

**Submission  
No 143**

## **COMMUNITY SAFETY IN REGIONAL AND RURAL COMMUNITIES**

**Organisation:** Redfern Legal Centre

**Date Received:** 31 May 2024



**Redfern  
Legal  
Centre**

Legislative Assembly Committee on Law and Safety  
Parliament of New South Wales  
6 Macquarie Street  
Sydney NSW 2000

By email: [lawsafety@parliament.nsw.gov.au](mailto:lawsafety@parliament.nsw.gov.au)

31 May 2024

Dear Legislative Assembly Committee on Law and Safety,

Please find enclosed Redfern Legal Centre, Submission to Legislative Assembly Committee on Law and Safety, Parliament of New South Wales, Inquiry into Community Safety in Regional and Rural Communities (31 May 2024).

We welcome the opportunity to meet with the Committee to discuss our submission.

If you have any questions about the submission please, contact Josh Raj on [REDACTED] or [REDACTED]

Yours faithfully,

[REDACTED]

Camilla Pandolfini  
Chief Executive Officer  
Redfern Legal Centre

**Submission to Legislative Assembly Committee on Law and Safety,  
Parliament of New South Wales, *Inquiry into Community Safety in Regional  
and Rural Communities* (31 May 2024)**

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**Date**

31 May 2024

## Contents

<b>1. Introduction</b> .....	<b>4</b>
<b>2. Police Accountability practice at RLC</b> .....	<b>4</b>
<b>3. Response to the Terms of Reference</b> .....	<b>5</b>
(a) The drivers of youth crime .....	5
(b) Prevention strategies .....	7
(c) Law reform strategies .....	7
(d) Community Legal Centres and Aboriginal Legal Services .....	10
(e) Research and evaluation .....	11
(f) Policing in regional and rural areas .....	11
(g) Recidivism rates in regional and rural areas.....	14
(h) Police as first responders .....	15
<b>4. Recommendations</b> .....	<b>16</b>

## 1. Introduction

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Redfern Legal Centre (RLC) is a non-profit community legal centre that provides access to justice. Established in 1977, RLC was the first community legal centre in NSW and the second in Australia. We provide free legal services and education to people experiencing disadvantage in our local area and statewide. We work to create positive change through policy and law reform work to address inequalities in the legal system, policies and social practices that cause disadvantage.

Our effective and integrated free legal services that are client-focused, collaborative, non-discriminatory and responsive to changing community needs. Our specialist legal services focus on tenancy, credit, debt and consumer law, financial abuse, employment law, international students, First Nations justice, police accountability, and we provide outreach services including through our health justice partnership.

## 2. Police Accountability practice at RLC

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RLC has a long history of providing free and confidential legal advice to people living in New South Wales about police powers, access to police records, and police complaints. We also provide advice on decision-making by government agencies and complaints processes administered by government. Since RLC was founded in 1977, police accountability has been one of our core areas of advice. We are the only community legal centre in New South Wales that has a specialised police accountability practice.

Our submission is informed by the experiences of our clients, the majority of whom are young people who have had contact with the New South Wales Police Force and the criminal justice system. Much of our casework involves assisting people who live in regional and rural communities in New South Wales.

We have provided input into similar Inquiries in the past such as:

- Redfern Legal Centre, Submission to Legislative Council Portfolio Committee No 2 – Health, Parliament of New South Wales, *Inquiry into the Equity, Accessibility and Appropriate Delivery of Outpatient and Community Mental Health Care in New South Wales* (10 October 2023) <[https://rlc.org.au/sites/default/files/2023-11/2023.10.23%20RLC%20Sub\\_Mental%20health%20Inquiry%20-%20Formatted\\_0.pdf](https://rlc.org.au/sites/default/files/2023-11/2023.10.23%20RLC%20Sub_Mental%20health%20Inquiry%20-%20Formatted_0.pdf)>;
- Michael Grewcock and Vicki Sentas, *Rethinking Strip Searches by NSW Police* (Report, August 2019) <[https://rlc.org.au/sites/default/files/attachments/Rethinking-strip-searches-by-NSW-Police-web\\_0.pdf](https://rlc.org.au/sites/default/files/attachments/Rethinking-strip-searches-by-NSW-Police-web_0.pdf)>;
- Aboriginal Legal Service (NSW/ACT) and Redfern Legal Centre, Submission to Department of Justice (NSW), *Review of the Surveillance Devices Amendment (Police Body-Worn Video) Act 2014* (14 June 2018) <<https://rlc.org.au/sites/default/files/attachments/Department-of-Justice-NSW-Surveillance-Device-Amendment-Act-14-June-2018.pdf>>; and
- Australian Law Reform Commission, *Pathways to Justice: An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Final Report No 133, December 2017) <[https://www.alrc.gov.au/wp-content/uploads/2019/08/final\\_report\\_133\\_amended1.pdf](https://www.alrc.gov.au/wp-content/uploads/2019/08/final_report_133_amended1.pdf)>.

### 3. Response to the Terms of Reference

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#### (a) The drivers of youth crime

Youth crime in regional and rural New South Wales is a complex issue influenced by many interrelated factors that requires a whole of government response.

Crime is not increasing in New South Wales. In 2023, the rates of break and enter, robbery, stealing and theft were all either lower than or equivalent to their rates in 2019,<sup>1</sup> and during the COVID pandemic in 2020–21, crime fell across most offence categories across the state.<sup>2</sup>

Research shows that key factors contributing to youth crime include:

- i. Cultural and social drivers: Family dysfunction, historical trauma, inequality, poverty, substance abuse, and unemployment.<sup>3</sup>
- ii. Social disconnection: Without social support networks being strengthened, young people living in regional and rural New South Wales will continue to be susceptible to negative influences which increase their risk of criminal offending.
- iii. Mental health drivers: Conditions including anxiety, depression, and trauma, are prevalent among young people in rural and regional New South Wales<sup>4</sup> and are a key driver of youth crime across the state.<sup>5</sup> Limited access to mental health services makes these challenges more difficult for young people to overcome and leaves many without the support they need.
- iv. The COVID-19 pandemic contributed to increased negative psychological and emotional changes in young people<sup>6</sup> and made it more difficult for them to access the care that they required. Figures show the pandemic contributed to the increased suicide rate of people in rural and regional New South Wales with the suicide deaths per 100,000 people increasing from 15.20 in 2019–20 to 16.40 in 2020–21.<sup>7</sup>

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<sup>1</sup> Alana Cook and Jackie Fitzgerald, 'Crime in Regional and Rural NSW in 2023: Trends and Patterns' (2024) 169 *Crime and Justice Statistics: Bureau Brief* 1, 1, 18; NSW Bureau of Crime Statistics and Research, 'Recorded Crime Statistics 2023: Crime in NSW Far Worse in Regional and Rural Areas' (Media Release, 14 March 2024) <[https://www.bocsar.nsw.gov.au/Pages/bocsar\\_media\\_releases/2024/mr-NSW-Recorded-Crime-Statistics-Quarterly-Update-Dec-2023.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_media_releases/2024/mr-NSW-Recorded-Crime-Statistics-Quarterly-Update-Dec-2023.aspx)>; NSW Bureau of Crime Statistics and Research, *New South Wales Recorded Crime Statistics: Quarterly Update December 2023* (March 2024) <[https://www.bocsar.nsw.gov.au/Publications/RCS-Quarterly/NSW\\_Recorded\\_Crime\\_Dec\\_2023.pdf](https://www.bocsar.nsw.gov.au/Publications/RCS-Quarterly/NSW_Recorded_Crime_Dec_2023.pdf)>.

<sup>2</sup> Cook and Fitzgerald (n 11) 1.

<sup>3</sup> Don Weatherburn, 'What Causes Crime?' (2001) 54 *Crime and Justice Bulletin* 1, 3–5.

<sup>4</sup> Mental Health Commission of New South Wales, *Living Well: Putting People at the Centre of Mental Health Reform in NSW* (Report, October 2014) <<https://www.nswmentalhealthcommission.com.au/sites/default/files/old/Living%20Well%20-%20Report%20Hires.pdf>>; Mental Health Commission of New South Wales, *Mental Health Stigma in Rural New South Wales* (September 2023) 11, 15 <<https://www.nswmentalhealthcommission.com.au/sites/default/files/2023-09/Mental%20health%20stigma%20in%20rural%20New%20South%20Wales%20Report%20September%202023.pdf>>.

<sup>5</sup> Stewart Boiteux and Suzanne Poynton, 'Offending by Young People with Disability: A NSW Linkage Study' (2023) 254 *Crime and Justice Bulletin* 1.

<sup>6</sup> Mental Health Commission of New South Wales, *Community Mental Health and Wellbeing: The Ongoing Impact of the Pandemic – Insights from 2021 Survey Results* (May 2022) 11, 13 <<https://www.nswmentalhealthcommission.com.au/sites/default/files/2022-05/Community%20Wellbeing%20during%20COVID-19%202021%20Survey%20%20Insights%20Report.pdf>>.

<sup>7</sup> Mental Health Commission of New South Wales, *Reporting on Mental Health and Wellbeing in Regional NSW* (Report,

- v. Substance abuse: Untreated mental health issues can also lead to maladaptive coping mechanisms like substance abuse<sup>8</sup> which in turn can increase the risk of becoming involved in criminal offending.<sup>9</sup> Substance abuse is a significant concern among young people in regional and rural New South Wales<sup>10</sup> and this was aggravated by the boredom, isolation, and stress they experienced as a result of how the government chose to respond to the COVID-19 pandemic. This saw increases in alcohol consumption generally and particularly among younger males.<sup>11</sup>
- vi. Economic disadvantage: The economic disparity between the Greater Sydney Region and regional and rural New South Wales continues to grow<sup>12</sup> and be a driver of youth crime.<sup>13</sup> Regional and rural communities grapple with limited job opportunities, lower wages, and higher rates of poverty compared to their metropolitan counterparts.<sup>14</sup>
- vii. Access to education: The educational opportunities in regional and rural New South Wales have always been scarce compared to those in the Greater Sydney Region.<sup>15</sup> However, the decision made to close schools as part of the COVID-19 pandemic response, particularly in rural communities where classes consist of fewer numbers of students, widened the gap in educational outcomes between the state’s urban and rural students.<sup>16</sup> These poor educational outcomes can lead to increased unemployment and increased risk of criminalisation.<sup>17</sup>
- viii. Law enforcement: The Law Enforcement Conduct Commission [LECC] published its monitoring report on the NSW Police’s Aboriginal Strategic Direction 2018–2023 on 23 October. The report found the Aboriginal Strategic Direction “did not achieve its intended outcomes.” The LECC has made 12 recommendations to improve the current approach. They include urging the NSW government to amend its Closing the Gap Implementation Plan to list the NSW Police Force as a responsible agency, that NSW Police publish a Closing the Gap delivery plan, and NSW Police review its procedures on day-to-day policing actions regarding discretion and give practical instruction to officers about how to exercise discretion within the law in ways that will avoid over-representing Aboriginal people in the use of those police actions

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November 2022) 10 [4.4] <<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>>, citing Australian Bureau of Statistics, *Causes of Death, Australia, 2021* (19 October 2022) <<https://www.abs.gov.au/statistics/health/causes-death/causes-death-australia/2021>>.

<sup>8</sup> ‘Mental Illness and Substance Use’, *Australian Institute of Health and Welfare* (Web Page, February 2024) <<https://www.aihw.gov.au/mental-health/snapshots/mental-illness-and-substance-use>>.

<sup>9</sup> Jason Payne and Antonette Gaffney, ‘How Much Crime is Drug or Alcohol Related? Self-Reported Attributions of Police Detainees’ (2012) 439 *Trends & Issues in Crime and Criminal Justice* 1.

<sup>10</sup> Australian Institute of Health and Welfare, *Alcohol and Other Drug Use in Regional and Remote Australia: Consumption, Harms And Access to Treatment 2016–17* (2019) 19, 27 <<https://www.aihw.gov.au/getmedia/78ea0b3d-4478-4a1f-a02a-3e3b5175e5d8/aihw-hse-212.pdf.aspx>>.

<sup>11</sup> Mahmood R Gohari et al, ‘Examining the Impact of the COVID-19 Pandemic on Youth Alcohol Consumption: Longitudinal Changes from Pre-to Intra-Pandemic Drinking in the COMPASS Study’ (2022) 71(6) *Journal of Adolescent Health* 665, 665–72.

<sup>12</sup> National Rural Health Alliance, Submission to Senate Standing Committees on Community Affairs, Parliament of Australia, *Inquiry into the Extent of Income Inequality in Australia* (October 2014) 3; NSW Council of Social Service, *Mapping Economic Disadvantage in New South Wales: The Great Divide – Overview of Key Themes* (April 2023) <[https://www.ncoss.org.au/wp-content/uploads/2023/04/NCOSS\\_MappingEconomicDisadvantage\\_Report\\_April23\\_v7.pdf](https://www.ncoss.org.au/wp-content/uploads/2023/04/NCOSS_MappingEconomicDisadvantage_Report_April23_v7.pdf)>.

<sup>13</sup> Weatherburn (n 3) 6.

<sup>14</sup> *Mapping Economic Disadvantage in New South Wales* (n 12) 8–11, 14.

<sup>15</sup> Audit Office of New South Wales, *Regional, Rural and Remote Education* (Performance Audit Report, 10 August 2023) <[https://www.audit.nsw.gov.au/sites/default/files/documents/FINAL%20REPORT%20-Regional%20rural%20and%20remote%20education\\_0.pdf](https://www.audit.nsw.gov.au/sites/default/files/documents/FINAL%20REPORT%20-Regional%20rural%20and%20remote%20education_0.pdf)>.

<sup>16</sup> *Mapping Economic Disadvantage in New South Wales* (n 12) 20.

<sup>17</sup> Weatherburn (n 3), 6

## **(b) Prevention strategies**

The government should invest in evidence-based education, employment, and health programs.<sup>18</sup> The provision of additional education, employment and health support and resources to families in regional and rural New South Wales will assist to prevent young people from becoming involved in criminal activities at an early stage, help break the cycle of youth crime, and improve long-term outcomes for the communities.<sup>19</sup>

In addition, enhancing access to education and equipping young people in regional and rural New South Wales with skills, qualifications, and development opportunities may help to drive down youth crime.<sup>20</sup> To do this, the government must focus on improving quality staff recruitment and retention in schools, providing students with more choices and opportunities, improving access to technology, and fostering partnerships with higher education providers and industry bodies.<sup>21</sup>

## **(c) Law reform strategies**

Implementing law reform that prioritises diversion and rehabilitation over punishment and incarceration will address youth crime in regional and rural New South Wales more effectively.

We consider that the changes to bail laws introduced through the Bail and Crimes Amendment Act 2024 (NSW), which make it harder for children aged 14 – 17 to be released on bail, will not increase community safety in rural and regional NSW. We commend the NSW Government for the positive and proactive measures introduced in March 2024 of increased bail support and accommodation for young people in Moree, after hours activities and linking of First Nations young people with First Nations organisations. We hold grave concerns, however, about the new bail laws that have been introduced and further law enforcement measures.

The new bail laws undermine the NSW Government's commitment to Closing the Gap targets and increase the long-term social and economic costs of incarceration of children and young people. The NSW Government has conceded that these new laws will result in more young children being refused bail and held on remand. Given the significant overrepresentation of First Nations children in the criminal justice system, these new laws will increase the numbers of First Nations children held on remand. An increase in children being refused bail and held on remand will not increase the safety of regional and rural communities.

Instead, crime prevention plans should be adopted which are aimed at allocating resources to support after-school, evening and weekend program activities that engage at-risk young people, restorative justice programs and referral services, and formal community partnerships between the

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<sup>18</sup> Ross Homel et al, 'Preventing the Onset of Youth Offending: The Impact of the Pathways to Prevention Project on Child Behaviour and Wellbeing' (2015) 481 *Trends & Issues in Crime and Criminal Justice* 1, 8.

<sup>19</sup> Peter Homel, 'The Whole of Government Approach to Crime Prevention' (2004) 287 *Trends & Issues in Crime and Criminal Justice* 1, 1.

<sup>20</sup> Weatherburn (n 3) 4.

<sup>21</sup> NSW Department of Education, *Rural and Remote Education Strategy* (2021–24) 3, citing John Halsey, *Independent Review into Regional, Rural and Remote Education* (Final Report, 2018) 15; '2018 Government School Student Attendance', *NSW Government* (Web Page, 18 November 2019) 2 <<https://data.cese.nsw.gov.au/data/dataset/government-school-student-attendance-bulletin/resource/3ca93ff6-e0f3-4578-907e-b06080d95948>>; Griffiths et al (n 21) 40–1.



NSW Police Force and First Nations controlled services.<sup>22</sup>

*(i) Youth Justice Conferencing*

Youth Justice Conferencing is a diversionary service available for young people in regions and rural New South Wales that aims to balance out the strictly legal purposes of sentencing which leave aside the welfare of the offender.<sup>23</sup> It brings together young offenders, victims, and individuals familiar with the offence, and aims to address the harm resulting from the wrongdoing and to rebuild relationships within both the family and the wider community.<sup>24</sup>

In practice, youth justice conferencing is employed when an offender receives cautions under the *Young Offenders Act 1997* (NSW) and is then required to attend a conference where the Local Court will approve a preliminary intervention plan which the offender must follow either before sentencing or as part of it.<sup>25</sup> Youth Justice Conferencing fosters accountability among young offenders at the same time as diverting them from the court system, and a successful conference should result in an agreement between the offender and victim that outlines steps for the offender to rectify the harm caused.<sup>26</sup>

Youth Justice Conferencing could be improved by ensuring that community-based initiatives for First Nations youths, which are led and managed by First Nations communities instead of the state, are employed.<sup>27</sup> It could also be improved by allowing offenders to address criminogenic needs which will also reduce recidivism.<sup>28</sup>

*(ii) Police drug diversion programs*

Police diversion programs, like the Early Drug Diversion Initiative which commenced on 30 October 2023<sup>29</sup> and has been endorsed by both the Commissioner of Police and Chief Health Officer, aim to redirect thousands of offenders per year away from the already overburdened court system, prioritise health over punishment, deter long-term drug use,<sup>30</sup> and reduce recidivism.<sup>30</sup>

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<sup>22</sup> 'Joint Statement with the Aboriginal Legal Service: Aboriginal and Legal Groups Horrified at Secret Plan to Throw More Children in Jail,' *Redfern Legal Centre* (Web Page, 12 March 2024) <<https://rlc.org.au/sites/default/files/2024-03/Joint%20Statement.pdf>>.

<sup>23</sup> Michael Chaaya, 'Rethinking Juvenile Justice Reform in New South Wales: A Systems Theory Approach to Youth Justice Conferencing' (1998) *UNSW Law Journal* 77, 104–6.

<sup>24</sup> 'What is a Youth Justice Conference?', *Youth Justice NSW* (Web Page) <[<sup>25</sup> Jacqueline Joudo, Australian Institute of Criminology, \*Responding to Substance Abuse and Offending in Indigenous Communities: Review Of Diversion Programs\* \(Research and Public Policy Series No 88, 2008\) 40 <<https://www.aic.gov.au/sites/default/files/2020-05/rpp088.pdf>>.](https://www.nsw.gov.au/legal-and-justice/youth-justice/conferencing/what-is-youth-justice-conference#:~:text=A%20Youth%20Justice%20Conference%20is,the%20family%20and%20broader%20community.></a>>.</p></div><div data-bbox=)

<sup>26</sup> Loretta Kelly and Elvina Oxley, 'A Dingo in Sheep's Clothing? The Rhetoric of Youth Justice Conferencing and the Indigenous Reality' (1999) 4(18) *Indigenous Law Bulletin* 4.

<sup>27</sup> *Ibid.*

<sup>28</sup> Mission Australia, *Inquiry into Adequacy of Youth Diversionary Programs in NSW* (2017) 13.

<sup>29</sup> *Justice Legislation Amendment (Miscellaneous) Act 2023* (NSW) s 2.

<sup>30</sup> NSW Government, 'Police Given Power to Issue on-the-Spot Fines with Health Intervention for Small Quantity Drug Possession' (Media Release, 10 October 2023) <<https://www.nsw.gov.au/media-releases/police-given-power-to-issue-on-spot-fines-health-intervention-for-small-quantity-drug-possession>>; 'Drug Programs and Initiatives' *NSW Police Force* (Web Page) <[https://www.aic.gov.au/sites/default/files/2020-05/rpp097.pdf](https://www.police.nsw.gov.au/crime/drugs_and_alcohol/drugs/drug_pages/drug_programs_and_initiatives#:~:text=Cannabis%20Cautioning%20Scheme,and%20seek%20treatment%20and%20support.></a>>. See also Jason Payne, Max Kwiatkowski and Joy Wundersitz, Australian Institute of Criminology, <i>Police Drug Diversion: A Study of Criminal Offending Outcomes</i> (AIC Reports Research and Public Policy Series No 97, 2008) <<a href=)>.

It does this by offering alternatives to the traditional legal process for low-level drug offences. NSW police officers now have the discretion to issue up to two \$400 on-the-spot Criminal Infringement Notices instead of Court Attendance Notices, for personal drug use and minor possession offences<sup>31</sup> and, instead of paying the fine, offenders instead choose to complete a tailored drug and alcohol intervention.<sup>32</sup>

Diversion should be increased in remote and rural areas,<sup>33</sup> and such programs could be improved by tailoring or creating programs specific to First Nations People to ensure that interactions with the police are culturally appropriate and safe.<sup>34</sup>

The Early Drug Diversion Initiative could be improved by removing the discretion of the police officer to choose whether to issue a Criminal Infringement Notice or a Court Attendance Notice, to instead mandating that a Criminal Infringement Notice be issued instead of a Court Attendance Notice.<sup>35</sup>

### *(iii) Other police diversion programs*

NSW police officers have the authority to issue warnings and cautions<sup>36</sup> to people under the age of 21 years old<sup>37</sup> for summary offences and indictable offences that may be dealt with summarily.<sup>38</sup> The objects of this scheme are to offer alternatives to court proceedings, establish a streamlined system, utilise youth justice conferences, and tackle the overrepresentation of First Nations children in the criminal justice system.<sup>39</sup>

These objects are underpinned by the principles of police officers to use the least restrictive sanctions possible, informing children of their right to legal advice, seeking alternatives and avoiding criminal proceedings, considering community-based approaches for reintegration, involving parents in the justice process, ensuring victims are informed, and tackle the overrepresentation of First Nations children in the criminal justice.<sup>40</sup>

This scheme could be changed by the *Young Offenders Act 1997* (NSW) s 8(2A)(b)(i) being amended from 'not more than half the small quantity' to 'the small quantity', and s 8(2A)(b)(ii) could be repealed, which would give police officers greater discretion to issue warnings and cautions and reduce the number of young people being brought before the courts.

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<sup>31</sup> *Criminal Procedure Act 1986* (NSW) ss 336–7; *Criminal Procedure Regulation 2017* (NSW) sch 4 item 2; and *Drug Misuse and Trafficking Act 1985* (NSW) sch 1. See also 'Police Given Power to Issue on-the-Spot Fines with Health Intervention for Small Quantity Drug Possession' (n 32); 'Drug Programs and Initiatives' (n 32).

<sup>32</sup> 'Police Given Power to Issue on-the-Spot Fines with Health Intervention for Small Quantity Drug Possession' (n 32); 'Drug Programs and Initiatives' (n 32).

<sup>33</sup> See, eg, Australian Institute of Health and Welfare, *The Effectiveness of the Illicit Drug Diversion Initiative in Rural and Remote Australia* (Drug Statistics Series No 19, April 2008) 130 <<https://www.aihw.gov.au/getmedia/d0f0a659-f74a-4fba-8b9c-778a32ae159d/teotiddiirara.pdf?v=20230605184646&inline=true>>, which provides that between 2005–06, there were 24,804 diversions under illicit drug diversion initiative-funded police diversion programs, with 6,041 occurring in remote and rural Australia.

<sup>34</sup> Joudo (n 27) 29.

<sup>35</sup> Kelly and Oxley (n 28); Chaaya (n 25) 96; Payne, Kwiatkowski and Wundersitz (n 32) 9.

<sup>36</sup> *Young Offenders Act 1997* (NSW) pts 3–4.

<sup>37</sup> *Ibid* s 7A.

<sup>38</sup> *Ibid* s 8(1). See also Joudo (n 27) 38.

<sup>39</sup> *Young Offenders Act 1997* (NSW) s 8(1).

<sup>40</sup> *Ibid* s 7. See also Joudo (n 27) 38.

#### (iv) Court drug diversion programs

Court drug diversion programs, like the Magistrates Early Referral into Treatment ('MERIT'),<sup>41</sup> aim to redirect people whose offending is related to substance abuse issues, to voluntarily enter rehabilitation and avoid the traditional punitive measures of the criminal justice system.<sup>42</sup> The MERIT program is a Local Court pre-sentence treatment program whereby participants engage in treatment such as counselling and detoxification which is tailored to the severity and type of substance use.<sup>43</sup>

RLC is supportive of the MERIT program and considers that it achieves its aims of reducing substance use and offending, and enhances health and social functioning.<sup>44</sup> However, historical qualitative evidence also suggests that there is still room to increase diversions in remote and rural areas<sup>45</sup> which could be achieved through expanding the eligibility criteria into the program.<sup>46</sup>

#### (v) Other court diversion programs

Other court diversion programs, like Circle Sentencing, offer an alternative approach for eligible<sup>47</sup> First Nations people to that of traditional sentencing.<sup>48</sup>

In practice, the way Circle Sentencing works is that Magistrates and First Nations members of the community collaborate to ascertain what sentence is suitable. Other members of the community, the accused's family, and the victim may also participate.<sup>49</sup>

Circle Sentencing has been demonstrated to have positive impacts on recidivism and should be expanded.<sup>50</sup>

### (d) Community Legal Centres and Aboriginal Legal Services

The recently released National Legal Assistance Program Independent Review found that current funding levels under NLAP are insufficient to meet legal need.<sup>51</sup> Rural, regional and remote community legal centres face particularly high levels of unmet legal need and greater challenges in delivering legal services to disadvantaged communities. Funding to the Aboriginal Legal Service NSW/ACT and

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<sup>41</sup> 'Diversion Programs', *Local Court of New South Wales* (Web, Page, 25 January 2023) <<https://localcourt.nsw.gov.au/about-us/diversion-programs.html>>.

<sup>42</sup> Joudo (n 27) 65; *The Effectiveness of the Illicit Drug Diversion Initiative in Rural and Remote Australia* (n 35) 15; Australian Law Reform Commission, *Incarceration Rates of Aboriginal and Torres Strait Islander Peoples* (Discussion Paper No 84, July 2017) 196 [11.41] <[https://www.alrc.gov.au/wp-content/uploads/2019/08/discussion\\_paper\\_84\\_compressed\\_cover2.pdf](https://www.alrc.gov.au/wp-content/uploads/2019/08/discussion_paper_84_compressed_cover2.pdf)>.

<sup>43</sup> Joudo (n 27) 65; Matthew Jessimer et al, 'Magistrates Early Referral into Treatment Program Follow-Up Pilot Study', *SAGE Open* (Web Page, June 2014) 1–2 <<https://research-management.mq.edu.au/ws/portalfiles/portal/16787494/mq-37047-Publisher+version.pdf>>.

<sup>44</sup> Jessimer et al (n 45) 1–2.

<sup>45</sup> See, eg, *The Effectiveness of the Illicit Drug Diversion Initiative in Rural and Remote Australia* (n 35) 130–1, which provides that between 2005–06, there were 7,872 diversions under illicit drug diversion initiative-funded police diversion programs, with 2,001 occurring in remote and rural Australia.

<sup>46</sup> Joudo (n 27) 65; *The Effectiveness of the Illicit Drug Diversion Initiative in Rural and Remote Australia* (n 35) 152.

<sup>47</sup> *Criminal Procedure Regulation 2017* (NSW) reg 40.

<sup>48</sup> Steve Yeong and Elizabeth Moore, 'Circle Sentencing, Incarceration and Recidivism' (2020) 226 *Crime and Justice Bulletin* 1, 2–3.

<sup>49</sup> Joudo (n 27) 31.

<sup>50</sup> *Ibid.*

<sup>51</sup> Dr Warren Mundy, *Independent Review of the National Legal Assistance Partnership 2020 – 2025* March 2024 <<https://www.ag.gov.au/legal-system/publications/independent-review-national-legal-assistance-partnership-2020-25>>.

community legal centres should be increased in order to provide holistic, wraparound services to regional and rural communities.

### **(e) Research and evaluation**

Finally, a whole of government approach that can reduce the drivers and root causes of youth crime in regional and rural New South Wales, must include investment in research and evaluation so that the effectiveness of changes and interventions can be properly understood.<sup>52</sup> This must include sophisticated data collection methodologies that are capable of generating reports on outcomes and impacts and are flexible so that strategies associated with youth crime prevention can be refined over time.

### **(f) Policing in regional and rural areas**

#### *(i) General NSW police officer staffing levels*

We do not consider that an increase to general NSW police officer levels is needed or will reduce crime in regional and rural areas. There is not a significant shortage or reduction in police officer staffing levels in New South Wales. The number of police officers in 2023 (17,062) was only 597 or 3.38 percent less than in 2022 (17,659).<sup>53</sup>

Moreover, the NSW Police Force's annual reports for the 32-year period between 1990–91 and 2022–23<sup>54</sup> provide that the number of police officers has grown each on average by 0.95 percent, and the Australian Bureau of Statistics population data for the same period provides that the New South Wales population only marginally outgrew each year on average of 1.12 percent.<sup>55</sup>

In 1990–91, there were approximately 13,203 police officers and a population of 5,898,731, or 1 police officer per 447.02 people.<sup>56</sup> In 2022–23, there were approximately 17,062 police officers and a population of 8,342,285, or 1 police officer per 488.63 people.<sup>57</sup>

#### *(ii) Regional and rural NSW police officer staffing levels*

In 2022-23, in the Metropolitan, Southern, Northern, and Western Regions, there were 11,189 police officers and a population of 8,132,746, or 1 police officer per 727.35 people.<sup>58</sup> In the 10-year period

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<sup>52</sup> See, eg, Kenneth Polk, 'Evaluation of Programs for Prevention of Youth Crime' (Proceedings of a Policy Forum, Youth Crime Prevention, 28–29 August 1990) 99–107 <<https://www.aic.gov.au/sites/default/files/2020-05/youth-crime-prevention.pdf>>.

<sup>53</sup> NSW Police Force, *Annual Report 2021–22* (28 October 2022) 17, 85 <[https://www.police.nsw.gov.au/\\_data/assets/pdf\\_file/0004/824998/NSWPF\\_Annual\\_Report\\_2021-22.pdf](https://www.police.nsw.gov.au/_data/assets/pdf_file/0004/824998/NSWPF_Annual_Report_2021-22.pdf)>; NSW Police Force, *Annual Report 2022–23* (31 October 2023) 18, 87 <[https://www.police.nsw.gov.au/\\_data/assets/pdf\\_file/0004/862276/NSWPF\\_Annual\\_Report\\_2022-23.pdf](https://www.police.nsw.gov.au/_data/assets/pdf_file/0004/862276/NSWPF_Annual_Report_2022-23.pdf)>.

<sup>54</sup> 'Annual Report', *NSW Police Force* (Web Page) <[https://www.police.nsw.gov.au/about\\_us/publications/publications/annual\\_report](https://www.police.nsw.gov.au/about_us/publications/publications/annual_report)>.

<sup>55</sup> 'National, State and Territory Population', *Australian Bureau of Statistics* (Web Page, September 2023) <<https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/latest-release#states-and-territories>>.

<sup>56</sup> NSW Police Service, *Annual Report (1990–91)* 93 <[https://media.opengov.nsw.gov.au/pairtree\\_root/84/7b/d9/89/4c/d8/99/ca/29/85/b7/20/fe/3b/4a/8b/obj/document.pdf](https://media.opengov.nsw.gov.au/pairtree_root/84/7b/d9/89/4c/d8/99/ca/29/85/b7/20/fe/3b/4a/8b/obj/document.pdf)>; 'National, State and Territory Population' (n 69).

<sup>57</sup> NSW Police Force, *Annual Report 2022–23* (n 67) 18, 87; 'National, State and Territory Population' (n 69).

<sup>58</sup> NSW Police Force, *Annual Report 2022–23* (n 67) 8.

between 2013–14 and 2022–23,<sup>59</sup> in the Metropolitan, Southern, Northern, and Western Regions there was an average of 11,015.90 police officers and an average population of 7,892,027, or 1 police officer per 715.43 people.

In 2022–23, in the Metropolitan Regions, there were 6,228 police officers and a population of 4,982,399, or 1 police officer per 799.56 people. In the Southern, Northern, and Western Regions there were 4,961 police officers and a population of 3,150,347, or 1 police officer per 634.45 people.<sup>60</sup>

In the 10-year period between 2013–14 and 2022–23,<sup>61</sup> in the Metropolitan Regions, there was an average of 2,067.56 police officers and an average population of 1,574,400.40 or 1 police officer per 760.33 people. In the Southern, Northern, and Western Regions there was an average of 1,604.40 police officers and an average population of 1,056,275.26, or 1 police officer per 657.85 people.

These findings are based upon the following data taken from the NSW Police Force’s annual reports for the 10-year period between 2013–14 and 2022–23.<sup>62</sup>

Year	Region	Area (km <sup>2</sup> )	Population	Police officers	Administration staff
2023	Central Metropolitan Region	541.23	1,209,134	2,114	170
2023	South West Metropolitan Region	3,637.93	1,739,253	2,028	176
2023	North West Metropolitan Region	6,254.98	2,034,012	2,086	193
2023	Southern Region	199,443.07	1,001,829	1,521	150
2023	Northern Region	70,114.78	1,631,759	2,206	183
2023	Western Region	520,382.57	516,759	1,234	150
<b>2023</b>	<b>Sub-total</b>	<b>800,374.56</b>	<b>8,132,746</b>	<b>11,189</b>	<b>1,022</b>
2022	Central Metropolitan Region	541.00	1,221,318	2,318	177
2022	South West Metropolitan Region	3,637.00	1,650,757	2,200	176
2022	North West Metropolitan Region	6,254.00	1,986,559	2,253	185
2022	Southern Region	199,443.00	1,006,598	1,532	148
2022	Northern Region	70,114.00	1,662,865	2,237	190
2022	Western Region	520,382.00	540,834	1,281	144
<b>2022</b>	<b>Sub-total</b>	<b>800,371.00</b>	<b>8,068,931</b>	<b>11,821</b>	<b>1,020</b>
2021	Central Metropolitan Region	541.23	1,230,241	2,325	176
2021	South West Metropolitan Region	3,637.93	1,663,112	2,176	177
2021	North West Metropolitan Region	6,254.98	2,001,091	2,273	192
2021	Southern Region	199,443.07	1,013,725	1,544	144
2021	Northern Region	70,114.78	1,675,275	2,242	188
2021	Western Region	520,382.57	545,539	1,266	139
<b>2021</b>	<b>Sub-total</b>	<b>800,374.56</b>	<b>8,128,983</b>	<b>11,826</b>	<b>1,016</b>
2020	Central Metropolitan Region	541.23	1,230,241	2,238	177
2020	South West Metropolitan Region	3,637.93	1,663,112	2,103	176
2020	North West Metropolitan Region	6,254.98	2,001,091	2,184	184
2020	Southern Region	199,443.07	1,013,725	1,513	144
2020	Northern Region	70,114.78	1,675,275	2,191	185
2020	Western Region	520,382.57	545,539	1,223	147

<sup>59</sup> ‘Annual Report’ (n 68).

<sup>60</sup> NSW Police Force, *Annual Report 2022–23* (n 67) 8.

<sup>61</sup> ‘Annual Report’ (n 68).

<sup>62</sup> *Ibid.*

Year	Region	Area (km <sup>2</sup> )	Population	Police officers	Administration staff
<b>2020</b>	<b>Sub-total</b>	<b>800,374.56</b>	<b>8,128,983</b>	<b>11,452</b>	<b>1,013</b>
2019	Central Metropolitan Region	541.23	1,258,231	222	177
2019	South West Metropolitan Region	3,637.93	1,546,394	2,057	174
2019	North West Metropolitan Region	6,254.98	1,975,516	2,099	180
2019	Southern Region	199,443.07	1,022,550	1,480	150
2019	Northern Region	70,114.78	1,684,465	2,134	188
2019	Western Region	520,382.57	558,914	1,195	145
<b>2019</b>	<b>Sub-total</b>	<b>800,374.56</b>	<b>8,046,070</b>	<b>9,187</b>	<b>1,014</b>
2018	Central Metropolitan Region	541.23	1,237,745	2,129	180
2018	South West Metropolitan Region	3,637.93	1,521,217	2,002	173
2018	North West Metropolitan Region	6,254.98	1,943,352	2,047	178
2018	Southern Region	199,443.07	1,005,901	1,433	146
2018	Northern Region	70,114.78	1,657,040	2,140	182
2018	Western Region	520,382.57	549,814	1,184	145
<b>2018</b>	<b>Sub-total</b>	<b>800,374.56</b>	<b>7,915,069</b>	<b>10,935</b>	<b>1,004</b>
2017	Central Metropolitan Region	541.23	1,219,405	2,166	188
2017	South West Metropolitan Region	3,637.93	1,498,677	1,968	180
2017	North West Metropolitan Region	6,254.98	1,914,557	2,018	189
2017	Southern Region	199,443.07	990,997	1,426	151
2017	Northern Region	70,114.78	1,632,487	2,086	189
2017	Western Region	520,382.57	541,667	1,152	153
<b>2017</b>	<b>Sub-total</b>	<b>800,374.56</b>	<b>7,797,790</b>	<b>10,816</b>	<b>1,050</b>
2016	Central Metropolitan Region	541.23	1,199,531	2,240	177
2016	South West Metropolitan Region	3,637.93	1,474,251	1,998	181
2016	North West Metropolitan Region	6,254.98	1,883,353	2,044	187
2016	Southern Region	199,443.07	974,845	1,437	151
2016	Northern Region	70,114.78	1,605,880	2,069	203
2016	Western Region	520,382.57	532,839	1,124	144
<b>2016</b>	<b>Sub-total</b>	<b>800,374.56</b>	<b>7,670,699</b>	<b>10,912</b>	<b>1,043</b>
2015	Central Metropolitan Region	541.23	1,183,080	2,254	183
2015	South West Metropolitan Region	3,637.93	1,454,032	2,035	188
2015	North West Metropolitan Region	6,254.98	1,857,524	2,062	190
2015	Southern Region	199,443.07	961,476	1,453	150
2015	Northern Region	70,114.78	1,583,856	2,038	194
2015	Western Region	520,382.57	525,532	1,142	148
<b>2015</b>	<b>Sub-total</b>	<b>800,374.56</b>	<b>7,565,500</b>	<b>10,984</b>	<b>1,053</b>
2014	Central Metropolitan Region	541.23	1,167,442	2,276	179
2014	South West Metropolitan Region	3,637.93	1,434,813	2,037	180
2014	North West Metropolitan Region	6,254.98	1,832,971	2,075	179
2014	Southern Region	199,443.07	948,767	1,450	149
2014	Northern Region	70,114.78	1,562,921	2,038	193
2014	Western Region	520,382.57	518,585	1,161	151
<b>2014</b>	<b>Sub-total</b>	<b>800,374.56</b>	<b>7,465,499</b>	<b>11,037</b>	<b>1,031</b>

(iii) More police officers do not equate to less crime

A whole of government approach is needed to reduce the drivers and root causes of youth crime in

regional and rural New South Wales. This is also relevant as to how services can be improved to reduce youth crime in these areas.

Increasing the numbers of NSW police officers will not necessarily drive down youth crime in regional and rural New South Wales, nor is it the solution.

NSW Bureau of Crime Statistics and Research data suggests that a 1 percent increase in the size of the NSW Police Force had negligible effects on overall crime rates,<sup>63</sup> but for slight reductions in theft, motor vehicle theft, and aggregate property crime,<sup>64</sup> and no significant reduction in violent crime rates.<sup>65</sup>

While there was some evidence of decreased theft-related offences because potential offenders were deterred from that criminal activity, there was no substantial evidence demonstrating that increasing police officer numbers significantly affected arrest rates.<sup>66</sup>

We consider that increasing funding to education, employment, family, mental health, and social welfare support in regional and rural New South Wales, rather than increasing funding to NSW Police, could be a more efficient and economical approach to reducing and addressing the root causes and youth crime.<sup>67</sup>

## **(g) Recidivism rates in regional and rural areas**

### *(i) Cost of imprisonment*

The cost to the NSW public of imprisonment is high. In 2021–22, the cost of imprisoning a person in New South Wales was \$286.89 per day and there was an average of 12,491 inmates in full-time custody in that period.<sup>68</sup> This represented a total cost to the government of \$3,583,543 per day or \$1.30 billion per year, which was a sizable portion of both the state's \$103.70 billion revenue and \$120.30 billion expenses.<sup>69</sup>

### *(ii) Employment*

The societal stigma and discrimination associated with a criminal record when seeking employment raises barriers to what is already a difficult challenge and even if overcome, it significantly diminishes earning prospects<sup>70</sup> and precludes people from pursuing jobs in licensed or professional fields.<sup>71</sup>

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<sup>63</sup> Steve Yeong, 'The Effect of Police on Crime and Arrests: Are Police Deterring or Incapacitating Criminals?' (2019) 223 *Contemporary Issues in Crime and Justice* 1, 1.

<sup>64</sup> *Ibid.*

<sup>65</sup> *Ibid* 8.

<sup>66</sup> *Ibid* 4–8.

<sup>67</sup> Wai-Yin Wan, 'The Effect of Arrest and Imprisonment on Crime' (2012) 158 *Contemporary Issues in Crime and Justice* 1, 17.

<sup>68</sup> 'Fact Sheet 1: NSW Prison System', *Corrective Services NSW* (Web Page, May 2023) 1 <[https://correctiveservices.dcj.nsw.gov.au/content/dam/dcj/corrective-services-nsw/FACT\\_SHEET\\_1\\_PRISONS\\_May\\_2023.pdf](https://correctiveservices.dcj.nsw.gov.au/content/dam/dcj/corrective-services-nsw/FACT_SHEET_1_PRISONS_May_2023.pdf)>.

<sup>69</sup> NSW Government, Budget Statement 2022–23: Budget Paper No 1 (21 June 2022) 4-2, 5-1 <[https://www.budget.nsw.gov.au/sites/default/files/2022-06/2022-23\\_03\\_Budget-Paper-No-1-Budget-Statement.pdf](https://www.budget.nsw.gov.au/sites/default/files/2022-06/2022-23_03_Budget-Paper-No-1-Budget-Statement.pdf)>.

<sup>70</sup> Devah Pager, 'The Mark of a Criminal Record' (2003) 108(5) *Northwestern University* 75, 937, cited in Community Justice Coalition, *Recidivism: The Way Forward* (2022) 60 [6.2] <[https://justiceaction.org.au/wp-content/uploads/2022/06/Recidivism\\_The-Way-Forward.pdf](https://justiceaction.org.au/wp-content/uploads/2022/06/Recidivism_The-Way-Forward.pdf)>.

<sup>71</sup> Bruce Western, Jeffrey R Kling and David F Weiman, 'The Labor Market Consequences of Incarceration' (2001) 47(3) *Crime & Delinquency* 1, cited in *Recidivism: The Way Forward* (n 89) 60 [6.2].

Difficulties in obtaining employment can lead to recidivism.<sup>72</sup> Consideration should be given to the impact of criminal record checks for certain types of employment to increase opportunities for people with criminal records and leaving prison, to better assist with their reintegration into society.<sup>73</sup>

#### **(h) Police as first responders**

On 27 September 2023 Redfern Legal Centre published an open letter signed by almost 80 legal professionals calling on the NSW government to make changes to the response to people experiencing a mental health crisis and to make funding available so that trained mental health professionals can be the first responders to such crisis instead of or as well as police officers, depending on the circumstances.<sup>74</sup>

RLC's submission to the *Inquiry into the Equity, Accessibility and Appropriate Delivery of Outpatient and Community Mental Health Care in New South Wales*,<sup>75</sup> highlighted that there has been a historical and systemic failure in the response from the NSW Police Force to people who have experienced an acute mental health crisis. This issue requires urgent reform. People experiencing mental health crisis are overrepresented in the criminal justice system and should not be criminalised for their mental health issues and conditions.

Mental health issues require mental health solutions managed and led by mental health professionals, not law enforcement personnel.<sup>76</sup> This principle also applies to young people in regional and rural New South Wales. We ask the government to adopt all seven of the recommendations made in our submission.<sup>77</sup>

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<sup>72</sup> Weatherburn (n 3) 3–6.

<sup>73</sup> Melanie Schwartz et al, 'Obstacles to Effective Support of People Released from Prison: Wisdom from the Field' (Rethinking Community Sanctions Project, UNSW, 2020) 14 <<https://www.unsw.edu.au/content/dam/pdfs/research/2023-10-coop/Obstacles%20to%20Effective%20Support%20of%20People%20Released%20from%20Prison%20Report.pdf>>.

<sup>74</sup> Letter from Redfern Legal Centre et al to Christopher Minns, 27 September 2023

<<https://rlc.org.au/sites/default/files/2023-09/230907%20Lawyers%20call%20for%20mental%20health%20professionals%20to%20be%20first%20responders%20C%20not%20police%20.pdf>>.

<sup>75</sup> Redfern Legal Centre, Submission to Legislative Council Portfolio Committee No 2 – Health, Parliament of New South Wales, *Inquiry into the Equity, Accessibility and Appropriate Delivery of Outpatient and Community Mental Health Care in New South Wales* (10 October 2023) <[https://rlc.org.au/sites/default/files/2023-11/2023.10.23%20RLC%20Sub\\_Mental%20health%20Inquiry%20-%20Formatted\\_0.pdf](https://rlc.org.au/sites/default/files/2023-11/2023.10.23%20RLC%20Sub_Mental%20health%20Inquiry%20-%20Formatted_0.pdf)>.

<sup>76</sup> Ibid 5.

<sup>77</sup> Ibid 3.



## 4. Recommendations

### **Recommendation 1**

Enhance Youth Justice Conferencing by prioritising community-based programs for First Nations young people, led and administered by First Nations communities, and facilitating opportunities for young people to address criminogenic needs.

### **Recommendation 2**

Establish culturally appropriate police drug diversion programs tailored for First Nations young people and amend the Early Drug Diversion Initiative by mandating that police officers issue Criminal Infringement Notices instead of Court Attendance Notices for relevant offences instead of this being discretionary.

### **Recommendation 3**

Increase police officer discretion to issue warnings and cautions to young people by amending the *Young Offenders Act 1997* (NSW) s 8(2A)(b)(i) from ‘not more than half the small quantity’ to ‘the small quantity’, and repealing s 8(2A)(b)(ii).

### **Recommendation 4**

Implement targeted interventions to support at-risk students and address barriers to educational attainment by improving access to quality education in rural and regional New South Wales through increased funding, infrastructure development, teacher training, and better utilisation of technology to facilitate distance learning.

### **Recommendation 5**

Ensure that all young people, regardless of their socioeconomic status, have access to the legal support they require by bolstering the stability of Community Legal Centres and Aboriginal Legal Services by increasing and securing long-term funding in collaboration with the Commonwealth and providing explicit guarantees of financial support.

### **Recommendation 6**

Increase expenditure in education, employment, family, mental health, and social welfare services and support in regional and rural New South to mitigate and tackle the underlying factors contributing to youth crime.

### **Recommendation 7**

Improve the possibilities for reintegration of people leaving prison into the community by removing barriers to employment for those with criminal records by incentivising employers and removing discriminatory hiring practices, improving access to affordable and safe housing, and ensuring welfare support services include mental health and substance abuse treatment.

### **Recommendation 8**

Adopt all seven of the recommendations proposed in Redfern Legal Centre, Submission to Legislative Council Portfolio Committee No 2 – Health, Parliament of New South Wales, *Inquiry into the Equity, Accessibility and Appropriate Delivery of Outpatient and Community Mental Health Care in New South Wales* (10 October 2023) <[https://rlc.org.au/sites/default/files/2023-11/2023.10.23%20%20RLC%20Sub\\_Mental%20health%20Inquiry%20-%20Formatted\\_0.pdf](https://rlc.org.au/sites/default/files/2023-11/2023.10.23%20%20RLC%20Sub_Mental%20health%20Inquiry%20-%20Formatted_0.pdf)>.