



MEGAN WILLIAMS

Mandaang Guwu, thank you Gadigal ancestors, and their spirit that remains ever present in this land of the Gadigal that I'm Zooming in from today.

I pay my respects to their elders, community leaders, and next generations to whom I would like to dedicate this session today.

As well as Gadigal; The University of Sydney conducts work on the ancestral lands of several other nations the Wiljali, Bundjalung, Kamilaroi, Wiradjuri, Dharug, Guringgai, Gamaraygal, Wangal, Tharawal, Gundangarra, Ngunnawal, Bayali, Darkinjung, Barkindji, Gaagudju, and Gureng Gureng peoples, and what a privilege to be able to speak all of those names to you.

We acknowledge them as the traditional custodians of knowledge for the lands and waterways and who several thousands of years of generations have exchanged knowledges and principles for all of us to benefit from today.

And in respectfully acknowledging their ancient learning cultures and traditions, we declare our commitment to the continuation of their knowledges and cultures for current and future generations.

I honour and respect our Aboriginal panellists today, thank you for joining us and I very much look forward to introducing them and hearing their insights about raising the age of criminal responsibility.

By way of introduction to myself as host today, I'm Associate Professor Megan Williams, a proud member of the Wiradjuri nation from Northeast Wiradjuri country and that large Williams family.

I work at the National Centre for Cultural Competence and am a member of the Sydney Institute of criminology. In terms of what's brought me here as host today, I began as a peer educator in drug and alcohol service in the 1990s on the Gold Coast and went on to complete a social science degree majoring in youth work.

And since then, I've really pushed to be as big a part of curriculum as I can, acknowledging the absence of voices in my own undergraduate education and postgraduate as well.

So I've taught countless subjects at universities, and also a range of health promotion projects in the criminal justice setting, including with the film *Mad Bastards*.

And for those of you who haven't seen it, it's a full-length feature film that details some stories along the lines of what we'll hear today.

And with my dear colleagues at Mibbinbah Spirit Healing, we've turned that into a group-based programme that's an absolute joy to run.

And in terms of other projects I work on, they're really about the workforce, focusing on the non-indigenous workforce to do better for Aboriginal and Torres Strait Islander people who are unfortunately overrepresented in the criminal justice system. And in fact, the out of home care system in Australia as well.



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My own family member died in custody. And that very much motivates me in my work. And it reminds me to say that these issues are personal for all of us, and they're professional as well.

And so on that note, I ask all of you who join us to be a wonderful supportive audience that I'm sure you will.

We're expecting several hundred people to join today. And we know that you have a whole range of different backgrounds, and that you'll want a whole range of different types of information.

So we'll do our best today, particularly through using Slido the question and answer format. I'll keep an eye on that.

I may not answer questions in the order that they come up on screen because I'm going to try to cluster them according to themes. And hopefully get some more depth in our conversations. The code is hashtag #raisetheage all one word for you to use.

So please be mindful to ask your questions respectfully and refrain from I suppose those questions that are also comments or pointed statements. So we've got a list of questions already and really look forward to getting into those.

All of our dear Aboriginal speakers will bring different perspectives and a great depth across legal, social and health implications of raising the age of criminal responsibility from 10 to 14; to bring it in line with many other jurisdictions in the world.

That's right. In Australia, children as young as 10 can be arrested by police and put into prison. Studies have shown that early interaction with the criminal system does more harm than good.

And there are great discrepancies as well in being a young person. Children, as young as 13 can get a Facebook account; at 18 you can vote; at 16 you can get a learner's permit to learn to drive a car.

So there's real discrepancies on who's an adult and who's a young person that also underscore issues about ages, people can appear in court. So it's also of great concern to us that a vast majority of those under 14 who do appear in court are Aboriginal and Torres Strait Islander.

This year on the 27th of July, a national meeting of the Council of Attorneys General chose to defer a decision on raising the age of criminal responsibility from 10 to 14. And the ACT has done so since and we have a chance again for a decision to be revisited in 2021.

So today, we may explore what leverage we have over the next 12 months and with the raise the age campaign. So today, we'll hear more about that campaign. We'll explore how to possibly be involved with it. And we'll have 10-minute presentations from each of our panellists leading up to our question and answer time.

So without further ado, I'd like to introduce Dr. Nicole Watson, who is an Aboriginal woman from southeast Queensland.



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She's a senior lecturer and Australian Research Council researcher at the Sydney School of Law. And she's a novelist and author and an award-winning educator as well.

She'll provide an overview of the historical perspective on relationships between the law and Aboriginal and Torres Strait Islander people.

And just before I introduce Nicole, I'd like to acknowledge the next speaker will be Roxanne Moore, who is a human rights lawyer; a Noongar woman and executive officer of the National Aboriginal and Torres Strait Islander Legal Services, and she'll give us details about raise the age campaign and other issues.

And then we'll go to Bardi Kimberley fella, Dr. Michael Doyle, who's from the Central Clinical School at the University of Sydney and the Centre for Research Excellence on Indigenous health and alcohol. And he'll talk to us about the longer-term trajectory of engagement in the criminal justice system.

So I am thoroughly honoured to be the host here today, and to put my listening ears on and open my heart and mind about what I might be able to do, to contribute to both the discussion and any actions over the next 12 months. So thank you all and thank you Nicole, over to you. Thank you.

Good afternoon, everyone. I'm Murri from South-East Queensland my family belonged to the Mununjali alley of the Beaudesert and the Birri Gubba of the Bowen basin.

I would also like to pay my respect to the traditional owners of this beautiful country, the Gadigal people of the Eora nation.

I also acknowledge my colleagues on the panel and all of you who have come here today to discuss this very important issue.

Over the next few minutes, I will be providing some historical context that will come to contextualise the discussions that my colleagues will be embarking on after my talk.

Over the next few minutes I'm going to argue that the contemporary disadvantage suffered by Indigenous people in the criminal justice system is deeply rooted in our shared history.

Together with their adult relatives, Indigenous children have rarely enjoyed the protection of the law. Throughout our shared history, children were exposed to the violence of the frontier, they were later exploited as cheap labour.

And for much of the 20th century, Indigenous children suffered the brunt of corrosive policies that began with protection, and then assimilation.

So the next few minutes, I'll unpack that very broad statement. In the 1990s, many Australians became aware of the stories of the survivors of the policies that gave rise to the stolen generations.

And this awareness was brought about by the ground-breaking report *Bringing Them Home*, and also the powerful work of Aboriginal people themselves; songwriters such as the late Bob Randall. His



beautiful song *Brown Skin Baby* taught us so much about the strength and resilience of the stolen generations.

Many of these important stories are stories of child removal that took place in the 20th century. It's important to remember that settler indifference to the sanctity of Aboriginal family life began very early in our shared history.

In her book, *Writing Never Arrives Naked* Penny van Toorn, revealed that it was a common practice in colonial Australia for settlers to remove Aboriginal children from their families.

The first recorded Aboriginal child removal actually occurred in 1789 only 16 months after the arrival of the First Fleet. The colonies chaplain Reverend Richard Johnson, had taken any young girl he called Aberoo. She was exposed to English literacy and domestic service.

The young girl, however, was not an orphan. And a year later she requested that she be allowed to return to the care of her family. A request that was declined. This practice of removing Aboriginal children from their families became official policy in 1814. With the establishment of a native institution in Parramatta.

Aboriginal parents were encouraged to relinquish their children to the institution where the children will be taught English literacy and Christianity.

Thereafter, their only contact with their children was to occur once a year at Governor Macquarie's annual native feast.

Unsurprisingly, parents were reluctant to surrender their children, and the institution was a resounding failure. The state was not only indifferent to the sanctity of Aboriginal family life; it also failed to protect Aboriginal children from the violence of the frontier.

In going back to my home state, the body that was responsible for so much of the atrocities on the frontier was the Native Police. Now the Native Police, their role was never to investigate crime, but to eradicate the Aboriginal presence from the land.

The historian Jonathan Richards has described the tactics of the Native Police as quote, a regime of terror, confusion and suffering.

As the frontier move throughout the colony of Queensland, the Native Police prepared the land for settlers by conducting what are referred to as dispersals. The term dispersal was a euphemism for the indiscriminate killing of Aboriginal people.

That's important to remember that it was not only adults who suffered from the violence of the dispersals. It was also Aboriginal children who lost their lives in these horrific acts of violence. The Native Police were not alone and conduct committing atrocities on the frontier. Vigilante settlers also engaged in horrific acts of violence.



Not far from where I grew up in Caboolture; a notorious massacre was a poisoning that occurred in Kilcoy Creek in 1842. At least 60 Aboriginal men, women and children died after consuming flour that shepherds had contaminated with arsenic.

Indigenous children who survived the frontier faced a precarious future. The historian Shirleene Robinson has cast light on the practice of child kidnapping by colonists, who sought to exploit the children as domestic servants.

From what we know of Robinson's very important research, many of these children were treated as the mere chattels of their captors.

In her search Robinson refers to the case of a young girl who was actually given to a settler as a wedding present. And a young boy called Boxer who was only eight years old, and he was purchased by the famous Durack family for a tin of jam and a mare.

And in her research Robinson has referred to Aboriginal children as the most vulnerable workers in the state. They were often expected to perform very demanding tasks. The children were rarely paid in wages and girls in particular were vulnerable to sexual abuse.

Throughout the 20th century, Aboriginal children, together with their adult relatives, would become vulnerable to what we now call the protection regime.

Each state in Australia enacted its own protection legislation that created a form of wardship applicable only to Aboriginal people.

Referring back to my home state, the protection era began in 1897. With the enactment of the Aboriginals protection and restriction of the sale of opium act.

Those who are regulated under this legislation, were vulnerable to removal to one of Queensland's reserves; where Aboriginal inmates were deprived of basic freedoms and denied autonomy in their family life.

Although this act was repealed in 1939, it would provide a template for Queensland's Indigenous legislation until the closing decades of the 20th century.

When one reads the narratives of the children who lived on the reserves during the protection era, it's quite revealing of just how dehumanising this legislation was. Children were liable to be removed from their families and placed in dormitories.

Those who grew up in the geometry is often described constant hunger, cruel discipline and education that prepare them only for lives of servitude. Once they were old enough, the children were often sent to the homes of private employers.

Like many Aboriginal families, my own has stories about the harsh treatment endured by loved ones at the hands of their former employers. Perhaps the saddest belonged to my Granny Roberts who was also known in our family, as Auntie Rose.



As a child, Auntie Rose was sent to work on a farm that was owned by a couple whose names my family has long since forgotten. Each morning, Granny Roberts would wake up at four o'clock to milk the cows that belong to her employers.

She was never provided with shoes. Granny Roberts had to sink her feet into the cow dung in order to be warm. In addition to depriving her of just the basic necessities, her employers were often violent with her as well.

But my Granny Roberts was also an extraordinary resilient woman. And then that's not the way that I choose to remember her, right? I choose to remember her for her wonderful attributes.

So in conclusion, Indigenous children have rarely enjoyed the protection of law. From the very beginning of our shared history, Aboriginal children were removed from their families in pursuit of the civilising project. On the frontier, they were exposed to the violence of the native police and vigilante settlers.

Together with their adult relatives that were later dehumanised by the various tentacles of the protection regime. But in spite of everything, Aboriginal children were always resilient.

Children like my great granny Roberts grew into adulthood, and many had families of their own. And some became leaders of our community organisations. More than anything else. It is that extraordinary resilience that should define them. Thank you.

MEGAN WILLIAMS

Thank you so much, Nicole, it is an important history. It's in the living memories of our families that affect our lives today. And we must continue to hear those stories.

So thank you so very much for sharing. Again, it's personal, as well as professional. And I'm sure it's the same for you, Roxanne, I welcome you to now share with us about your incredible and enduring leadership work, including with community-controlled leadership. So thank you very much, Roxanne.

ROXANNE MOORE

Thanks Megan and thanks, Nicole. Kaya everyone. My name is Roxanne Moore. I am a proud Noongar woman and I'm the Executive Officer of NATSILS, the national peak body for Aboriginal and Torres Strait Islander Legal Services. I too acknowledge this beautiful country that we're meeting on.

I'm on the land of the Wurundjeri people of the Kulin nation and pay my respects to elder's past present and those yet to come; and to all Aboriginal and Torres Strait Islander people on panel and on the call today.

Thank you so much, Nicole, for that really moving presentation. It is personal. My great grandma too was stolen generations and also had a similar experience working on a mission and yeah, it's that legacy, which impacts on everything that we're talking about today.

Australia has a really long history of locking up Aboriginal and Torres Strait Islander kids as you mentioned, and where I'm from in Western Australia; Rottneest Island, which was one of those first ever



prisons in Australia, was purpose built to house Aboriginal people, and mostly for offences relating to slavery, and that included kids.

So that's the, you know, the beginning of what we see today. And it's no surprise that that legacy of colonisation continues with our kids locked up, taken far from our families, community and culture; and the system is stacked against them at every turn.

And the Telethon Institute research from WA tells us that about 90% of kids in youth prison have identifiable psychosocial and cognitive disability.

And we know that more than half of our kids in prison have been removed from their families by child protection. And it's that legacy of stolen generations and the discriminatory policies that our people face.

So if kids are in prison, that's because the government has failed. The government has chosen to lock them up rather than to support our kids and give them the wraparound, holistic, culturally safe supports and alternatives to imprisonment so that they can be, you know, thriving and have all the best opportunities in their community.

Our kids, Aboriginal and Torres Strait Islander kids, are pushed into the quicksand of the justice system from racism and disadvantage. And they are criminalised over policed, targeted and make up 65% of the youth prison population, of 10 to 13-year olds in prison; but they're only 5% of the total youth population.

So this disproportion either is clear that there's this injustice, and most of our kids are being criminalised for the disadvantage that their families have been pushed into from this legacy of colonisation; leaving them charged with minor offences like, you know, theft, public order offences.

Aboriginal and Torres Strait Islander legal services; I work for the National peak body that represents them, our lawyers have represented kids for being charged with like stealing a chocolate frog or a loaf of bread. And there's examples of you know, kids being criminally charged for throwing a tomato sauce bottle in a residential care facility.

Now, the only kids that have been locked up are the kids who are not protected by privilege. And no child belongs in prison. So this is ultimately a failure of governments that we're talking about.

And over the years as a legal expert and Human Rights Campaigner, I have worked with so many of our kids across the country and their families from Mt Isa to Perth to Alice Springs to Melbourne and Redfern and Palm Island.

And the experience is just hauntingly similar. Police racism targeting violence, racial profiling, harassment, and our young ones across the country are abused in youth prisons without accountability.

This one change, raising the age of criminal responsibility, will have an immediate and generational impact on over incarceration of our kids. And the younger that a child is locked up, the higher their likelihood of returning to prison.



So the Australian Institute of Health and Welfare has reported that 94% of imprisoned children aged 10 to 12 return to prison before they are 18 and the rate of return decreases with each year of age.

We absolutely have to reimagine our whole justice system with structural change to undo the systemic and direct racism that is built into its foundations; build futures and not prisons, which are no place for a child.

Raising the age though, is one small step which governments can take right now which we know will change the life of generations of our young people to come.

And that's why a coalition of legal, medical and social justice organisations including NATSILS, the Australian Indigenous Doctors Association, Change the Record, Human Rights Law Centre, Law Council Australia, Amnesty International, Australian Medical Association, the Royal Australian Australasian College of Physicians and the Public Health Association of Australia have all come together

- these medical human rights experts; Aboriginal community-controlled organisations and have joined the calls the courses of national international calls; United Nations bodies, medical and legal bodies to raise the age of criminal responsibility.

And we are calling as a campaign for all Australian Governments to raise the age to at least 14 years and the UN has actually said that kids under 16 shouldn't be imprisoned. And the petition that we have, which I urge everybody to sign, I'll pop the link in, has gathered over 135,000 signatures so far.

But while most of the world has caught up with the medical science, which is clearly saying that, you know, kids, under the age of 14, do not yet have reached the developmental stage where they can understand the criminal consequences of their actions, not to mention the deeply harmful aspects of imprisonment for children that young.

The rest of the world has caught up with this medical science, but Australia is lagging behind. Globally, the median age is 14. And countries like Germany, France, Chile, and Italy all have a minimum age of 14 and low rates of imprisonment. The world has not fallen, in crime has not increased, it's actually decreased.

And it just goes to show that it's about those holistic and culturally safe approaches. So unlike prisons, the campaign is calling for Aboriginal-led alternatives to imprisonment, which are effective and help kids lives.

To name a few, Aboriginal Legal Service of WA runs a youth engagement programme, the YEP programme, Deadly Connections have youth diversion programmes, Djirra's got a programme called Young LUV, Red Dust Healing, Bush Mob, Redfern's Clean Slate without Prejudice, Sisters Inside, First Nations Girls Art Group, Bourke's Maranguka justice reinvestment programme, numerous bail support programmes and these work because they're about connecting kids with have inherent strengths of culture, community, and country while keeping them out of the harmful justice system.

But what they lack is public funding. Keeping kids connected to culture, country and community is where we need to go. And it's about building futures, not prisons. Prisons aren't a place of healing. And



right now, there are kids subject to lockdown 24-7 in Queensland youth prisons and Victoria youth prisons, where there have been COVID-19 outbreaks.

And rather than releasing these kids back into Community; and most of these kids have not been found guilty, they have not even been sentenced, they're on remand.

Rather than releasing these kids back into community where they can have the you know, support that the community can provide them.

They are experiencing isolation in concrete cells, cut off from their family and supports. And this is going to have lifelong harm for them, and the medical evidence is very clear about that. We've seen the horrors of Dona Dale, Cleveland, Banksia Hill, Brisbane's police watch houses.

Youth prisons in Australia have a history of abuse; of abusing Aboriginal and Torres Strait Islander kids. Practices like solitary confinement, hog-tying, sedating, hooding and gassing.

So this campaign is calling for decarceration strategies. So every First Nations kid has a healthy body and spirit, and their family is supported strong and connected in a safe and secure home with access to culturally safe legal disability, family violence, education and health support.

As seen on the slides here, we can see as part of the campaign, recently we asked people to post a photo of themselves as a 10 year old - What were you doing as a 10 year old? And really humanising this issue?

And, you know, when you're in 10 years you know, playing on the trampoline, you were me and my sister were you know, collecting shells at the beach and lost in make believe worlds and, you know, this is this is what the freedom to be kids looks should look like but it's as I said earlier only the kids who are afforded privilege which have that freedom and our kids are locked up.

The next slide shows the support that we have received from Aboriginal and Torres Strait Islander and other celebrities, artists, musicians, comedians. And this has been a really important part of the campaign and the work and it caused a huge momentum in the lead up to the Attorney General's meeting.

But despite the success of the campaign in gathering this community support and there was actually polling released by the Australia Institute that said that the majority of average the majority of Australians support raising the age of criminal responsibility; the Council of Attorney Generals met and they failed to commit to raising the age of legal responsibility from 10 to 14.

And it said they deferred the decision for at least 12 months, stating what more work is needed in considering the alternatives to the current system. Now, we know that the evidence of the alternatives are here, they are available. And this work has already been done.

There is some movement however, the Legislative Assembly of the ACT recently passed a motion which was in effect a statement of support for raising the age to 14 years. It hasn't gone as far as to say that they will actually introduce the legislation and that, you know, got an election coming up.



So that's a really promising development. But basically, this is a critical time for the campaign. Australia is about to come before the United Nations for our Universal Periodic Review, there'll be a global spotlight on this injustice.

Before the key decision makers is this review about raising the age, and governments around the country don't need to wait for this review to get handed down, it could be further delayed. We're not sure how long it could be delayed for.

But states and territories can make this change immediately. And we need to see change now in our lifetimes. And I don't want my kids or my grandkids to face these injustices. And we know that our kids shine when they're supported given opportunities strong in community, culture and connection to country.

It's time for governments to raise the age of criminal responsibility to at least 14 because Black Lives Matter. Our young people's lives matter, our kids lives matter and they always have and always will. Thank you.

MEGAN WILLIAMS

Thank you, Roxanne. We've heard really compelling reasons for raising the age; solutions from all around the country led by Aboriginal and Torres Strait Islander people.

And also, some practical ways we can be involved. Without action in those areas, we risk Aboriginal and Torres Strait Islander peoples long term engagement in the criminal justice system.

And that's what Michael will talk about today. So I'd like to introduce Dr. Michael Doyle, who particularly focuses on the health and wellbeing of Aboriginal males in the adult system.

Thanks, Michael.

MICHAEL DOYLE

Thanks, Megan. I'd like to also acknowledge the traditional owners of land upon which we meet today I'm here in Redfern. So the land of the Gadigal people of the Eora nation.

While I was listening to Nicole and Roxanne and thank you so much for your presentations, I was thinking about the incredible work that the people who've been - I've lived in Redfern for about three or four years now.

But people in Redfern have been so involved in these issues and have been at the forefront in so much work. And I really appreciate that there's been a lot before us and that we need to continue on, unfortunately, in a way; pushing for change to get things the way they should be.

So I, as Megan said, I work with Aboriginal men and I look more at the adult prison system. And I'm just aiming to give you an overview of some of the things that happen or the imprisonment rights and the consequences of long term, of people going into prison or juvenile custody at an early time.

So this is the National imprisonment rate for Aboriginal Torres Strait Islander people for the last 10 years since 2009. And the line above you can say that we've had a gradual increase, you can track that



back and you'll that that's been a continuous increase pretty much since figures started being kept on recording Aboriginal Torres Strait Islander imprisonment.

Non-Aboriginal imprisonment, however, has remained pretty much the same over the same period of time, there's been a slight increase over the last five years or so. But that's the line along the bottom left, and as a nation, we need to really work out what we can do to stop this trend, because it's going up and it continues to go up.

And every way that we can possibly change this, we need to put that into action. So I just talking a little bit about a bit of work from my PhD; Megan was one of my PhD supervisors.

And so these are results from interviews with 14 Aboriginal men about their AOD use and their trajectory as the title of the paper is *Into Prison* and their sorts of perspective on those things.

So when we talk to the guys, they had limited aspirations, and they all had limited education. And so, or limited formal education, I should say, to be more exact,

But kids who are 10-14 and this is, we asked them about what was, what you were thinking you wanted to do at that age. And they couldn't think of much other than playing football. And that's probably most kids are like that.

But the idea that they're then becoming involved in the criminal justice system, then robs the aspirations and other things that then they want to do because they start to go to be involved with police and they're in juvenile detention, those things.

They had long term accommodation and employment issues, which started as children but as adults, that had also been an issue. And they're also early commencement of AOD use and intergenerational AOD use but not much was done to help assist them with that AOD use at all. Until they were in adult prison, which is a real statement.

So prison ended up for most of the guys we spoke to being the default, AOD withdrawal service and AOD treatment service, and they really received nothing until they were at that age. So just thinking about this in terms of this sort of 10 to 14 age group, and that's the formative stage of your life.

That's when you're having relationships with people outside the family. So you sort of been to primary school, you know, teachers, and you get to high school and you're starting to make people who you hadn't met before, you might even get a part time job and be doing those sorts of things, and forming who you are as a person outside of the family unit.

But if kids are going into custody around at age, their socialisation then becomes within the criminal justice system. And that really does have lifelong consequences for their entire life for when they're 50, 60, 70 not just, well, that immediate period of time when they end up in juvenile detention.

And the other thing I'd say with this in those formative years is society should be conceptualising these kids as kids with problems; that these kids are not the problem themselves.



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And so Roxanne talked about some work done by Telethon Institute. So Sharan Hamilton, a colleague of ours, of colleague of mine, she looked at the FASD within the juvenile detention centre in Western Australia.

And it's a great bit of work she did, and it just outlines a lot of the kids were somewhere along the spectrum of having Foetal Alcohol Spectrum Disorder, which is a mild or severe sort of intellectual disability.

But instead of the kids being treated as in you've got something that needs to be, you need some help with; the kid was treated as a problem. And we really need to have a think about that.

So in terms of impacts on the young person themselves, starting to get involved in this, and I'm talking about when you're 16, 17. So, so past the age 14, which is what we're saying about raising the age, but it has just this lifelong consequence, and you have a cumulative disadvantage that occurs.

And there's a bit of literature from the United States about this. And so you then begin to have limited employment opportunities, it's difficult for you to find private accommodation because you've been prison, you can't get a job, you do those things.

And then you have limited opportunities for social mobility. So you end up really kind of stuck where you are. And it's really, really difficult for an individual, for that young person to climb out of that and he can and this happened, and they're really strong people who do that.

But the effort to do that is tremendous. And we need to support those people who do want to do that, but it does have that impact. And it also has this impact of setting up an ambivalent relationship between law enforcement and young Aboriginal people, not just for the single individual, but they'll also speak about their own experiences with the criminal justice system with all of their family.

And we need to change that whole dialogue of the why do our kids have a relationship with the police for instance, firstly; but how can we change that whole way in which that they're perceived.

In terms of impacts upon the family and the community, so unfortunately, there is some extent a sort of a normalisation of prison. And I'm not saying going to prison is normal, but it's not seen as something strange or abnormal.

And when we did the interviews with the guys, a couple of them had, their fathers had been to prison, and they'd been in prison and they had other family members who have been in prison and there's a thing of some families are having this intergenerational imprisonment that is occurring.

And we really, it's a very difficult thing to address and a lot of effort needs to go into that. And then there's a stigmatisation for the children of people who go to prison. So if your dad's been prison, well, what do you say? Where is your dad been?

Well, he's been in prison. that can be really harmful, particularly if you think about how kids really tease each other in primary school and in high school and that sort of thing. And so this whole thing affects



the whole family. In terms of states and territories, if you think about the government, addressing inequality is even harder if you leave it to be addressed further down the track.

It will require more resources and more effort and more things to be done in those cases. So working with young people, as soon as an issue starts to arise is far more effective the cost of imprisonment is about \$223 per day, as you can see on that slide.

And it's even more for juvenile detention. It's far better investing that money so that inequality doesn't occur so that we don't have so many kids going to prison.

The other thing is, is this subgroups begin to emerge. And this is a bit of work from the from the US and I don't know where we're at with our community, Aboriginal and Torres Strait Islander people in Australia. But you end up having a sort of subgroup where everybody is sort of linked in one way to criminal justice system.

And it's incredibly difficult to work with that kind of group to try and get people out of that whole sort of Criminal Justice Network and criminal behaviour.

And so it's best not to allow that to happen in the first place. So prevention is better than treatment. As I sort of mentioned about resources, we should be addressing the problem. behaviour so the children have not treating the children as problems.

We should give them the support. If a kid turns up with his done a serious violent crime, and they're 10 or 11, what's going on? Why has that kid done that?

The system should be seeing beyond what the child has directly done. And look for what's behind that behaviour and deal with those issues rather than locking these kids up. And I was mentioning about sort of subgroups form.

The thing is, if when you're older, and you really, you've been to prison, you've been involved with all these, sort of enmeshed within the system, and drug and alcohol and all those things. When you do want to make a change, it can be incredibly difficult.

And then you need to form new social connections and you need to sort of do, your entire life kind of needs to change. It's not just a matter of you just stopping, I'm not going to drink or drug anymore, I'm not going to do this or that.

And so that that's tremendously difficult for people. It's not impossible, and it happens and people do it all the time. But prevention is far better than treatment; and supporting people to make those changes when those behaviours and those social networks are really entrenched is very, very difficult and requires a lot of resources.

So I just I think it's just crazy that we're locking kids up, I have to say that under the age of 14. If they've done something really bad, as I said, we should be thinking about why that is. And we should be thinking about how we can reduce the number of Aboriginal people, Aboriginal Torres Strait Islander people going into prison.



So that's all I've got to say. And there's also, Roxanne did mention a bit of work that both Megan and I were involved with, The Public Health Association so I thought I better do a bit of a plug for that, as well. And, and I tell everybody should sign up to the campaign that Roxanne's speaking about. I certainly have.

And we really do need to change the age of criminal responsibility and raisee up to 14. That's it for me. So thank you.

MEGAN WILLIAMS

Great. Thank you, Michael for that. Now, it brings me to the very difficult part of our time together today to try to prioritise asking and answering some questions because they range greatly.

Firstly, people are interested in what benefit there is that locking people up at 10 which links to the developmental issues. Are people able to take responsibility at 10? Why is 14 better? And what about 16?

So do I have someone, one of you panellists, who'd like to make a start on that? I could just give you a quick overview of other questions they do include brain related difficulties including foetal alcohol spectrum disorder.

People are interested in more information about Aboriginal-led solutions, as well as the alternatives required to reduce rates now, not only prevent people entering the system, and people are worried about what will happen instead.

So, perhaps I could ask you, Roxanne would you like to answer to why 14 and not 10?

ROXANNE MOORE

Look, I think that ultimately, no child belongs in prison. And I think that where the age of 14 has come from, and it's at least 14 and as I mentioned earlier, the United Nations has said that kids under 16 shouldn't be locked up.

This has come from a wealth of medical and developmental and legal and human rights research and evidence about where kids are at that developmental stage.

And whether they're actually able to understand the criminal consequences of their actions, but then also the incredibly harmful impacts of prison as well.

So, we know for Aboriginal and Torres Strait Islander kids, our kids are hugely overrepresented even more so at that very younger age. So about 65% [in prison] of 10 to 13-year old's are Aboriginal and Torres Strait Islander kids.

So there's about 600 kids in total under 14 who are locked who were locked up last year. And while that may seem like a small number, it will have absolutely huge and generational impacts for these kids if they are diverted out of the justice system and rather, you know,



government's focus on those decarceration strategies and supports like, you know, housing and family violence supports and disability supports and family supports to keep families strong and together as well, so that kids aren't being removed, which we know is a huge crossover.

So, you know, it's really about where the kind of international evidence has come to and the United Nations Committee on the Rights of the Child has released, updated general comment last year, which interprets the UN Convention on the Rights of the Child which Australia is a signatory to; has ratified, and that basically says, that general comment, says that the absolute minimum age of criminal responsibility should be at least 14 years of age.

So that's kind of where this has come from. And as I mentioned before Australia is coming before the United Nations next year for its Universal Periodic Review.

And one thing I forgot to mention was last year we had our, the UN Committee on the Rights of the Child reviewed, reviewed Australia for our children's rights compliance and raise the age was a huge issue in that and there were hundreds of NGOs and organisations that came together calling for Raise the Age then,

and Dujan Hoosan who is a young Aboriginal fellow from Alice Springs, and the star of *In My Blood It Runs*, he went to the United Nations and he told the world that he wants adults to stop rolling 10 year olds in prison.

And he's only 12 years old. And it's incredibly powerful, I think for our young people to have their voices heard on that, on that global level.

MEGAN WILLIAMS

Excellent thing to do. It did and answered several of those questions in one. So I'm going to where we only have very limited time, we could discuss these issues all week.

We can't get to very many questions at all. But we hope to continue this discussion for the next 12 months or 11 months.

But I will ask quite a different question that's come from a registrant today and that's about the implications for New South Wales youth justice as an organisation. If the age is raised, what implications are they likely to be on youth justice?

Is it that youth justice will have to deliver different types of programmes and shift to prevention and a healing discourse, or will that workforce shrink? And is that part of the pushback?

MICHAEL DOYLE

I think, in terms of the services that you get within the once you get involved in the in the criminal justice system, which I think the question was more geared towards that.

You, you'd still need to do those things. It just hopefully wouldn't get kids to under the age of 14 is more what would happen with that to give a pretty succinct answer to that.



MEGAN WILLIAMS

I do want to ask another question that's come up and that it speaks to some of the worries that the community seem to have and some, some people have asked questions have about an argument often presented is that children can perpetrate the most vile brutal crimes, and what redress do you see as appropriate in such situations?

MICHAEL DOYLE

I'm not sure if I'm qualified to answer that. But certainly if a kid's in doing those sorts of things, you really need to look at what supports they have, do they have social support to they have are they engaging psychologist, psychiatrist or is it underlying mental health issues?

Do they have some form of cognitive disability, whether that be mild to a point where it's not very detectable, it's going behind those issues, and treating that as a health issue at that age, rather than an issue that that that child is a bad person and have has done bad things because there's something bad about them. I think you've got to go a bit further into why that is happening.

ROXANNE MOORE

I might jump in and add to that? I think it's really important to note that the very serious crimes being committed by kids of that age is extremely rare.

Of course, they're the ones that we see blown up in the media, especially when they're committed by Aboriginal and Torres Strait Islander kids. But it's extremely rare and most kids, especially Aboriginal and Torres Strait Islander kids in prison are there for very minor offences.

And I mentioned the most common ones earlier things like you know, theft and public order offences, offences which are related to the disadvantage that they've been pushed into.

But in terms of where those serious offences occur, you know, I agree with Michael that we should be asking ourselves, you know, how can we bring these kids in, rather than pushing them away and pushing them into this really harmful system, which is just going to cause them further harm, and what kind of society do we want to create?

And it's we know that our kids are doing the best when they're supported connected to culture and country and community. And that's where the focus needs to be.

MEGAN WILLIAMS

Excellent. Thank you for that. And I want to ask Nicole, do you have anything you would like to add? Particularly as a final parting note, as we start to wrap up this session,

NICOLE WATSON

Already summarise my historical context, but I guess I'd emphasise the importance of knowing our history, because if we don't know our history, then we're doomed to make the same mistakes again.

And I will also say that when you don't know about this history, please read books of our brilliant Aboriginal and Torres Strait Islander writers, the word of our beautiful songwriters

Yeah, that work is a gift to all of us.



TRANSCRIPT

Sydney Ideas podcast

Raising the age of criminal responsibility

Monday 7 September 2020

MEGAN WILLIAMS

Continue to follow along each of the panellists today and the work and Raise The Age campaign. We heard Roxanne encourage everybody to post a picture of themselves at 10 and the type of childhood that 10-year olds deserve rather than being in lockdown, locked behind bars away from family and community.

We've heard every encouragement for Aboriginal and Torres Strait Islander led solutions. There are many documented. Ask yourself, how can you help support those; centre Aboriginal and Torres Strait Islander people solutions to these issues.

And get out of the way to allow Aboriginal and Torres Strait Islander leadership to come forward. Do everything you can to call out racism at the interpersonal and organisational and system levels, labelling it and naming it, just as Nicole has encouraged us to understand and name our history so that we do not repeat the mistakes of the past.

So on that note, I'd like to call this very quick session to an end. It's unfortunate, it's only one hour, but we hope very much that we have stimulated your thinking, we know we have a wide audience, some of whom have not known the details that our panellists have provided today.

So I'd like to take this opportunity, once again to thank Roxanne, Michael and Nicole for their very important work over many years; their important work that they have forward in the future.

We wish them all the very best and that you have all the supports that you require. We can be helpful along the way. Thank you very much.

ANNA BURNS

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Finally, we want to acknowledge that this podcast was made in Sydney which sits in the land of the Gadigal people of the Eora nation. It is upon their ancestral lands at the University of Sydney is built.