

Children and Young People in Conflict with the Law

This resource contains knowledge and evidence about the lives, contexts and needs of children and young people in conflict with the law. We use the term 'children' to refer to those under 18 and 'young people' to refer to those between 18 – 24. The purpose of this Factsheet is to inform, empower and inspire community sector practitioners who work with children and young people. The knowledge in this resource can support practitioners to make the transformative difference between a life permanently in the shadow of a profoundly unjust criminal legal system and the fulfilling life and future these children and young people deserve.

Changing narratives: The importance of language

Language and the (re)production of false narratives or myths about criminalised people are key mechanisms used by governments and criminal legal systems to legitimise and sustain punitive and ineffectual institutions, systems and practices [1]. This is particularly pronounced in the field of so-called youth 'justice' [2].

The concept of 'youth justice centres', for example, conceals how children are imprisoned in institutions that directly replicate adult prisons [3]. The prisons in which young people are captured are violent and traumatising spaces, where injustices, human rights abuses and forms of discrimination prevail and persist [4, 5, 6, 7]. Decades of research show these punitive forms of state intervention do not make communities safer [2, 7, 8]. Instead, they compound and exacerbate the root causes of children's enmeshment in criminal legal systems: the intersecting forms of violence, oppression, discrimination and marginalisation so acutely experienced by criminalised and incarcerated children [2, 8].



Similarly, the terms 'young offender', 'juvenile' and 'delinquent' function to decontextualise and demonise the lives of children and young people in conflict with the law [2]. These terms perpetuate widespread myths that lawbreaking is rooted in some form of deficit or problem within the individual [1, 2]. Locating lawbreaking as a problem that lies within an individual serves a core function: it averts attention from the inequalities, discrimination and social structures that drive minoritised individuals and communities into criminal legal systems [1, 2]. At the same time, the widespread use of these terms averts attention from how law-breaking is often a form of survival and resistance to an unjust and discriminatory social order [2, 9].

Refusing to adopt the language strategically employed by governments and criminal legal systems is transformative [1, 2]. Choosing alternative terms makes clearer the well-established truths about the real purpose and consequences of state youth 'justice' interventions. By changing these narratives and interrupting these myths, we are also consciously adopting the language of a long lineage of social justice movements committed to realising justice and liberation [1].

The spaces in which children are imprisoned are not 'justice centres' or 'detention facilities': they are prisons. Children subjected to youth 'justice' interventions are not 'offenders', 'delinquents' or 'juveniles': they are children in conflict with the law. Or they are criminalised and/or incarcerated children.

Relatedly, adopting the term 'criminal legal system' instead of 'criminal justice system' resists and disrupts taken-for-granted assumptions that justice can be found through institutions and systems premised on punishment, control, surveillance and confinement. For minoritised communities, justice is very rarely found in these institutions and systems. The term 'criminal justice system' also conceals how the carceral institutions of policing and prisons were developed in the context of colonialism to achieve a primary aim: to violently contain and control First Nations communities and their resistance to the theft of First Nations land and genocide [2, 4, 5, 6]. While the term 'youth justice' is currently unavoidable, we use inverted commas for the term 'justice' to denote how youth 'justice' systems routinely fail to deliver justice.

How many children and young people are supervised and imprisoned?

On an average day in 2023-2024, there were **4,227** children and young people (**aged 10 and over**) across Australia who were subjected to some form of youth 'justice' intervention (community or prison) [10]. Of these, 80% were male/a boy. Just over 4 in 5 (82%) of these children and young people were under community supervision orders, and 1 in 5 (20%) were in prison [10].

These figures, however, are much higher when we look at the number of children and young people subjected to some form of youth 'justice' intervention over the course of the year. In 2023-2024, across Australia, there were 8,031 children and young people under community supervision orders and 4,578 were imprisoned [10]. Alarming, 80% of these imprisoned children and young people were on remand: they had not yet been sentenced [10]. The overwhelming majority of these children and young people are, therefore, imprisoned without yet having the courts determine their culpability for their alleged lawbreaking behaviour [3]. These disturbingly high remand rates are largely attributable to these children and young people having no safe place to live while on bail [7]. Once subjected to incarceration, children and young people are reincarcerated at disturbingly high

rates. Of those released from sentenced imprisonment, 61% returned to prison within 6 months, and 80% within 12 months [10]. What these return-to-prison rates make obvious is the fundamental failure of youth 'justice' systems in reducing lawbreaking behaviour [8].

While First Nations people represent just 5% of all children and young people in Australia, they comprise a staggering 53% of those in contact with youth 'justice' systems [10]. First Nations children are also subjected to youth 'justice' systems at a much younger age than non-First Nations children [10]. Roughly 31% of First Nations children are aged 10-13 when they first encounter youth 'justice' interventions, compared with 14% of non-First Nations children [10]. The alarmingly high representation of First Nations children and young people impacted by youth 'justice' systems is stark evidence of the continuity of colonial violence and structural racism in the settler colonial state of Australia [4, 5, 6]. As powerfully expressed in the Uluru Statement of the Heart, 'our youth languish in detention in obscene numbers. They should be our hope for the future' [11].

After Queensland, NSW has the highest number of children captured in youth 'justice' systems [12]. Over 2023-2024, there were 1,701 children in NSW under community supervision orders and 1,500 were in prison [12]. In March 2025, there were 229 children and young people imprisoned in NSW [12]. 70% of these were on remand: they had not yet been found guilty or not guilty of their alleged lawbreaking [12]. Of these children and young people imprisoned in NSW, 61% (139) were First Nations people [12]. While the number of children and young people imprisoned in NSW has fallen since 2020, the number of imprisoned First Nations people has risen by 29.9% over the last five years [12]. The enduring pattern of disproportionately subjecting First Nations children and young people to the deep harms of incarceration exposes how racial discrimination is embedded throughout Australia's youth 'justice' system [6].

Policing children and young people: A key driver

As gatekeepers to criminal legal systems, state police play a crucial role in generating the disturbingly high numbers of children and young people who are criminalised and imprisoned [13, 14, 15]. For decades, evidence shows that children and young people are regarded by police as a 'suspect population'; that is, they are considered to be more likely to break the law [2, 3, 13]. Children and young people are thus disproportionately targeted and harmed by police [13]. Children and young people from First Nations communities, those who are racially minoritised, those with cognitive disability and/or mental ill-health, those who live in poverty and/or are homeless, people who identify as LGBTQI+ and those who experience other forms of marginalisation are particularly at risk of being the targets of police violence and harm [14, 15, 16]. This is because, as ample evidence shows, factors like racism, ableism, classism, homophobia and transphobia are entrenched in the institution of policing [6, 16, 17].

The extensive nature of police discretionary powers means that it is police who make the key decisions about whether to open the gates to the criminal legal system [13, 15]. Police, therefore, hold the power

to profoundly influence a young person's future pathways through criminal legal systems. The way in which police discretion is utilised reflects the intersecting forms of discrimination embedded in policing institutions [16, 17]. For example, First Nations young people are more likely to be arrested than their non-Indigenous counterparts, even after the nature of the lawbreaking, lawbreaking history and background factors are considered [18].

Police are also far too frequently called upon to respond to children and young people in distress [16, 17, 19, 20]. A child or young person experiencing a mental health crisis, for example, needs a health or social care response [16]. They require a first responder that is caring, trauma-aware and trained in de-escalation and cultural safety [16, 19]. Instead, they are confronted with police who are trained almost exclusively in the use of violence [21]. Overwhelming evidence shows how the continual reliance on police to respond to what are fundamentally the social and health care needs of a person frequently results in the criminalisation of a young person, extensive and unwarranted violence and trauma to the young person, or even in death [16, 19, 20].



What is known about the pre-criminalised lives of children and young people in conflict with the law?

The injustices of youth 'justice' systems are made even clearer by attending to the defining features of the pre-criminalised lives of children and young people in conflict with the law [22, 23]. Research consistently demonstrates the overwhelming majority of children and young people in conflict with the law are survivors of intersecting and compounding forms of violence, oppression, discrimination and marginalisation [2, 7, 23, 24]. For example, the vast majority of these children and young people come from communities of entrenched social and economic disadvantage [2, 7, 23]. Violence, in all its manifestations (for example, familial, domestic, institutional, sexual and psychological), is a persistent and pervasive feature in the pre-criminalised lives of children and young people in conflict with the law [2, 5, 7]. Most of these

children and young people experience precarious living arrangements, including homelessness [2, 7]. They have poor educational experiences and outcomes marked by patterns of exclusion, neglect and expulsion [2, 5, 7]. The majority experience challenges with criminalised substances (illicit drugs) and/or alcohol use, and most are living with significant, unresolved, and often intergenerational trauma [2, 5, 7].

» The nexus between child 'protection' and youth 'justice' systems

Over half of children and young people in youth 'justice' systems have histories of child removal [7]. Ample evidence establishes how children and young people who are removed from their families through child 'protection' systems are pipelined into criminal legal systems [2, 5, 7]. The forced removal of these children and young people from their families, as several large-scale studies show, subjects them to worse well-being outcomes, on every measure, than comparably 'neglected' children left in their homes [29]. First Nations children are disproportionately represented at every stage of child 'protection' systems – from notification, investigation, substantiation and placement in out-of-home care (OOHC) [27, 29]. In 2023, the number of First Nations children in OOHC was 12 times higher than non-Indigenous children [30]. The alarming numbers of First Nations children in child 'protection' systems, and their related disproportionate representation in criminal legal systems, is inextricably tied to the historical and ongoing harms of colonialism [27, 31].



» Undiagnosed and unsupported mental ill-health and/or disability

Research consistently shows that there is a high prevalence of mental health diagnoses and cognitive/neurodevelopmental disability amongst children and young people who are criminalised and imprisoned [7, 16, 22]. A significant majority of children and young people in conflict with the law have one or more disability [28]. Importantly, it is well established that people and communities who endure violence, oppression, poverty and marginalisation also experience higher rates of disability [32, 33]. We know, for example, that disability is disproportionately manifest in First Nations and other racialised, poor and marginalised communities [32, 33]. This is because repeated exposure to the material conditions of poverty, structural racism, lack of access to medical care, affordable healthy food and so on creates the conditions for disability [32, 33]. It is also clear that criminal legal systems, including police, are key institutional forces that create and perpetuate significant levels of disability and mental ill-health [2, 20].

Evidence also makes clear that most criminalised and imprisoned children and young people have undiagnosed and unsupported mental health concerns and/or disability [7, 16, 28]. Frequently, it is only when these children and young people enter criminal legal systems that their diagnoses occur [28]. Current practices for disability assessment in youth 'justice' systems, however, are highly va

variable, inconsistent and limited by poor information sharing practices within and between criminal legal and other service systems [28]. There is also a concerning absence of culturally validated screening tools for First Nations people in all youth 'justice' systems [28, 29]. Importantly, given the concept of disability is a colonial construction, many First Nations people are understandably resistant to the very real stigmatisation and forms of punitive intervention that can flow from receiving disability diagnoses [35].

The pre-criminalised lives of children and young people in conflict with the law expose how government policies and state institutions, across multiple domains, have consistently failed them, their families and their communities [25, 26, 27]. Their criminalisation trajectories are inextricably tied to their unmet health, disability, social, cultural and trauma needs [6, 20]. The defining features of the lives of children and young people in conflict with the law lay bare that which is undeniable: the exceptional strength and resilience of these children and young people. While no one should be subjected to the forms of violence, oppression and discrimination they endure, their very capacity to survive these conditions makes clear the deep understandings and insights they possess; insights that are crucial to building safer, more just and equitable societies.

Enduring Violations

Over the last decade there have been more than 30 reviews and inquiries into what is increasingly referred to as 'the crisis' of youth 'justice' systems in Australia [6]. These inquiries have consistently detailed serious human rights abuses and violations. These include: the punitive and overly harsh treatment of children and young people in prisons (including physical and verbal abuse); inhumane conditions (including denial to human needs such as water, food and use of toilets); use of spithoods and restraints; inappropriate and inconsistent use of isolation and solitary confinement (which in some cases leads to lasting psychological harm); persistent patterns of racial discrimination against First Nations children and young people; strip-searching of children; imprisoning children in adult facilities;



unlawful detention and the failure to provide education [4, 6, 36].

Also emerging from these inquiries is evidence of the persistent failure of youth 'justice' systems to address the needs of particularly vulnerable children and young people. These include a lack of disability awareness and support; trauma-aware support; and an absence of, or stark deficiency in, case management [36]. These inquiries have also established concerns about the culture embedded in youth 'justice' systems; the lack of staff training; serious misconduct by staff; and frequent lockdowns due to staff shortages [36]. A key theme across these inquiries and reviews is that, in line with human rights frameworks Australia is a signatory to, prison is not being used as a measure of last resort [36].

The recent Yoorrook Justice Commission, a truth-telling inquiry regarding historical and contemporary injustices experienced by First Nations people in Victoria, underscored the imperative of recognising the central role of structural and institutional racism in producing the persistent overrepresentation of First Nations children and young people in youth 'justice' systems [5]. In their March 2025 submission to the United Nations, Professors Hannah McGlade and Megan Davis emphasised how the gross overrepresentation of First Nations children and young people in youth 'justice' systems in Australia constitutes, in many respects, a serious violation of the Convention on the Elimination of All Forms of Racial Discrimination, as well as other UN treaties and instruments, including the United Nations Standards and Norms on Juvenile Justice [6].

» A refusal to raise the age of criminal responsibility



The age of criminal responsibility is the primary legal barrier to criminalisation and thus protection from entry into criminal legal systems [37]. In line with developments in neuroscience and developmental studies, the United Nations Committee on the Rights of the Child (UNCRC) clearly states that the minimum age of criminal responsibility should be at least 14 [38]. Yet, in almost every jurisdiction across Australia, the minimum age of criminal responsibility is just 10 years old. This means that children as young as 10 are arrested, charged and confined in prison. Australia is out of step with global norms on the minimum age of criminal responsibility [37]. With the exception of the UK and Canada, the minimum age of criminal responsibility in all European countries is 14 and above [37]. The

deleterious effects of Australia's refusal to raise the minimum age of criminal responsibility especially harm First Nations young people who comprise the majority of children under the age of 14 in youth 'justice' systems [6, 36]. A large study of youth 'justice' systems in Australia found that key stakeholders working in youth 'justice' systems overwhelmingly agree that the age of criminal responsibility should be raised [2].

Over recent years, activists and advocates have mobilised sustained efforts to raise the age of criminal responsibility. While these efforts have forced some jurisdictions into belated commitments, as indicated below, such action is volatile and far from adequate.

Current status and progress on the age of criminal responsibility across Australia

Jurisdiction	Status	Progress
Commonwealth	10 years old	No public commitment to raise the age.
New South Wales	10 years old	No public commitment to raise the age.
Queensland	10 years old	No public commitment to raise the age.
Victoria	12 years old	Committed to raise the age to 12 in 2024. But rescinded previous commitment to raise the age to 14 by 2027.
South Australia	10 years old	No public commitment to raise the age.
Western Australia	10 years old	No public commitment to raise the age.
Northern Territory	10 years old	In 2024, the newly elected NT government reversed the previous government's move to raise the age to 12.
Tasmania	10 years old	Commitment to raise the age to 14 and raise the age of detention to 16. However, this will not be implemented until 2029.
Australian Capital Territory	14 years old	Raised the age to 14 in 2025, but there are exceptions for particular 'offences'.

Alternatives to criminalising and imprisoning children and young people

There is an urgent need to develop and expand alternatives to criminal legal interventions for and with children and young people in conflict with the law [5, 7, 9]. Critical to achieving this pressing aim is a commitment to stable and sufficient funding for such programs. Crucially, funding for these programs must be directed to community, grassroots and non-government organisations. The evidence is clear that it is these organisations that have the deep knowledge and experience that are crucial to successful and effective programs for young people in conflict with the law [9, 39, 40].

CRCs Pathways Home Program

CRC's Pathways Home Program is an example of alternative interventions that are critically needed for children and young people in conflict with the law. The Pathways Home Program is a long-term, holistic and intensive youth work and care coordination project that supports children and young people to build sustainable pathways out of the criminal legal system. The program provides a through-care model of support, encompassing both counselling and case management for those aged 10-24 exiting custody, or previously incarcerated children and young people who are in Greater Sydney Metropolitan. Pathways Home takes seriously the social and structural causes of lawbreaking, while simultaneously addressing the individual needs of children and young people in conflict with the law. These include drug and/or alcohol use; homelessness; social isolation; physical and mental ill-health; disability; access to education; access to employment opportunities; access to culture; family relationships; financial hardship and histories of trauma.

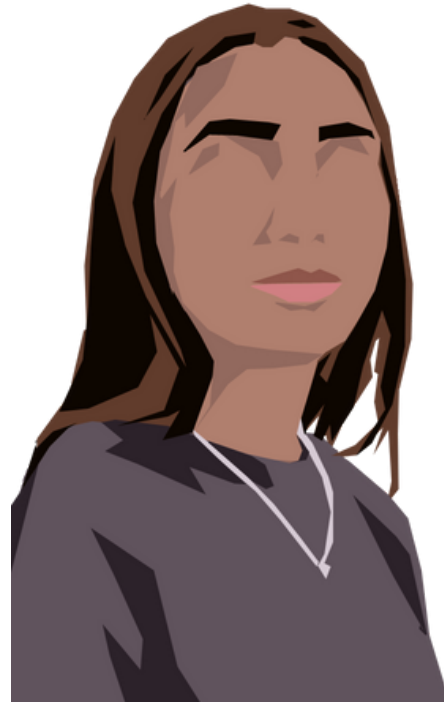
In 2023-2024, the Pathways Home program supported 78 young people. 52% of these young people are First Nations and 31% are from culturally and/or linguistically diverse backgrounds. In 2023, the program's Senior Youth Transition worker, Damien Corbridge, was awarded the NSW Youth Worker of the Year. Additionally, in 2025, the Pathways Home program received the NSW National Alcohol and other Drugs Agencies (NADA) award for 'Excellence in treatment'.

The Youth Transition workers comprising the Pathways Home team embody and enact the core principles at the heart of CRC's well established and highly successful practice model [41, 42]. Elements of the model include building relationships with children and young people that are caring, trauma-informed, consistent, respectful, culturally safe and non-judgemental. This relational work is critical to help build the inherent strengths, resilience and resourcefulness of children and young people in conflict with the law. By centring the voices, needs, goals and visions of the children and young people supported by the Pathways Home program, CRC's Youth Transition workers make a transformative difference in the lives of multiply marginalised children and young people who have been systematically failed by systems across multiple domains. In the words of one young person supported by a CRC Youth Transition worker:

Stephanie is amazing. Without Steph, I would still be in jail and probably dead.

Keira's story

Keira, a young First Nations woman with a history marked by trauma and disadvantage, turned to criminalised substances (illicit drugs) as a mechanism to survive the intimate partner violence she endured by the father of her son. When her mental health deteriorated, the child 'protection' system removed Keira's son from her care. Shortly after, Keira was criminalised for resisting the interpersonal violence she endured. Instead of recognising and responding to her precarious position as a person who is a domestic violence victim/survivor, the criminal legal system sentenced Keira to almost 12 months imprisonment.



With the support of the Pathways Home team, upon her release from custody, Keira completed a residential drug rehabilitation program. Despite the ongoing trauma caused by the removal of her child, Keira no longer uses any criminalised substances. She has secured transitional housing and engages in weekly outreach therapeutic counselling and case management sessions with the Pathways Home team. She is actively connecting to cultural support. The Pathways Home approach has created a sense of community around Keira, resulting in her unwavering engagement and continuation in meeting goals. Keira continues to fight for restoration with her son despite constant challenges. RHSP remains by Keira's side through this process, uplifting her efforts and strength, and continuing to support her with her identity and life outside of prison.

Building transformative interventions

Community-based organisations, like CRC, that understand lawbreaking is a product of social injustice are at the cutting edge of the urgent endeavour to develop and expand progressive and effective alternatives to criminal legal systems. While comparatively under-developed in the Australian context, there is a growing movement in the US and beyond of community-driven, grassroots and non-government organisations providing transformative interventions for and with children and young people in conflict with the law [9, 39, 43, 44].

In this context, transformative interventions refer to initiatives that draw on transformative pedagogies and practices that promote critical consciousness and a sense of agency about the conditions that bring children and young people into conflict with the law [44, 45]. Transformative

interventions stand in stark opposition to, and actively contest, mainstream, conventional or 'conformist' interventions. These 'conformist' forms of intervention essentially teach children and young people to accept the social and structural conditions that have rendered them marginalised, oppressed and in conflict with the law. They effectively teach children and young people to locate the source of their problems mainly, if not entirely, in themselves.

Mounty Yarns

Mounty Yarns, a First Nations youth-led creative advocacy and storytelling project connected with the Mt Druitt Justice Reinvestment initiative in NSW, provides a compelling local example of a transformative intervention. Through Mounty Yarns, First Nations children and young people draw on their lived experiences of youth 'justice' systems to articulate a clear vision of the social, structural and cultural changes required to achieve justice and liberation for First Nations young people in conflict with the law. Mounty Yarns recognises the critical importance of children and young people's voices, strengths, leadership and insights for building safer, more just and equitable societies. In doing so, it is inherently transformative. In the words of Mounty Yarns Youth Leaders:

As Aboriginal young people we can tell you that the 'justice system' is not working and is actually having a devastating effect. The overrepresentation of Aboriginal young people in the criminal justice system shows the lack of youth voice in decision-making about the things that affect us. We don't want the next generation to go through what we went through. We need to make sure young fulla's voices are being heard now. We speak for those young people who aren't usually given a voice or listened to, young people who are actively disbelieved [40].

Principles for transformative interventions

At the heart of transformative interventions are two core principles that can be applied to existing programs or can form the foundations for new initiatives.

Raising the social consciousness of youth forms a critical component of transformative programs [9, 44]. Much like the work of Mounty Yarns, raising children and young people's awareness of the social forces and forms of discrimination that have shaped their lives is an inherently transformative tool [44]. It is a tool that facilitates children and young people understanding that they are not the problem. Instead, when provided with the resources and opportunities, these children and young people are offered a pathway to become part of the solution. This does not imply, however, that raising the consciousness of children and young people in conflict with the law will necessarily lead to this cohort dedicating their lives to fighting for the social changes required [9].

Rather, raising the consciousness of children and young people in conflict with the law can also be an important means of gaining critical insights that enable them to move away from lawbreaking and toward the fulfilling lives they deserve. At the same time, raising the social consciousness of children and young people in conflict with the law can provide a sense of meaning and purpose beyond often unfulfilling forms of employment in capitalist, neoliberal societies [44]. While there are multiple avenues and possibilities for raising the social consciousness of youth, what is clear is that these forms of critical political education stand in stark contrast to the individualising and conformist 'education' offered to children and young people in prison, if they are offered any education at all [9].

Centring the voices, experiences and insights of children and young people is fundamental to programs that realise transformative outcomes for and with those in conflict with the law [5, 9, 40, 46]. Critically, this involves centring the voices of all children and young people in conflict with the law, especially those most marginalised and actively silenced. This includes children and young people who are First Nations, those with mental ill-health and/or disability, those from culturally and/or linguistically diverse backgrounds and those who identify as LGBTQI+. Doing so ensures that programs serve as real vehicles for eliminating the specific ongoing harms caused by criminal legal systems. As Mounty Yarns youth leaders implore us to acknowledge, who knows better about the system, and about what needs to change, than those who have lived it? [40]. Indeed, it is children and young people who are forced to subsist on the margins and who are funnelled into criminal legal systems who most understand the necessities of the changes required for them to heal and to thrive.

Key practice skills

- Building relationships that are caring, trauma-informed, consistent, respectful, culturally-safe and non-judgemental is at the core of working effectively for and with children and young people in conflict with the law. By showing these children and young people, in words and in actions, that we are 'on their side', we empower them to (re)learn how life-affirming relations and communities are essential to realising the fulfilling lives they deserve.
- Centring the voices, needs, goals and visions of children and young people in conflict with the law ensures they are properly acknowledged as the experts in their own lives. In this way, community sector practitioners become collaborators in their journeys to regain power over their lives, to heal and to thrive.
- Raising the social consciousness of youth by building their awareness of the social and structural conditions that have impacted their lives, and contributed to their criminalisation, is inherently transformative.

Resources

Reckoning on Youth Justice In May 2025, the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) organised an Emergency Town Hall online event, 'Reckoning on Youth Justice'. In this recording of the event, community leaders, legal experts and youth leaders powerfully articulate the changes required to address the crisis of youth 'justice' in Australia.

#Raise The Age NSW is a movement of individuals and organisations calling on the NSW Government to raise the age of criminal responsibility in NSW from 10 to at least 14.

Just Reinvest NSW is a framework that shifts power, resources and decision-making to First Nations communities to self-determine long-term responses that improve justice outcomes. There are several Justice Reinvestment (JR) initiatives aimed at improving justice and other outcomes for children and young people, including **Mounity Yarns**.

CopWatch was created by the National Justice Project to support First Nations communities to respond to police over-reach and discrimination. The **CopWatch app** is a free tool that can enhance the safety of children and young people when they come into contact with the police.

Alternative First Responders is a movement led by the National Justice Project, and informed by broad stakeholder engagement, demanding a move toward alternative first responses to police.

Project Nia is a US-based grassroots organisation founded by Mariame Kaba that works to end the arrest, detention and incarceration of children and young people by promoting restorative and transformative justice practices. The website contains a wealth of educational resources and toolkits.

Interrupting Criminalisation is a US-based initiative led by Black feminist abolitionist organisers, Mariame Kaba and Andrea J Ritchie. It is a resource hub that offers information and cross-movement networks for practitioners and advocates to construct a world free from violence, criminalisation, policing and punishment.

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