

Submission to the inquiry into community safety in regional and rural communities

7 June 2024

Public Interest Advocacy Centre
ABN 77 002 773 524
www.piac.asn.au

Gadigal Country
Level 5, 175 Liverpool St
Sydney NSW 2000
Phone +61 2 8898 6500
Fax +61 2 8898 6555

About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

Our priorities include:

- Reducing homelessness, through the Homeless Persons' Legal Service
- Access for people with disability to basic services like public transport, financial services, media and digital technologies
- Justice for First Nations people
- Access to sustainable and affordable energy and water (the Energy and Water Consumers' Advocacy Program)
- Fair use of police powers

Contact

Emma Bastable
Public Interest Advocacy Centre
Level 5, 175 Liverpool St
Sydney NSW 2000

T: [REDACTED]
E: [REDACTED]

Website: www.piac.asn.au

The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation

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Recommendations

Recommendation 1

Young people at risk of offending or reoffending should be supported by an evidence-based early intervention community-led model, separate to a criminal justice and policing response. Where the young person is Aboriginal or Torres Strait Islander, Aboriginal community-controlled organisations and supports should be prioritised.

Recommendation 2

The NSW Government should increase investment in early intervention and prevention programs and strategies to work with children and their families, to support the raising of the age of criminal responsibility to at least 14 years of age. Aboriginal and Torres Strait Islander-controlled organisations must be at the centre of program design and delivery for Aboriginal and Torres Strait Islander children and their families.

Recommendation 3

The age of criminal responsibility be raised in New South Wales to at least 14 years of age, without exception.

Recommendation 4

The NSW Government should increase support services and social and affordable housing for women and children experiencing domestic and family violence in regional and rural NSW.

Recommendation 5

The NSW Government should implement health-led alternatives to police for emergency responses to people experiencing mental distress in the community, including consideration of expanding the PACER program to regional and rural communities.

Recommendation 6

The NSW Police Force should publicly release a copy of its recent internal review into responses to mental health incidents.

Recommendation 7

The NSW Government should consult with communities, community-led organisations, mental health consumer groups and local health experts to inform reforms to how the NSW Police Force and NSW Health agencies respond to mental health incidents.

Recommendation 8

The NSW Government should increase funding for NSW Health and Ambulance NSW to ensure adequate supports for people in need of mental health support. This should include additional resourcing to address the lack of mental health support available in rural and regional NSW.

Recommendation 9

The NSW Government should adequately fund delivery of training to NSW Police Force officers to improve responses to situations involving people experiencing mental distress.

Recommendation 10

The NSW Police Force should urgently engage with regional and rural NSW community, civil society organisations and mental health experts before rolling out its new mental health training package.

Recommendation 11

The NSW Government should commission an independent review and audit of the NSW Police Force mental health training within two years of implementation to ensure that adequate and regular mental health training is being provided to all officers.

1. Introduction

The Public Interest Advocacy Centre ('PIAC') is pleased to provide a submission to the inquiry by the Legislative Assembly Committee on Law and Safety into community safety in regional and rural communities in New South Wales ('NSW').

Our submission addresses the following Terms of Reference:

- (b) how a whole of government approach can reduce the drivers and root causes of youth crime in regional and rural NSW; and
- (f) the range of functions being performed by NSW police officers, including mental health assistance and youth welfare, on behalf of other agencies in regional and rural areas, and the supports required to assist police.

In summary, community safety in regional and rural communities would be significantly improved by the NSW Government:

- adopting a whole of government approach to diversion, led by community, that addresses the causes of crime;
- investing in foundational services, such as housing, to address primary drivers of youth crime;
- raising the age of criminal responsibility to 14; and
- implementing a health-based alternative to police for emergency responses to people experiencing mental distress in the community.

2. A whole of government approach to reduce the drivers and root causes of youth crime in regional and rural NSW

Reducing the drivers of youth crime requires a focus on capacity building through social policy, education, health, housing and the provision of support services. This necessitates a whole of government response and a move away from reactive law and order responses that continue to fail our communities.

To effectively address the underlying drivers of crime, government must work collaboratively, in partnership with community, to develop evidence-based early intervention strategies.¹ These strategies may prevent young people from entering (and re-entering) the criminal legal system and would provide the necessary infrastructure to support raising the age of criminal

¹ Peter Murphy, Anthony McGinness, Andrew Balmaks, Tom McDermott and Megan Corriea, 'A strategic review of the New South Wales juvenile justice system' (Report for the Minister for Juvenile Justice, Noetic Solutions Pty Ltd, April 2010), 63.

responsibility. This requires government agencies not only working together, but working with communities to understand community needs, aspirations and solutions.

As explored below, insecure housing is one example of a driver of youth crime that requires the mobilisation of services that sit outside the criminal legal system.

2.1 The failure of top-down and police-led responses

When designing programs and strategies, priority must be given to consulting communities about the issues affecting their young people.² A community-led, whole of government approach, would shift the focus to the wider community, rather than focusing only on the individuals affected, which can be experienced as both stigmatising and isolating.

For example, early intervention programs which support disadvantaged households are among the most effective prevention programs in terms of their ability to reduce the number of juvenile crime outcomes and deliver substantial long-term savings to taxpayers.³ The most successful programs are those that emphasise family wellbeing, likely because they focus on upskilling the adults in the best position to care for the child.⁴

Conversely, crime reduction programs that focus on the individual offender rather than the family and underlying systemic causes of offending are much less successful. Intensive supervision, surveillance and early release programs which overlook health, education and housing, for example, have not been found to be effective.⁵ These programs have a similar effect to targeted policing as they reduce trust and increase stigmatisation, while neglecting root causes of offending.⁶

Similarly, aiming to reduce youth crime by prioritising policing strategies that increase interaction of young people with the criminal legal system is counterproductive and harmful. Coercive policing approaches have a minimal impact on crime reduction and, in some cases, have been found to create or exacerbate social problems.⁷ There is little convincing evidence that targeted or proactive policing reduces the long-term costs associated with ongoing criminal legal system

² The NSW Implementation Plan for Closing the Gap notes that early interventions to support young people need to be community designed and driven and to support health, education and housing, see NSW Government, 2022-24 NSW Implementation Plan for Closing the Gap (Implementation Plan, August 2022) 98 ('Closing the Gap Implementation Plan') 99.

³ Eileen Baldry, Julian Trofimovs, Jude Brown, Nicola Brackertz and Michael Fotheringham, Springboard Evaluation Report (Evaluation Report, University of NSW and Australian Housing and Urban Research Institute, 2015) 19–21.

⁴ PW Greenwood, 'Cost Effective Violence Prevention through Targeted Family Interventions' (2004) *Annals of the New York Academy of Sciences*, 1036(1) 201.

⁵ Steve Aos, Roxanne Lieb, Jim Mayfield, Marna Miller and Annie Pennucci, 'Benefits and costs of prevention and early intervention programs for youth' (Report No. 04-07-3901, Washington State Institute for Public Policy, 17 September 2004).

⁶ Rob White, 'Ethnic Diversity and Differential Policing in Australia: The Good, the Bad and the Ugly' (2009) 10(4) *Journal of International Migration & Integration*, 359.

⁷ Chris Cunneen, Rob White and Kelly Richards, *Juvenile Justice: Youth and Crime in Australia* (Oxford University Press, 2015) 153, Daryl S Borgquist, Timothy J Johnson and Martin A Walsh, 'Police and urban youth relations: an antidote to racial violence: A guide for police, youth and community leaders to improve police/urban relations (Report, United States Department of Justice, Community Relations Service, 1995); John Liederbach, 'Controlling suburban and small-town hoods: an examination of police encounters with juveniles' (2007) 5(2) *Youth Violence and Juvenile Justice* 107; Rob White, 'Police practices, punishment and juvenile crime prevention', in Allan Borowski and Ian O'Connor (eds), *Juvenile crime, justice and corrections* (Addison Wesley Longman, 1997).

contact, or is appropriate for addressing the needs of children and young people.⁸ In fact, in some circumstances targeted policing is shown to increase long term financial and social costs.⁹

Community-focused early intervention programs require a whole of government approach. For example, the NSW Police Youth Strategy 2023 – 2025 ('Youth Strategy') sets out that NSW Police understand that youth issues must be addressed collaboratively, from a whole-of-government approach and recognises that risk factors associated with offending by youth are often beyond the direct influence of the NSW Police Force.¹⁰ As the Youth Strategy sets out:

The NSW Police Force plays an important role in identifying at-risk young people, however, the way in which the NSW Police Force can assist those young people to make better choices and avoid contact with the criminal justice system is limited. The importance of building collaborative relationships with other agencies is vital to ensure a harmonious approach is taken in connecting young people with appropriate support services.¹¹

Programs which help minimise unnecessary coercive contact between police and young people can better support crime prevention.¹² On the other hand, programs which increase police contact with youth negatively affect perceptions of and relationships with police¹³, leading to a deterioration in trust. In some instances, disadvantaged children with 'challenging behaviour' borne out of mental and cognitive disability, or other indicators of social disadvantage, are left to the police to manage, when they should be being supported by social service agencies.¹⁴

If we want different outcomes, we cannot keep doing more of the same. We need to invest in our communities and their capacity to support young people at risk.

⁸ McCausland, Baldry, Johnson and Cohen (n 11).

⁹ Eileen Baldry, Leanne Dowse, Ruth McCausland and Melissa Clarence, 'Lifecourse institutional costs of homelessness for vulnerable groups' (Final Report, Australian Government, 15 May 2012); Ruth McCausland, Eileen Baldry, Sarah Johnson and Anna Cohen, 'People with mental health disorders and cognitive impairment in the criminal justice system: Cost-benefit analysis of early support and diversion' (Report for Australian Human Rights Commission, UNSW and PricewaterhouseCoopers, August 2013), 1-12.

¹⁰ NSW Police Force, 'NSW Police Force Youth Strategy 2023–2025' <https://www.police.nsw.gov.au/_data/assets/pdf_file/0010/616816/YouthStrategy_D17.pdf>, 10.

¹¹ Ibid.

¹² See, eg, Shuling Chen, Tania Matruglio, Don Weatherburn, Jiuzhao Hua, NSW Bureau of Crime Statistics Research, The transition from juvenile to adult criminal careers (Crime and Justice Bulletin, Number 86, 2005); Jiuzhao Hua, Joanne Baker and Suzanne Poynton, NSW Bureau of Crime Statistics Research, Generation Y and crime: a longitudinal study of contact with the NSW criminal courts before the age of 21 (Crime and Justice Bulletin, Number 96, 2006); Mark Lynch, Julianne Buckman, and Leigh Krenske, 'Youth justice: criminal trajectories' (Trends and Issues No 265, Australian Institute of Criminology, September 2003); Grace Skrzypiec and Joy Wundersitz, Government of South Australia, 'Young people born 1984: extent of involvement with the juvenile justice system' (Research Findings, Office of Crime Statistics and Research, April 2005); Don Weatherburn, Rachel Cush and Paula Saunders, NSW Bureau of Crime Statistics Research, Screening juvenile offenders for further assessment and intervention (Crime and Justice Bulletin, Number 109, 2007).

¹³ Cunneen, White and Richards (n 7) 314.

¹⁴ Ruth McCausland, Eileen Baldry, Sarah Johnson and Anna Cohen, 'People with mental health disorders and cognitive impairment in the criminal justice system: Cost-benefit analysis of early support and diversion' (Report for Australian Human Rights Commission, UNSW and PricewaterhouseCoopers, August 2013), 1-12.

Recommendation 1

Young people at risk of offending or reoffending should be supported by an evidence-based early intervention community-led model, separate to a criminal justice and policing response. Where the young person is Aboriginal or Torres Strait Islander, Aboriginal community-controlled organisations and supports should be prioritised.

2.2 Investment in early and preventative interventions are the key to raising the age of criminal responsibility to 14 years of age

We have had the benefit of reviewing a final draft submission by the New South Wales Raise the Age campaign to this Inquiry. We endorse that submission, including the four recommendations made in that submission. Raising the age of criminal responsibility to 14 would, by limiting harmful interactions between young people and police and youth justice, address some of the key underlying causes of youth crime.

A whole of government approach focused on service provision and capacity building, which develops strategies in partnership with the community, would set us up to raise the age of criminal responsibility to 14.

PIAC is a member organisation of the national campaign to Raise the Age of criminal responsibility and is co-ordinating the Raise the Age campaign within NSW. We are undertaking this work in partnership with a wide range of other organisations and groups, including First Nations, legal and human rights, medical, youth, and community services bodies. Key partners include the Aboriginal Legal Service (NSW/ACT), Just Reinvest NSW and the Justice Reform Initiative. PIAC has consistently argued for the minimum age of criminal responsibility to be raised in all jurisdictions around Australia to at least 14 years of age, without exception. This includes in our February 2020 submission to the Council of Attorneys-General Working Group review considering this subject.¹⁵

In advocating for the minimum age of criminal responsibility to be raised to at least 14, we are not arguing that actions should not have consequences. As we previously noted in our submission to the Council of Attorneys-General Working Group review:

In advocating for the minimum age of criminal responsibility to be raised to at least 14, we are not arguing that actions should not have consequences. Rather, that those consequences should not be harmful, counter productive, contrary to evidence and unjust... There are many ways in which children can be effectively supported to take responsibility for their actions which avoid the blunt, harmful and criminogenic processes of the criminal justice system... We must move away from a narrative of accountability that emphasises reactive measures and the imposition of penalties and recognise the hard work involved in engagement and diversion and restorative justice

¹⁵ PIAC, 'Submission to Council of Attorneys-General – Age of Criminal Responsibility Working Group Review', 28 February 2020, available at <<https://piac.asn.au/2020/02/28/submission-to-council-of-attorneys-general-age-of-criminal-responsibility-working-group-review/>>.

processes that address the underlying causes of offending, and ultimately, improve community safety.¹⁶

Programs and frameworks based on early intervention and prevention to address the underlying causes of anti-social behaviour must be at the core of any youth justice strategy, forming a vital element of an alternative response.

The need for targeted and evidence-based prevention, supports and services for vulnerable children and their families is not controversial. It has been emphasised by several recent State and Territory reports investigating youth justice.¹⁷ The NSW Youth Diversion Inquiry stated:

The Committee agrees that early intervention is key and that, wherever possible, funds should be used to address the underlying causes of offending before it occurs, rather than reacting afterwards. For this reason, the Committee has made findings and recommendations throughout the report in support of an early intervention approach ... It has also recommended increased funding for youth homelessness services, mental health, and drug and alcohol services, measures to stop young people disengaging from school, and training and staff within schools to identify areas of concern.¹⁸

Similarly, as the Royal Commission into the Protection and Detention of Children in the Northern Territory observed:

The goal of early intervention is to reduce risk factors, strengthen protective factors and provide children and young people with life skills and family and community support. Prevention programs are aimed at reducing the likelihood a child may offend or reoffend through addressing individual risk factors for offending behaviour.¹⁹

....

Diversion gives children and young people an opportunity to learn from their mistakes and correct their behaviours without resorting to the formal justice system.²⁰

¹⁶ PIAC, 'Submission to Council of Attorneys-General – Age of Criminal Responsibility Working Group Review', 28 February 2020, 11 available at <<https://piac.asn.au/2020/02/28/submission-to-council-of-attorneys-general-age-of-criminal-responsibility-working-group-review/>>.

¹⁷ Commonwealth of Australia, 'Royal Commission into the Protection and Detention of Children in the Northern Territory', 2017, 411-12; NSW Parliament, Legislative Assembly, Committee on Law and Safety, 'Adequacy of Youth Diversion Programs', September 2018, Finding 13; Atkinson, 'Report on Youth Justice from Bob Atkinson AO, APM, Special Advisor to Di Farmer MP, Minister for Child Safety, Youth and Women and Minister for Prevention of Domestic and Family Violence: Version 2', 2018, Recommendations 2-5.

¹⁸ NSW Parliament, Legislative Assembly, Committee on Law and Safety, 'Adequacy of Youth Diversion Programs', September 2018, [4.246] – [4.247]. See also Finding 4, 13 and 32 of that review. Finding 13 states 'Early intervention is a key factor in diverting young people from the criminal justice system', xv.

¹⁹ Commonwealth of Australia, 'Royal Commission into the Protection and Detention of Children in the Northern Territory', 2017, 411.

²⁰ Ibid, 249.

Any government response to children who come to the attention of the criminal legal system at a young age must consider their unique vulnerabilities and backgrounds, and ensure services and programs are adequately resourced to meet those needs.

Recommendation 2

The NSW Government should increase investment in early intervention and prevention programs and strategies to work with children and their families, to support the raising of the age of criminal responsibility to at least 14 years of age. Aboriginal and Torres Strait Islander-controlled organisations must be at the centre of program design and delivery for Aboriginal and Torres Strait Islander children and their families.

Recommendation 3

The age of criminal responsibility be raised in New South Wales to at least 14 years of age, without exception.

2.3 Domestic and family violence and insecure housing as drivers of youth crime

In seeking to understand the drivers of youth crime, it is important to recognise the well-established link between experiences of family and domestic violence and increased risk of youth offending.²¹ Links such as these provide stark examples of why a whole of government approach is required to address youth crime. In regional and rural NSW, the lack of adequate housing and support for women and children experiencing domestic and family violence, and the subsequent instances of homelessness, puts children and young people at greater risk of contact with the criminal legal system.

Regional NSW experiences higher rates of domestic and family violence than the Greater Sydney area.²² From 2019 to 2023, reports of domestic violence-related assaults increased by 24% in regional NSW.²³ Compared to those in major cities, people who live in regional and remote Australia also face greater difficulties leaving violent relationships and accessing support.²⁴ Among the many detrimental consequences of domestic and family violence, young people who experience violence have a higher risk of offending.²⁵

²¹ Local Government Association, The relationship between family violence and youth offending (Report, June 2018) 6 <https://www.local.gov.uk/sites/default/files/documents/15%2034%20-%20The%20relationship%20between%20family%20violence%20and%20youth%20offending-V4_1.pdf>; Equity Economics, Nowhere to go: The benefits of providing long-term social housing to women that have experienced domestic and family violence (Report, July 2021) 13 <https://everybodyshome.com.au/wp-content/uploads/2022/03/EE_Women-Housing_Domestic-Violence_WEB_SINGLES-2-compressed.pdf>.

²² NSW Bureau of Crime Statistics and Research, NSW Trends in Domestic & Family Violence – Quarterly Report Sep 2023 (September 2023) 3 <<https://www.bocsar.nsw.gov.au/Documents/RCS-Quarterly/NSW%20Trends%20in%20Domestic%20n%20Family%20Violence%20-%20Quarterly%20report%202023Q3.pdf>>.

²³ NSW Bureau of Crime and Statistics, Crime in Regional and Rural NSW in 2023: Trends and Patterns (Briefing Report No 169, March 2024) 17 <<https://www.bocsar.nsw.gov.au/Publications/BB/BB169-Report-Crime-in-Regional-and-Rural-NSW-2023.pdf>>.

²⁴ Australian Institute of Health and Welfare, Family, domestic and sexual violence in Australia: continuing the national story 2019 – In brief (Report, 2019) 9 <https://www.aihw.gov.au/getmedia/b180312b-27de-4cd9-b43e-16109e52f3d4/aihw-fdv4-fdsv-in-australia-2019_in-brief.pdf?v=20230605172455&inline=true>.

²⁵ Equity Economics, Nowhere to go: The benefits of providing long-term social housing to women that have experienced domestic and family violence (Report, July 2021) 13 <https://everybodyshome.com.au/wp-content/uploads/2022/03/EE_Women-Housing_Domestic-Violence_WEB_SINGLES-2-compressed.pdf>.

The current housing crisis in regional and rural NSW is further impeding the ability for women and children to safely leave violent situations. The NSW Regional Housing Taskforce Findings Report found that regional NSW has an urgent need for more social and affordable housing.²⁶ Housing on the private market is increasingly unobtainable as rental affordability in regional NSW is declining.²⁷ The number of low-income households in regional NSW paying more than 50% of their income on rent increased by 52% from 2020 to 2022.²⁸ These households are under significant financial stress and at risk of homelessness.²⁹ High rental prices and low vacancy rates mean that many young people are being locked out of the rental market.³⁰

The lack of housing options drives many women to return to perpetrators and the risk of violence, or into homelessness.³¹ Many dependent children, and youth who leave the home, are couch-surfing, living in unsafe or overcrowded dwellings or experiencing homelessness.³² Yfoundations, the NSW peak body advocating for young people at risk of and experiencing homelessness, reported that in 2019-20, 35% of 12- to 25-year-olds who accessed specialist homelessness services in NSW lived in rural or regional areas.³³

Homelessness has traumatic and wide-ranging effects on a young person.³⁴ The Australian Institute of Family Studies explains that:

Young homeless people are often unable to support themselves, ineligible for benefits, and unlikely to find employment. Consequently, they may engage in survival behaviours—begging, theft, drug dealing and prostitution—to earn income for food and shelter. Not only are some of these behaviours illegal, they are also more visible to police due to the lack of privacy experienced by homeless people.³⁵

The experience of homelessness can also lead to higher likelihood of mental illness, increased levels of substance abuse, and lower educational outcomes.³⁶ These effects create an additional

²⁶ NSW Department of Planning, Industry and Environment, Regional Housing Taskforce Findings Report: Summary of Stakeholder Engagement (September 2021) 3-4

<<https://www.planning.nsw.gov.au/sites/default/files/2023-03/regional-housing-taskforce-findings-report.pdf>>.

²⁷ SGS Economic and Planning, Rental Affordability Index (Report, November 2023) 64

<https://sgsep.com.au/assets/main/SGS-Economics-and-Planning_RAI2023-Website.pdf>.

²⁸ Impact Economics and Policy, Aftershock: Addressing the Economic and Social Costs of the Pandemic and Natural Disasters (Report No 3, October 2022) 6 <https://homelessnessnsw.org.au/wp-content/uploads/2022/10/IE_Aftershock_Housing_-1.pdf>.

²⁹ Ibid 22.

³⁰ Yfoundations, Regional Youth Homelessness Forum Consultation Report (October 2022) 3

<https://assets.nationbuilder.com/yfoundations/pages/357/attachments/original/1664845066/Regional_Youth_Homelessness_Forum_Report.pdf?1664845066>.

³¹ Equity Economics (n 25) 4.

³² Yfoundations (n 30).

³³ Ibid 2.

³⁴ Australian Institute of Family Studies, Children's exposure to domestic and family violence: Key issues and responses (Report No 26, December 2015) 5 <https://aifs.gov.au/sites/default/files/publication-documents/cfca-36-children-exposure-fdv_0.pdf>.

³⁵ Australian Institute of Family Studies, 'Child maltreatment, homelessness and youth offending' (Short article, October 2017) <<https://aifs.gov.au/resources/short-articles/child-maltreatment-homelessness-and-youth-offending>>.

³⁶ Nous Group, Youth Homelessness Info Paper (Report, 11 January 2023) 5 <

<<https://nousgroup.com/assets/docs/Australia-Nous-ESSC-Youth-Homelessness-Paper.pdf>>.

likelihood of contact with the youth justice system.³⁷ Young homeless people are also at risk of being charged for 'justice procedure offences', including breaches of bail, parole, community-based order and AVOs.³⁸ For youth, homelessness increases the risk of crime, and crime increases the risk of homelessness.³⁹

Any measures to reduce youth crime in regional and rural NSW must ensure that women and children can escape domestic and family violence safely. There must be domestic violence and homelessness services available to provide support, as well as long-term, stable options for housing to ensure the safety and wellbeing of women, children and youth.⁴⁰

Recommendation 4

The NSW Government should increase support services and social and affordable housing for women and children experiencing domestic and family violence in regional and rural NSW.

3. Improving government responses to mental health incidents

The adverse impact of police as first responders

The current police responses to mental health incidents pose the risk of significant harm, injury and fatalities, particularly for vulnerable members of communities such as those experiencing homelessness.

These incidents often escalate as a result of police intervention, as people with mental ill-health are criminalised, rather than treated as being in need of health support. As the Police Minister recently acknowledged: 'it's often the case that seeing the blue uniform escalates instead of de-escalates.'⁴¹ A health-focused and trauma-informed approach, rather than a law-enforcement approach, is needed to keep communities safe.

It is the experience of clients of our Homeless Persons' Legal Service that police often criminalise mental health presentations, leading to adverse interactions between people experiencing homelessness and police. In May 2021, PIAC and Homelessness NSW published a report entitled *Policing Public Space: The experiences of people sleeping rough* ('Policing Public Space Report').⁴² This report was informed by the experiences of our organisation and 27 interviews

³⁷ Australian Institute of Health and Welfare, Vulnerable young people: interactions across homelessness, youth justice and child protection (Report, December 2016) 19-23 <<https://www.aihw.gov.au/getmedia/944d5eb5-a940-41be-b1a6-f81f95636aa5/20475.pdf?v=20230605173150&inline=true>>.

³⁸ Yfoundations, Young, in trouble and with nowhere to go: Homeless adolescents' pathways into and out of detention in NSW (Report, 2021) 19 <<https://assets.nationbuilder.com/yfoundations/pages/200/attachments/original/1654146355/Youth-Justice-Research-Report-FINAL-2021-compressed.pdf?1654146355>>.

³⁹ Ibid 5.

⁴⁰ Equity Economics (n 25) 8-10.

⁴¹ Parliament of New South Wales, Portfolio Committee No. 5 – Justice and Communities, Police and Counter-Terrorism, The Hunter, Friday 23 February 2024, 12 <[https://www.parliament.nsw.gov.au/lcdocs/transcripts/3236/Transcript%20-%20CORRECTED%20-%20PC5%20-%20Budget%20Estimates%20\(Catley\)%20-%2023%20February%202024.pdf](https://www.parliament.nsw.gov.au/lcdocs/transcripts/3236/Transcript%20-%20CORRECTED%20-%20PC5%20-%20Budget%20Estimates%20(Catley)%20-%2023%20February%202024.pdf)> ('NSW Parliament Budget Estimates – Police').

⁴² Public Interest Advocacy Centre and Homelessness NSW, Policing Public Space: The experiences of people sleeping rough (Report, 2021) <https://piac.asn.au/wp-content/uploads/2021/05/MIS0023_Policing-Public-Space-Report-PIAC_Web.pdf>.

with people with lived experience of homelessness, including within the two years prior, who had interacted with police during that time.

Amongst other findings, the Policing Public Space Report documented that:

Several service providers we spoke to suggested a **need for police to develop a better understanding of the intersections between trauma, mental health and substance use disorder** that commonly affect their clients. These clients tend to have unfavourable interactions with police that result in arrest, often because police do not have the skills required to engage with these presentations and de-escalate potentially harmful situations...

The experiences of the people we spoke to suggest a skills deficit in NSW Police and the need for greater training, especially in relation to mental illness and dealing with vulnerable people.⁴³

[emphasis added]

These experiences are also reflected in the La Trobe University report '*Police Apprehension as a Response to Mental Distress*' which interviewed 20 people with experience of mental health-related police intervention in Australia.⁴⁴ In these incidents, the participants experienced intimidation, threats, and excessive and disproportionate force or physical restraint by police. The interviewees described being 'criminalised by a system response supposedly designed to support them.'⁴⁵

People with mental health concerns in rural and remote areas face specific stressors, and these are likely to be exacerbated by the inadequate response of police in mental health crises. In 2022, the NSW Mental Health Commission released '*Reporting on Mental Health and Wellbeing in Regional NSW*' ('NSWMHC Report').⁴⁶ The NSWMHC Report noted that:

[p]eople in rural and remote areas face a range of stressors unique to living outside major cities. These include larger and more isolating geographies, limited access to health, housing and employment opportunities, and greater exposure to severe climate events.⁴⁷

Improving community safety for people experiencing mental health crises in regional and rural communities requires a health-focused, trauma-informed response.

⁴³ Ibid 25.

⁴⁴ La Trobe University, Police apprehension as a response to mental distress (Report, November 2023) <https://www.parliament.nsw.gov.au/lcdocs/other/18977/Police-Apprehension-Report_Final_v7.pdf>.

⁴⁵ Ibid 6.

⁴⁶ Mental Health Commission of New South Wales, Reporting on mental health and wellbeing in Regional NSW (Report, November 2022) <<https://www.nswmentalhealthcommission.com.au/sites/default/files/2022-12/Reporting%20on%20the%20mental%20health%20and%20wellbeing%20of%20Regional%20NSW%20-%20Nov%202022%20-FINAL.PDF>>.

⁴⁷ Ibid 10.

A health-led response to mental health incidents

In April 2024, the NSW Coroner's Court released the findings from the inquest into the death of Todd McKenzie ('McKenzie Inquest').⁴⁸ These findings highlighted the crucial need for a whole of government, health centred approach to mental health incidents.

Todd McKenzie was a 40-year-old man living with schizophrenia who died after being shot by police in his home in Taree, in July 2019.⁴⁹ In the McKenzie Inquest, Deputy State Coroner Harriet Grahame found that the police operation was flawed⁵⁰ and police did not sufficiently consider obtaining mental health advice or supports.⁵¹ Coroner Grahame concluded that:

...long term improvements must involve **substantially re-thinking the way we cope with situations where mental health issues intersect with policing**... A whole of government approach is called for, one that includes strategic thinking from police and health professionals. ...Like Todd's parents I hope that there may **be better, kinder, and safer ways to deal with people like Todd who experience an acute mental health crisis**.⁵²

[emphasis added]

PIAC supports this conclusion. As recommended in the Policing Public Space Report, first responders to mental health crises and emergencies should always be health professionals with specific skills and understanding. Meeting a mental health crisis with a health response would not only deliver a better, safer outcome for the person in crisis, but it would free up NSW Police resources so that police can respond to the incidents they are trained to respond to.⁵³

A potential health-focussed alternative already exists in NSW in the form of the PACER program. PACER is a collaborative program involving NSW Health Mental Health services, NSW Police and NSW Ambulance which aims to provide a mental health response to people in a mental health crisis. PACER is administered and funded by NSW Health⁵⁴ and is available in 16 locations.

In May 2023, Law Enforcement Conduct Commission (LECC) reported that PACER 'delivers significant benefits for police, for the health district and for the mental health consumer' and recommended the program's expansion.⁵⁵ A PACER evaluation by NSW Ambulance also found that the program decreased Emergency Department presentations.⁵⁶ There are other PACER

⁴⁸ Inquest into the death of Todd McKenzie (State Coroner's Court of New South Wales, Deputy State Coroner Harriet Grahame, 5 April 2024) <https://coroners.nsw.gov.au/documents/findings/2024/Inquest_into_the_death_of_Todd_McKenzie.pdf> ('Todd McKenzie Inquest').

⁴⁹ Ibid 1 [1]-[3].

⁵⁰ Ibid 1-2 [6].

⁵¹ Ibid 43 [219]

⁵² Todd McKenzie Inquest (n 61) 274-275.

⁵³ Public Interest Advocacy Centre and Homelessness NSW (n 55) 26.

⁵⁴ Todd McKenzie Inquest (n 61) 130 [618].

⁵⁵ Law Enforcement Conduct Commission, Five Years (2017 – 2022) of Independent Monitoring of NSW Police Force Critical Incident Investigations (Report, May 2023) 45 <<https://www.lecc.nsw.gov.au/news-and-publications/publications/five-years-of-independent-monitoring-of-nsw-police-force-critical-incident-investigations.pdf>>.

⁵⁶ Ibid.

models operating across Australia, which have been evaluated with generally favourable results.⁵⁷

We recognise that the current form of PACER has limitations. It is only available 8 hours a day⁵⁸ and it does not respond to all mental health incidents, including those deemed as “high risk” such as when the person in crisis has a weapon.⁵⁹ Existing PACER teams are also concentrated in the Greater Sydney area with limited rollout in rural and regional areas. 14 of the 16 current PACER locations are in metropolitan areas.⁶⁰

Beyond PACER, there are many examples of alternatives to police as first responders. This includes the Mental Health Acute Assessment Team (MHAAT) which is a partnership between Cumberland Hospital and NSW Ambulance.⁶¹ The MHAAT program involves a mental health clinician attending 000 calls alongside paramedic staff to provide targeted mental health support, including linkage to clinical community services.⁶²

We also draw the Committee’s attention to the *City of Berkeley: Crisis Response Models Report*.⁶³ The report reviews 37 crisis response programs in the USA and internationally.

Without recommending a specific model, we support further consideration of models for health-focused alternatives to people experiencing mental distress in the community. We recognise that PACER has elements of what is needed in a health-led response and would benefit from a comprehensive evaluation to properly assess the efficacy of the program. We also suggest that the evaluation should consider options for increasing the availability of PACER to more than 8 hours a day and in additional locations in regional and rural areas. In order to be most effective, health-focused alternatives will need to be tailored to local areas through co-design with community members and local health experts.

⁵⁷ Susanna Every-Palmer et al, ‘Police, ambulance and psychiatric co-response versus usual care for mental health and suicide emergency callouts: A quasi-experimental study’ (2022) *Australian & New Zealand Journal of Psychiatry* 57(4).

⁵⁸ Ibid.

⁵⁹ Todd McKenzie Inquest (n 61) 35 [182].

⁶⁰ Parliament of New South Wales, Portfolio Committee No. 5 – Justice and Communities, Police and Counter-Terrorism, The Hunter, ‘Responses to Questions Taken on Notice’ 51 < Police and Counter-Terrorism, The Hunter, Friday 23 February 2024>. The PACER units are located within the following regions: Central Metropolitan Region has 7 Police Area Commands; South West Metropolitan Region has 3 Police Area Commands; North West Metropolitan Region has 4 Police Area Commands; Northern Region has 2 Police Districts.

⁶¹ Mental Health Commission of New South Wales, Mental Health Acute Assessment Team (Webpage, accessed 29 May 2024) <<https://www.nswmentalhealthcommission.com.au/content/mental-health-acute-assessment-team>>.

⁶² Ibid.

⁶³ Caroline de Bie et al, *City of Berkeley: Crisis Response Models Report* (September 2021) <https://berkeleyca.gov/sites/default/files/documents/Attachment%2002_Berkeley-HHCSO_SCU_Crisis-Response-Models-Report_FINAL_0.pdf>.

Recommendation 5

The NSW Government should implement health-led alternatives to police for emergency responses to people experiencing mental distress in the community, including consideration of expanding the PACER program to regional and rural communities.

The NSW Police Force internal review

In February 2024, the Police Minister reported that an internal review of the mental health response from NSW Police ('NSWPF Review') had been completed.⁶⁴ The NSWPF Review considered past reviews into mental health, coronial inquiries where police were involved and a data review of the NSW Police Force's Data.⁶⁵ It also recommends scoping out the adoption of the 'Right Care, Right Person' model of responding to mental health crises.⁶⁶

While the Minister stated that the review findings would be made public 'in the coming weeks', at the time of writing this submission no findings have been made available. Release of this report would assist the public and community sector organisations to better understand where opportunities lie for working with government to improve responses to people experiencing mental health crises.

Following the NSWPF Review, we understand that NSW Health and NSW Police have begun renegotiating⁶⁷ the Memorandum of Understanding ('MoU'), created in 2018, which sets out how the agencies work together to deliver services to people with mental health problems.⁶⁸ In February 2024, the Minister for Mental Health explained that the renegotiation arose because:

The way we currently respond to mental health patients in the community, which is primarily and almost entirely a police-led response, is not delivering the best outcome for police or for patients.⁶⁹

We are encouraged that NSW Health and NSW Police are reconsidering their approach to mental health incidents and we support a health-focused response. This should be accompanied by increased funding for NSW Health and Ambulance NSW to ensure people with mental health concerns are receiving adequate support, particularly in regional and remote areas where there is poorer access to mental health specialists.⁷⁰

We recommend that the MoU renegotiations should include consultation with communities, community-led organisations, mental health consumer groups and local health experts who have crucial knowledge of responding to mental health incidents. As noted in the NSWMHC Report,

⁶⁴ NSW Parliament Budget Estimates – Police (n 54) 12.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Parliament of New South Wales, Portfolio Committee No. 2 – Health, Water, Housing, Homelessness, Mental Health, Youth, and the North Coast, Wednesday 28 February 2024, 5
<[https://www.parliament.nsw.gov.au/lcdocs/transcripts/3203/Transcript%20-%20CORRECTED%20-%20PC2%20-%20Budget%20Estimates%20\(Jackson\)%20-%2028%20February%202024.pdf](https://www.parliament.nsw.gov.au/lcdocs/transcripts/3203/Transcript%20-%20CORRECTED%20-%20PC2%20-%20Budget%20Estimates%20(Jackson)%20-%2028%20February%202024.pdf)> ('NSW Parliament Budget Estimates – Mental Health').

⁶⁸ NSW Health – NSW Police Force Memorandum of Understanding 2018, signed 22 December 2017

<https://www.police.nsw.gov.au/_data/assets/pdf_file/0003/560289/MOU_NSWH_NSWPF_Mar18_V5.pdf>.

⁶⁹ NSW Parliament Budget Estimates – Mental Health (n 69) 5.

⁷⁰ Mental Health Commission of New South Wales (n 59) 2.

consultations with regional communities have consistently highlighted the importance of services being co-designed with local people to meet their needs.⁷¹

Recommendation 6

The NSW Police Force should publicly release a copy of its recent internal review into responses to mental health incidents.

Recommendation 7

The NSW Government should consult with communities, community-led organisations, mental health consumer groups and local health experts to inform reforms to how the NSW Police Force and NSW Health agencies respond to mental health incidents.

Recommendation 8

The NSW Government should increase funding for NSW Health and Ambulance NSW to ensure adequate supports for people in need of mental health support. This should include additional resourcing to address the lack of mental health support available in rural and regional NSW.

3.4 Training for police officers regarding mental health incidents

While we recommend a health-led response to people experiencing mental distress, we acknowledge police may be required to attend certain mental health incidents alongside health staff. We also recognise that until a health-led approach is rolled out, police will continue to be the first responders, particularly for people experiencing homelessness in public spaces. In regional and rural areas, the limited availability of co-responder models means that police are often the only emergency response available to respond to a crisis.⁷² Given this, investment in better training for police officers is warranted, in tandem with an investment in a health-led alternative.

In May 2023, the LECC published its report titled *Five Years (2017 – 2022) of Independent Monitoring of NSW Police Force Critical Incident Investigations*.⁷³ In the report, the LECC found that despite '[a] high proportion of critical incidents involv[ing] a person experiencing a mental health crisis...police training on how to respond to someone in mental health crisis is currently extremely limited'.⁷⁴ The LECC recommended increased training for NSW Police.⁷⁵

Currently, police officers undergo 18 hours of mental health-related training and assessment during Police Academy Training, with no further mandatory training after this point.⁷⁶ Ad-hoc exceptions in the past have been a 1-day online workshop which was offered to officers in 2013,

⁷¹ Ibid 4.

⁷² Toby Miles-Johnson and Matthew Morgan, 'Operational response: Policing persons with mental illness in Australia' (2022) *The Journal of Criminology* 55(2) 260, 275.

⁷³ Law Enforcement Conduct Commission, *Five Years (2017 – 2022) of Independent Monitoring of NSW Police Force Critical Incident Investigations* (Report, May 2023) <<https://www.lecc.nsw.gov.au/news-and-publications/publications/five-years-of-independent-monitoring-of-nsw-police-force-critical-incident-investigations.pdf>>.

⁷⁴ Ibid ii, 41-5.

⁷⁵ Law Enforcement Conduct Commission (n 74) ii, 41-5.

⁷⁶ Todd McKenzie Inquest (n 61) 262 [1241].

and is no longer mandated; a 4-day intensive course which began in 2008, was delivered to only 2,240 officers and was discontinued in 2019⁷⁷; and its replacement which was a pilot 2-day course, uptake of which was complicated by the impact of COVID-19, before it was discontinued.⁷⁸

In the McKenzie inquest, it was reported that on 24 April 2023 the Commissioner of Police's Executive team approved a revised mental health training package for all police.⁷⁹ This training has not yet been rolled out.⁸⁰ We echo the Deputy State Coroner's comments that 'it is important that the NSWPF get this basic training right, after a number of years where very different approaches existed.'⁸¹

While we support improvements to NSWPF mental health training, we are concerned about the adequacy of consultation with the community, civil society organisations and mental health experts in its development. Education for police should be linked in with local community and hospital organisations to foster a combined approach to first responses to mental health crises.⁸² We suggest that the NSWPF immediately commence consultation to support the development of this training, including specific engagement with regional and rural mental health organisations.

We also support Deputy State Coroner Grahame's recommendation to review and audit this training after two years.

Recommendation 9

The NSW Government should adequately fund delivery of training to NSW Police Force officers to improve responses to situations involving people experiencing mental distress.

Recommendation 10

The NSW Police Force should urgently engage with regional and rural NSW community, civil society organisations and mental health experts before rolling out its new mental health training package.

Recommendation 11

The NSW Government should commission an independent review and audit of the NSW Police Force mental health training within two years of implementation to ensure that adequate and regular mental health training is being provided to all officers.

⁷⁷ Ibid 262 [1237].

⁷⁸ Laura Banks and Perry Duffin, 'Experts banned from aiding police', The Sydney Morning Herald (Sydney, 25 September 2023) 8.

⁷⁹ Todd McKenzie Inquest (n 61) 263 [1242]-[1243].

⁸⁰ Ibid.

⁸¹ Ibid 267 [1258].

⁸² La Trobe University (n 57) 11.