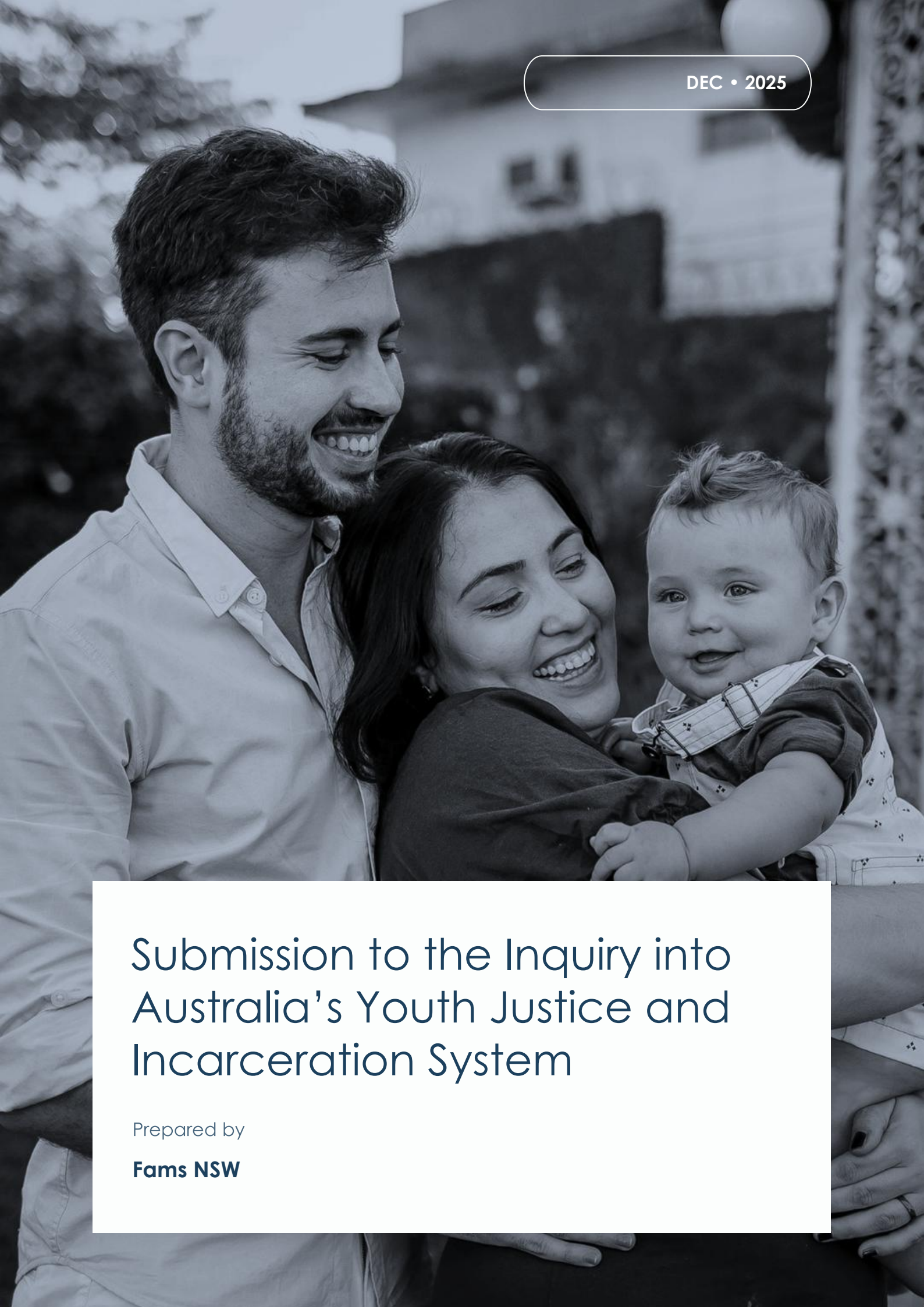

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Submission to the Inquiry into Australia's Youth Justice and Incarceration System

Prepared by

Fams NSW

Fams welcomes the opportunity to present this submission to the the Senate Legal and Constitutional Affairs Committee to inform youth justice reform across Australia.

As the peak body for NSW's Early Intervention and Prevention Child Protection sector, we represent services working directly with families across NSW, many of whom have children involved in legal processes, care proceedings, youth justice, or intersecting systems.

Fams embeds child safety in all that we do and believe it is a collective responsibility for NSW to embed child safety at all levels of our society. Our position is every child, and young person should have access to supportive approaches throughout their contact with the youth justice system.

Evidence from Australia and internationally shows a better way – a path in which early intervention and prevention is prioritised, and all children are provided the chance to grow up safe, strong and supported.

Key Considerations

1. Resource Proven Early Intervention and Prevention Approaches

Fams welcomes the Committee's focus on finding evidence-based alternatives to incarceration, as noted in 2(b) of the terms of reference. We recommend that the Committee act on the existing clear evidence showing the effectiveness of early intervention and diversionary approaches to youth justice. It is essential for the Committee to prioritise reform aligned to evidence-based recommendations, such as those outlined in the Help Way Earlier Report[1]. Reports such as this show how early support and prevention strategies are effective and should be funded across current responses without delay.

The Early Intervention and Prevention Child Protection sector has the skills and knowledge to deliver evidence-based interventions that reduce youth incarceration. To make this work at scale, Government must provide a significant increase in core

[1] Help way earlier! How Australia can transform child justice to improve safety and wellbeing

funding for services delivering proven early intervention and prevention strategies. This investment will allow services to expand what we know works. The independent evaluation of the Family Connect and Support (FCS) program[2] shows positive outcomes and avoided statutory child protection involvement for families whose needs were met, demonstrating both social and economic value.

In contrast, to the substantial return on investment presented by programs such as NSW's Family Connect and Support program, the Committee is urged to consider the need to address the growing costs of late interventions within Australia[3] which has increased by $15.2 billion since 2019.

2. Supportive approaches at every opportunity

Fams advocates for evidence-based best practice approaches that prioritise coordinated support for children and young people, especially where systems intersect such as child protection[4]. We recommend diversionary and early intervention approaches should be exhausted before any steps that could lead to incarceration. While significant reduction in youth incarceration is the goal of a successful reform, we recognise some young people will remain incarcerated in the near future. For these children and young people, access to support must be provided post-release to ensure every opportunity to rebuild and thrive.

We also support the development of enforceable national minimum standards for youth justice, based on core principles of prevention and early support. Scotland[5]'s experience showcases the benefits of implementing a comprehensive, age-appropriate, and prevention-focused reform of the youth justice system. Since reform began in 2020, the number of young people in custody has more than halved[6].Access to the right supports for children and young people must form the foundation of Australia's youth justice system.

Finally, Fams also continues to advocate for raising the age of criminal responsibility to 14 years across Australia, in line with the recommendations of the UN Committee on Children's Rights. This change is critical to following through on our country's commitment to children's rights and ensuring our approach reflect the evidence.

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[2] Family Connect & Support Evaluation
[3] The Cost of Late Intervention
[4] Improving the safety and wellbeing of vulnerable children: AIFS
[5] Justice : Plan 24-30
[6] Number of under 21s in custody on an average day : Plan 24-30

Responding to the inquiry key topic areas

Sections 1 (a) to (f)

We reiterate early intervention approach to youth justice is needed to address the incarceration of children and young people, including the over-incarceration of First Nations. As outlined previously, Fams is underscoring the need for approaches to youth justice that centre on wellbeing rather than punishment. The development of enforceable standards centred on this approach is an opportunity to genuinely prioritise children's long-term safety and development.

Furthermore, prioritising early intervention and prevention approaches also ensures that Australia meets international obligations, including the rights of the child, freedom from torture and civil rights. Fams supports the implementation of the recommendations of the Australian Human Rights Commission 'Left alone' report[7]

Sections 2 (a) and (b)

Fams welcomes the initiative to hear and act on the insights of young people with lived experience. This is also an opportunity to hear from the wisdom of the significant proportion of young people with simultaneous contact with the youth justice system and child protection system, including out-of-home care. This is a step towards developing a more holistic and collaborative approach to youth justice with greater responsiveness across sectors.

As noted in our key considerations, there is strong evidence that early intervention and prevention approaches are effective alternative approaches to incarceration. We urge Government to act now by increasing investment and commitment to these effective, evidence-based solutions that keep children connected to their families, communities while reducing the need for detention. We also recommend that Government considers greater investment into evaluations and strengthening data collection efforts to address the current data gaps within the existing youth justice system[1]. These efforts must consider the importance of partnership with First Nations peoples and uplift data sovereignty principles[8]. This is essential in addressing the inequality faced by First Nations children and young people in contact with the justice system.

[7] AHRC REPORT 'Left Alone': A Review of Solitary Confinement and Similar Practices in Australia's Youth Justice Systems

[8] Framework for Governance of Indigenous Data

Closing Summary

The over-incarceration of First Nations children in Australia's youth justice system reflects the ongoing impacts of colonisation. We must avoid perpetuating the existing disadvantage for children and young people in contact with the justice and carceral systems that disproportionately affect First Nations children and young people[7].We have a substantial body of evidence and strong communities ready to support their children and young people with diversionary approaches. All that is needed is commensurate support from Government to implement this across Australia.

Beyond legislative reform, we have a moral and ethical obligation. ensure our justice system is designed to genuinely protect children and set up for them to thrive.

Contact Information

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About Fams

Fams is the peak body in New South Wales that supports the early intervention and prevention child protection sector. This sector provides critical services for children, young people, families, and communities.

We advocate for improved policies and resources for children, young people, families, communities and services. Children and family's safety, health and wellbeing are at the heart of all our work. Fams is committed to children and families receiving the support they need, evidence-informed and outcomes-based service delivery, government and sector accountability and influencing policy outcomes.