum age of criminal responsibility to at least 16 should be a step towards a future where no children and young people are criminalised.

## Rationale

With an important growing focus on children as victims in their own right, an increased spotlight on the attitudes and behaviours of boys and young men, and moves towards the criminalisation of family violence, we are at a critical juncture in how we respond to children and young people using domestic and family violence. No to Violence (NTV) argues criminalising children and young people for domestic and family violence offences harms, not helps, our work to end family violence.

The key reasons underpinning our position are our members' frontline insights and experiences of working with people using domestic and family violence, including children and young people; emerging best practice family violence responses to children and young people; and the harmful impacts of criminalisation disproportionately experienced by marginalised children and young people.

### **Representing members' voices: Insights from working with people using violence**

Our members have deep experience and knowledge about what works to make meaningful change in people's lives from delivering frontline domestic and family violence service. Through our consultations with them on the minimum age of criminal responsibility, the majority argued children under the age of 16 should not be criminalised for domestic and family violence. In a survey sent to all NTV members, the vast majority of respondents said that the minimum age of criminal responsibility should be at least 16, with almost half of these respondents saying it should be 18. Strong reasons as to why included concerns that criminal justice responses perpetuate cycles of violence; children's capacity for change; and therapeutic responses should be prioritised to ensure meaningful change.

In our in-depth consultations, members shared their insights on the ways our current systems fail to protect children, including a lack of accessible and appropriate programs for children's use of violence, as well as the devastating long-term impacts of punitive responses.

### **Domestic and family violence best practice**

Best practice responses to children and young people's use of domestic and family violence are trauma-informed, therapeutic responses rather than punitive, criminal justice responses. This

includes therapeutic whole-of-family responses for young people who use violence in the home (AVITH), understanding that trauma from previous and ongoing adult-perpetrated violence is often the predominant driver of this violence.<sup>1</sup> It is also critical that AVITH responses are strengths-based and affirm a young person's identity, which importantly relates to their place in their community.<sup>2</sup>

Trauma-informed models and non-judgemental environments are also needed to address young people's use of intimate partner violence, with tailored, intersectional services required that give attention to the unique motivating factors for change for this cohort.<sup>3</sup>

### **Disproportionate impact of criminalisation on marginalised children and young people**

It is marginalised children and young people who are most at risk of criminalisation and are further marginalised through its devastating impacts. To end this, the systems that drive marginalisation must be dismantled. Key to this is reform of the criminal justice system that racially profiles and over-polices First Nations people, which leads to Aboriginal or Torres Strait Islander young people aged 10–17 being 24 times more likely to be in detention than non-First Nations young people.<sup>4</sup>

Children and young people with disabilities and from culturally and racially marginalised communities are also overrepresented in the criminal justice system.<sup>5</sup> For example, we have a devastatingly high proportion of children in prison with an intellectual disability, alongside research that shows disproportionately high proportions of children with disabilities are victim-survivors of family violence.<sup>6,7</sup>

To advance a more equitable society, we need to dismantle the systems of oppression that sentence our most marginalised children and young people to further, compounding violence and discrimination.

### **Life-long impacts of criminalisation**

As well as reinforcing cycles of disadvantage, criminalising children and young people has devastating impacts because it disrupts their social, emotional and cognitive development and increases their risk of trauma. When criminalisation results in incarceration, there are devastating socio-emotional impacts of children and young people being removed from their families, friends and communities.<sup>8</sup>

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<sup>1</sup> [Australia's National Research Organisation for Women's Safety \(2023\). WRAP around families experiencing AVITH: Towards a collaborative service response.](#)

<sup>2</sup> [Australia's National Research Organisation for Women's Safety \(2023\). WRAP around families experiencing AVITH: Towards a collaborative service response.](#)

<sup>3</sup> Nicholas et al. (2024 – *forthcoming*). Briefing Paper: Services in Victoria for Young men and adolescent boys (16-25) using Intimate Partner Violence.

<sup>4</sup> [Australian Institute of Health and Welfare \(2023\). Youth justice in Australia 2021-22.](#)

<sup>5</sup> [Australian Human Rights Commission \(2024\). 'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing.](#)

<sup>6</sup> [Mutch et al. \(2014\). Fetal alcohol spectrum disorders: Notifications to the Western Australian Register of Developmental Anomalies.](#)

<sup>7</sup> [Octoman et al. \(2022\). The nature and extent of domestic and family violence exposure for children and young people with disability.](#)

<sup>8</sup> [Cavanagh \(2022\). Healthy adolescent development and the juvenile justice system: Challenges and solutions](#)

Detention centres are unsafe, with high proportions suffering harm through practices such as extended periods of isolation.<sup>9</sup> Children and young people that are criminalised can also internalise criminal identities and face significant societal stigma, making it harder for them to reintegrate into society and avoid future criminal behaviour.<sup>10</sup>

With about two-thirds of young people released from detention re-entering the justice system within 6 months,<sup>11</sup> the current punitive approach is simply not working.

## Join to help drive change

There are a growing number of domestic and family violence organisations that we join today advocating for raising the minimum age of criminal responsibility. We urge those who haven't to join with us. We need to stand together and champion safe and effective responses to children and young people who both experience and use domestic and family violence

We wish to recognise and thank those leading nationwide advocacy to raise the minimum age of criminal responsibility, including Change the Record, the National Aboriginal and Torres Strait Islander Legal Services, the Human Rights Law Centre, and the Council of Social Service (COSS) Network.

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<sup>9</sup> [Australian Human Rights Commission \(2024\). 'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing.](#)

<sup>10</sup> [Motz et al. \(2019\). Does contact with the justice system deter or promote future delinquency? Results from a longitudinal study of British adolescent twins.](#)

<sup>11</sup> [Australian Institute of Health and Welfare \(2023\). Young people returning to sentenced youth justice supervision, 2021-22.](#)