



Australian Youth
Affairs Coalition

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Submission in response to
Senate Standing Committees on Legal and Constitutional Affairs
inquiry into Value of a justice reinvestment approach to criminal
justice in Australia

March | 2013

Australian Youth Affairs Coalition

The Australian Youth Affairs Coalition (AYAC) is Australia's non-government youth affairs peak body, which seeks to represent young people aged 12-25 and the sector that supports them.

AYAC boasts a growing membership of State and Territory Youth Peak Bodies, National Youth Organisations, researchers, policy makers and young people themselves, who are all passionate about creating an Australian community that supports and promotes the positive development of young people.

AYAC aims to:

- Provide a body broadly representative of the issues and interests of young people and the youth affairs field in Australia
- Advocate for a united Australia which respects and values Aboriginal and Torres Strait Islander heritage, promotes human rights, and provides justice for all
- Represent the rights and interests of young people in Australia, at both a national and an international level
- Promote the elimination of poverty and to promote the well being of young Australians, with a particular focus on those who are disadvantaged.
- Recognise the diversity of Australian society, to promote the cultural, social, economic, political, environmental and spiritual interests and participation of young people in all aspects of society
- Advocate for, assist with and support the development of policy positions on issues affecting young people and the youth affairs field, and to provide policy advice, perspectives and advocacy to Governments and the broader community
- Facilitate co-ordination and co-operation within the youth affairs field

AYAC and its members are dedicated to working for and with young people and seek to ensure they have access to mechanisms, which allow them to make decisions about issues that affect them in the Australian community.

AYAC Contact Details:

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Committee Secretary
Senate Standing Committees on Legal and Constitutional Affairs
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Dear Secretariat,

The Australian Youth Affairs Coalition (AYAC) welcomes the opportunity to provide a submission to the Senate Standing Committees on Legal and Constitutional Affairs inquiry into Value of a justice reinvestment approach to criminal justice in Australia.

In preparation for this submission, AYAC consulted with over 150 youth sector workers on the issues around youth justice through an online survey and through individual case studies. Unfortunately, within the scope of the submission process AYAC was unable to conduct consultations with young people in contact with the justice system. The experience and voices of young people is crucial to informing policy, and AYAC sincerely hopes for an opportunity to do so in the near future.

AYAC also wishes to acknowledge the contributions of the Multicultural Youth Advocacy Network, and each of the state and territory Youth Peak bodies, including the Youth Policy Officer of NTCOSS.

In this submission, AYAC endorses specific positions and recommendations of Noetic Solutions and draws attention to some key features of the current youth justice system that stand to be strengthened, through a Justice Reinvestment framework and through Commonwealth Leadership.

If you have any questions in relation to our submission or wish to seek further advice from AYAC, please contact either myself, or

Sincerely,

Rey Reodica
Deputy Director (Youth Sector)

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Recommendations

In response to the *Senate Standing Committees on Legal and Constitutional Affairs inquiry into Value of a justice reinvestment approach to criminal justice in Australia* AYAC believes that young people have the right to access adequate and appropriate programs and services regardless of geographic location, race, gender, sexuality, physical ability or disability, social religious or economic circumstances. This should be especially so for our most disadvantaged and vulnerable, who are over-represented in the current youth justice system.

Young people are important. Demographic trends have highlighted the unique circumstances of our time - a greater number of retired and elderly Australians, with a reduced labour force working age. The value of *all young people* as engaged, active and contributing members of society is immense. As evidence shows both incarceration and remand rates are on the rise. There is great understanding of the issues at hand, which are more prevalent in some communities than others, and there is a great understanding of the solutions to these issues.

Action is essential to securing the wellbeing of Australia, both here and now and continued into the future, to *reinvest* the money spent maintaining the status quo of the criminal justice system into communities, with young people as the focal point. Young offenders will be tomorrows prison population, if we do not take the necessary steps now.

The creation of alternative pathways through a Justice Reinvestment framework proposes the way. A Justice Reinvestment framework applies a data-driven approach to reduce incarceration spending and reinvest savings in strategies that decrease crime and strengthen communities. This is a targeted approach, requiring commonwealth leadership for consistency and support across jurisdictions.

We urge the Federal Government to use this inquiry as a catalyst for action that enables young people to fully realise their potential as positive members of society, and cease the toll on community and government that comes with current increases in both incarceration and remand of young people. We endorse the following recommendations to assist with achieving this:

1. **Primary Justice** - Respond to circumstances in the context of a young person that lead to offending behaviour through prevention and early intervention initiatives.
2. **Detention as a last resort for young people** - Focus on diversion and support measures for young people.
3. **A Youth Friendly System** - Due consideration should be given for the specific needs of highly disadvantaged young people, ensuring they have a support person or youth-friendly legal support to help them navigate and understand the justice process.

4. **Positive Media Relations** - Governments and political parties should agree to formally prohibit public statements that serve to stigmatise young people in law and order debates.
5. **Community Education** - The government should develop a small public education campaign to showcase successful programs that result in positive outcomes for young offenders leading to reductions in youth crime.
6. **Invest in Young People** - Further investment is needed in providing support across all facets of a *primary* justice system: prevention, early intervention and diversion.
7. **Focus on Youth Work** - Governments should draw on successful flexible, place-based models of support that place young people's needs at the centre to support disadvantaged young people and ensure that services are available for young people to access, including in through-care to prevent reoffending.
8. **A Coherent and Well-resourced Sector** - All programs that directly work with vulnerable young people should be prioritised and properly funded. This requires the leadership Commonwealth, in order provide consistency and support to States and Territories, via a Cooperative Investment Centre (see Noetic solutions submission for more details). This sector should employ techniques effective to working with young people in contact with the system, as suggested in this submission.
9. **Address the Gaps in Rural and Remote Australia** - Government must address the gaps in rural and remote Australia. Government should look to innovative examples of remote service delivery, particularly within the non-government sector that are sustainable, long term, and that use effective practices in working with young people;
10. **Access to Culturally Appropriate Services** - There is a strong need for services that are culturally sensitive and appropriate to the specific barriers faced by Indigenous and CALD young people and that provide appropriate and adequate supports.
11. **An Integrated Information System:** Improve advice provided to both government and non-government sectors in regard to the sharing of information in the best interests of the young person. *This can be modelled on the Western Australia memorandum of understanding between The Department for Child Protection and a number of community sector Family and Domestic Violence Case Management and Coordination Services (CMCS), which allows for information to be shared between agencies so as to prevent or respond to domestic or family violence.*
12. **Support Effective Practice** - prioritise and invest in services and programs that employ effective skills and practices when working with young people.
13. **Tangible Outcomes for Young People** - programs that place young people's needs at the centre, achieving realistic goals produced with the

young person, rather than targets or quotas set by centralised processes without the involvement of the young person concerned.

14. **Sustainable Services** - Ensure on-going support to young people who need stable relationships using a youth work approach, via a Commonwealth Cooperative Investment Centre model (please refer to the submission provided to this inquiry from Noetic solutions for more detail)
15. **Commitment to Capacity Build** - Develop staff with specialised expertise in working with young people and knowledge of the youth sector
16. **Young Person Centred** - structured programs that offer individualised assessment and flexible interventions as each young person experiences different barriers and different reasons as to why they have had contact with the justice system.

AYAC looks forward to the findings of this committee and to working with governments to ensure the best outcome for Australia's young people.

Background

Whilst most young people in Australia live rich and fulfilling lives, 7,265 young people aged 10 - 17 on an average day are under juvenile justice supervision¹. Over 800 young people are incarcerated annually², at the cost of over \$600 per day, per young person³ - almost double the costs per day of adult incarceration⁴.

In Australia, we are seeing an overuse of imprisonment, especially in the case of young people, resulting in intolerable social and financial burdens. There is evidence of a rise in incarceration rates since 2004. Data also shows a significant increase in the number of young people who have been remanded (i.e. awaiting a court hearing, outcome or penalty). A far higher proportion of young than adult detainees in Australia is remanded. Only a small portion of young people remanded receives a conviction and sentence⁵.

It is widely accepted that detaining young people does not work to reduce criminal behaviour. The detention of young people:

- is expensive
- does not act as a deterrent
- is ineffective in addressing the underlying causes for contact with the justice system
- is positively correlated with higher rates of reoffending behaviour

Detention is a retrospective measure in responding to the needs of community safety, incapable of preventing young peoples contact with the justice system. Its role here should be small, and always as a last resort.

The widespread use of remand, then, is an indicator of the failure of policy to ensure that young people are detained only as a last resort. A steady increase in both the numbers and the rates of young people in detention is evident⁶, signifying the failures of youth justice policy, past and present. In particular, bail legislation has had a harsh impact on young people. This is exacerbated by the lack of services available for prevention, early intervention and diversionary measures.

Overseas, both the United States and United Kingdom have faced similar pressures as in Australia:

- increasing incarceration rates,

¹ Australian Institute of Health, & Welfare. (2012). Juvenile justice in Australia 2010-11 (No. 10). Aihw. p1

² SCRGSP (Steering Committee for the Review of Government Service Provision) 2012, Report on Government Services 2012, Productivity Commission, Canberra.

³ NSW Department Of Attorney General And Justice 2011, NSW Auditor-General's Report 2011, Vol. 7, Accessed via http://www.audit.nsw.gov.au/ArticleDocuments/227/Volume_Seven_2011_03_Department_Attorney_General_and_Justice.pdf.aspx?Embed=Y, p32, and 3 WA Treasury (2012) 2012-13 Budget Paper 2: Volume 2, Accessed via: http://www.treasury.wa.gov.au/cms/uploadedFiles/State_Budget/Budget_2012_13/2012-13_budgetpaperno2_v2.pdf, page 783.

⁴ Australian National Council on Drugs. & Deloitte Access Economics. (2013). An economic analysis for Aboriginal and Torres Strait Islander offenders prison vs residential treatment. Civic Square, A.C.T. : Australian National Council on Drugs. p46

⁵ Richards, K. (2011). Trends in juvenile detention in Australia (p. 1-5). Canberra.

⁶ Ibid., p.2.

- accompanied with the increasing costs of detention, and little success in reducing recidivism
- in a challenging fiscal environment.

Both have adopted Justice Reinvestment approach, and are starting to see results. Whilst the extent to which the pressures listed above vary across jurisdictions between Australia, the United States and the United Kingdom the principles of the Justice Reinvestment framework are very relevant to our local context.

The Justice Reinvestment framework is based on "...fiscally-sound, data driven criminal justice policies to break the cycle of recidivism, avert prison expenditures and make communities safer."⁷ It focuses on communities with a high concentration of offenders and diverts a proportion of public safety budgets, that would otherwise have been spent on maintaining the status quo of incarceration into funding place-based initiatives that have a proven impact on rates of offending. By focussing on communities that have a large population of offenders, Justice Reinvestment offers community based and owned solutions to mend the cracks in otherwise functioning communities and to reduce the number of people ever coming into contact with the justice system, further reducing the impact of existing criminal behaviour.

As Schwartz suggests then, Justice Reinvestment refocuses the justice system to primary justice, not retrospective, as it should be "...employed at all critical points along the criminal justice path: in prevention of offending, diversion from custody at the point of remand or conviction, and in lowering the numbers returning to custody via breaches of parole or reoffending."⁸

For young people, Justice Reinvestment provides place-based, whole of community solutions to some of the key drivers for their contact with the justice system: trauma, poverty, unemployment, family breakdown, as victims of abuse, social isolation, mental illness, alcohol and other drugs, disengagement from education and community. These issues are further exacerbated for young Aboriginal and Torres Strait Islanders and those living in rural and remote Australia, to whom culturally appropriate and youth-specific services are not readily available.

Evidence suggests that young people coming into contact with the justice system are some of Australia's most vulnerable. These young people have reoccurring contact have shown to have extensive histories of "...neglect, low levels of educational attainment, histories of substance abuse, and a tendency towards acts of physical aggression."⁹ Justice Reinvestment provides the opportunity for young people dealing with multiple issues to take responsibility for their actions and be functioning members of society – as employees or entrepreneurs, mothers and fathers, voters, students, volunteers, and more. Young people have inherent strength and resilience. Adolescence provides society with our last and our best chance to ensure the lives of young people get back on track. Young people lack the opportunities, not capacity, to reach their full potential.

7 See CSG Justice Center, 'Justice Reinvestment: About the project', www.justicereinvestment.org/about.

8 Schwartz, M. (2010). Building Communities, Not Prisons- Justice Reinvestment And Indigenous Over-Imprisonment. AILR, 14(1). p2

9 Noetic Solutions, A Strategic Review of the New South Wales Juvenile Justice System, 'Report for the Minister of Juvenile Justice' (NSW) [The Noetic Report], 2010 p6.

In 2013 AYAC consulted directly with 152 workers providing services to young people who have had contact with the justice system, via an online survey. The in-depth qualitative survey was conducted nationally, reaching metropolitan, regional and rural sectors. AYAC's survey yields important advice and insights on:

- what issues young offenders are facing,
- what works for young people
- what is not working,

Their expertise and experience comes from their frontline work with these young people and is extensive, forming the basis of our recommendations to the committee – an analysis of what is working and what is not working for Australia's young people.

Why Change is Needed

Currently, Australia is seeing a substantial increase in the remand of young people and a steady increase in the incarceration of young people, at huge cost to both government and community. Links between offending and economic and social stress, higher rates of neglect and abuse, and harsh, erratic, and inconsistent disciplinary practices have been established¹⁰. There is an understanding of the issues young people face, there are appropriate measures to resolve issues in communities for young people. Action is needed to ensure crime is not the affliction of the most disadvantaged.

Data on incarceration of Young People

The Australian Institute of Health and Welfare in 2012 reported:

- Young people are over-represented in prison. Young people account for nearly 20% of the overall prison population.
- Young People living in Remote and Very remote areas are more likely to be under supervision on an average day than those from Major cities or Regional areas (although most young people under justice supervision were from cities and regional areas)
- Young people from areas of low socioeconomic status are more to be under justice supervision than those from an area of higher socioeconomic status.
- 2 in 5 (39%) of all young people in the justice system are Aboriginal and Torres Strait Islander young people, despite only constituting 5% of the population¹¹

Furthermore, since 1981 the proportion of young people who have been remanded, rather than sentenced, has increased '*substantially*'. Young people are also remanded at a higher rate than adults.¹²

Costs

The incarceration of young people in Australia is costly, both in terms of the costs of incarceration and the toll it exacts on community.

Detention: The high cost of incarceration and failure to rehabilitate, deter, meet public concerns or make communities safe have led to the recognition that a change is needed in the justice system¹³.

The average cost of holding a young person in custody in Australia is approximately \$615 per person, per day. In 2011, NSW was spending an average of \$652 per young person in custody¹⁴. Similarly, WA in 2011 had an average daily cost of \$667.43 for keeping one young person in detention, while managing a young person on community order averaged \$94.07 per person,

10 Jesuit Social Services and Effective Change Pty Ltd (2013). Thinking Outside: Alternatives to remand for children (summary report) Richmond, Jesuit Social Services, p5

11 AIHW 2012. Juvenile detention population in Australia 2012. Juvenile justice series no. 11. Cat. no. JUV 11. Canberra: AIHW.

12 Richards, K. (2011). Trends in juvenile detention in Australia. Trends and Issues in Crime and Criminal Justice, (416), 1

13 Australian Human Rights Commission (AHRC), Social Justice Report, 2009, 13.

14 NSW Auditor-General, Department of Attorney General and Justice Auditor-General's Report (2001) Vol. 7, 32.

per day¹⁵. The costs of holding a young person in custody in VIC is lower at approximately \$528 per day, yet still significantly higher than the cost of community-based supervision, at just \$52 per day¹⁶.

In order for facilities to accommodate for the increasing numbers of young people in detention and who have been remanded under the current system, the construction of new youth justice centres and/or increasing current capacities will be required. Although temporary solutions for the issue of the increasing detention population have been utilised, such as putting young people into adult prisons when juvenile justice centres were over capacity, or using bunk beds in order to meet the demand for beds,¹⁷ these short-term solutions are not sustainable and the costs associated with juveniles' care and supervision will rise. The construction and running costs of new facilities will only add to the total cost of the current system.

Social Costs: The true costs of incarceration far exceed the per day costs of housing young people in detention. Incarceration often results in the loss of employment and income, further disengagement with education or positive relationships, can exacerbate debt issues, and result in the loss of housing, such that homelessness becomes an issue on release.¹⁸ This is in addition to the social costs of community breakdown that has had the effect of young people to come into contact with the justice system, as described below.

A UK publication estimated that over a 20-year period, not addressing social problems and vulnerabilities would cost the UK government almost £4 trillion¹⁹. The social problems were comparable to the issues linked to communities with high numbers of young people within the juvenile justice system - issues such as crime, mental illness, family dysfunction and breakdown, and drug abuse. Analysis demonstrated "for every £1 invested annually in targeted early intervention and prevention services, society benefits by between £7.60 and £9.20."²⁰

Young people and crime: communities in Australia

In Australia the link between socio-economic disadvantage and crime has been explored in a range of studies. For example, in 2007 Professor Tony Vinson produced *Dropping off the Edge: the distribution of disadvantage in Australia*, which identified communities caught in a spiral of disadvantage. He reported that:

- **Tasmania:** Four of the state's 29 Local Government Areas account for 43.3 % of the top ranked positions of the key indicators of disadvantage.
- **Victoria:** 1.5% of all postcode areas account for 13.7% of the top 40 rankings of indicators of disadvantage – a nine-fold over-representation.

¹⁵State Government Victoria, Victorian Budget 2011-12: 'Strengthening youth justice and helping young people avoid a life of crime'. State Government Victoria, May 2011.

¹⁶ Commissioner for Children and Young People, Western Australia, 'Using the Wellbeing Monitoring Framework to strengthen children and young people's wellbeing'. Commissioner for Children and Young People, Western Australia, March 2012.

¹⁷ NSW Auditor-General, see above n 6 Vol. 6, 64.

¹⁸ Eileen Baldry et al, 'Ex-Prisoners and Accommodation: What Bearing Do Different Forms of Housing Have on Social Reintegration for Ex-Prisoners? Final Report'(Final Report No 46, Australian Housing and Urban Research Institute, August 2003).

¹⁹ Noetic Report discussing The Economics Foundation, Action for Children, Backing the Future: Why Investing in Children is Good for us all (2009).

²⁰ *ibid*

- **NSW:** 1.7% of all postcodes account for 12.5% of the top 40 rankings of indicators of disadvantage – a more than seven-fold over-representation.
- **Queensland:** 25 of the state's 459 Statistical Local Areas appear between 6 and 11 times in the top 20 indicators of disadvantage.
- **South Australia:** Two of the state's 114 statistical Local Areas (1.8%) account for 10.3% of the top 12 positions across 23 indicators of disadvantage – an over-representation of 5.7 times.
- **Western Australia:** Two of the state's 142 Local Government Areas (1.4%) accounted for 7.8% of the top 14 positions across 21 indicators of disadvantage – an over-representation of 5.6 times.
- **ACT:** Two of the territory's 24 postcode areas account for 26% of top-five positions across 23 indicators of disadvantage.
- **NT:** The Darwin Region is the most generally disadvantaged locality, although all regions feature prominently in four of the eleven indicators of disadvantage¹

This work has been further augmented by the broader research community, such as the Australian Institute of Health and Wellbeing, Griffith University, and University of Queensland having all done further studies into place-based approaches for targeting crime prevention.²¹ This has additionally been reflected in the media, with *the Sydney Morning Herald* and *The Australian* reporting extensively on the downwards spiral of those communities where crime prevention approaches have failed. For example, Sydney Morning Herald recently reported on the crime 'hotspots' in NSW, reporting in particular on the social issues presenting in Bourke, which according to NSW police data is more dangerous than any other country in the world, when compared with UN OECD data.²²

In Australia, as has been discovered in both the United States and the United Kingdom, disadvantage, as well as the human and social conditions it cultivates, is concentrated within relatively few locations with a higher incidence of poverty, unemployment, child protection reports as well as prison admissions, including remand.²³

These patterns of disadvantage prove the urgent need for action to provide opportunities to the most disadvantaged and vulnerable young people, that prevent their contact with the justice system. Justice Reinvestment, then, is a relevant framework through which to highlight changes needed to reduce offending in Australia.

21 AIHW 2012. Children and young people at risk of social exclusion: links between homelessness, child protection and juvenile justice. Data linkage series no. 13. Cat. no. CSI 13. Canberra: AIHW; Fitzgerald, R. 2013 Toward a typology of neighbourhood crime types, in NSW Bureau of Crime Statistics and Research's Applied Research in Crime and Justice Conference 2013 27-28 February 2013; Stewart, A. 2013 Targeting crime prevention to reduce offending: Identifying communities which generate chronic and costly offenders in NSW Bureau of Crime Statistics and Research's Applied Research in Crime and Justice Conference 2013 27-28 February 2013

22 Olding, R 2013, 'Crying out for a new beginning' *The Sydney Morning Herald*, February 2nd accessed via <http://www.smh.com.au/nsw/crying-out-for-a-new-beginning-20130201-2dq00.html>

23 Jesuit Social Services and Effective Change Pty Ltd (2013). *Thinking Outside: Alternatives to remand for children* Richmond, Jesuit Social Services, p13

Key Principles

Young people are considered internationally and nationally as both important and having different needs to adults: Young people are important and central to the federal government's agenda. In the words of Jenny Macklin, Minister for Families, Community Services and Indigenous Affairs, "It is the right of every Australian child to have a safe, healthy and happy childhood...The best interests of children are a national priority - from the day they are born."²⁴

Australia has a significant youth population, constituting one-fifth of the total population.²⁵ It should also be noted that Australia's Aboriginal and Torres Strait Islander population is overwhelmingly young. In 2008, almost half (49%) of the Indigenous population was aged under 20 years and a further 16% were aged between 20 and 30 years.²⁶

These figures must be a significant consideration given the importance of young people in society today, as students, mothers, fathers, employees, business owners and more. Demographic trends in Australia suggest that each young person will become more important to society. Australia will see a greater number of retired and elderly Australians, with a reduced labour force population of working age, indicating the enormous value of all young people as engaged, active, and contributing community members.²⁷

Young people are also important to the future of their communities and Australia. The effectiveness of a young person's upbringing will impact on society for over 60 years,²⁸ indicating the long term implications and social costs of community dysfunction. The failures of "socialisation, healthcare, and education...manifest itself in anti-social behaviour, crime, family dysfunction, drug and alcohol addiction and long term, chronic unemployment."²⁹

Internationally, instruments regarding young people and justice include the UN [Convention on the Rights of the Child](#) (CROC), of which Australia is a signatory, and rules such as the [Beijing Rules](#) (Standard Minimum Rules for the Administration of Juvenile Justice) or the [Riyadh Guidelines](#) (UN Guidelines for the Prevention of Juvenile Delinquency).

The Convention consists of 54 articles and is guided by four fundamental principles:

24 Macklin, J. (June, 2009) Wellbeing of Australia's Children Speech Presented at Parliament House, Canberra, ACT. Retrieved from <http://jennymacklin.fahcsia.gov.au/node/1712>

25 Australian Institute of Health and Welfare. (2011). Young Australians: Their health and wellbeing 2011. Canberra: AIHW. (Australian Bureau of Statistics, 2009)

26 Australian Bureau of Statistics. (2009, October 10). 4714.0 - National Aboriginal and Torres Strait Islander Social Survey, 2008. Retrieved March 15, 2012 from Australian Bureau of Statistics:

[http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4714.0Main%20Features42008?opendocument&tabname=Summary&prodno=4714.0&issue=2008&num=&view=Australian Bureau of Statistics](http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4714.0Main%20Features42008?opendocument&tabname=Summary&prodno=4714.0&issue=2008&num=&view=Australian+Bureau+of+Statistics). (2006). Experimental estimates of Aboriginal and Torres Strait Islander Australians. ABS.

27 Noetic Solutions, A Strategic Review of the New South Wales Juvenile Justice System, 'Report for the Minister of Juvenile Justice' (NSW) [The Noetic Report], 2010 p3-4

28 Based on the life expectancy of a male child born between 2004 and 6 of 78.7 years, see Australian Institute of Health and Welfare, Australian trends in life expectancy, http://www.aihw.gov.au/mortality/life_expectancy/trends.cfm accessed 8 December 2009.

29 Noetic Solutions, A Strategic Review of the New South Wales Juvenile Justice System, 'Report for the Minister of Juvenile Justice' (NSW) [The Noetic Report], 2010 p3.

- **Non-discrimination.** Children should neither benefit nor suffer because of their race, colour, gender, language, religion, national, social or ethnic origin, or because of any political or other opinion; because of their caste, property or birth status; or because they are disabled.
- **The best interests of the child.** Laws and actions affecting children should put their best interests first and benefit them in the best possible way.
- **Survival, development and protection.** The authorities in each country must protect children and help ensure their full development — physically, spiritually, morally and socially.
- **Participation.** Children have a right to have their say in decisions that affect them and to have their opinions taken into account.³⁰

The UN Committee on the Rights of the Child has provided some guidance on the subject of young people and criminal law. The Committee has written that:

Children differ from adults in their physical and psychological development, and their emotional and educational needs. Such differences constitute the basis for the lesser culpability of children in conflict with the law. These and other differences are the reasons for a separate juvenile justice system and require a different treatment for children. The protection of the best interests of the child means, for instance, that the traditional objectives of criminal justice, such as repression/retribution, must give way to rehabilitation and restorative justice objectives in dealing with child offenders.³¹

Furthermore, a growing body of evidence suggests that developmental differences between young people and adults have a huge bearing on the justice system, as well as effective support for young people. Cauffman and Steinberg elaborate that the psychosocial developmental markers of young people are much less established, even through to the early to mid twenties. These developmental markers include:

- Future orientation (capacity and inclination to consider long-term consequences of actions in making choices);
- Resistance to peer pressure;
- Reward sensitivity (young people, as compared to adults, are more sensitive to reward especially immediate reward, closely related to sensation seeking and risk-taking, and;
- Self regulation (ability to control impulsive behaviour and choices).

Moreover, they draw on the evidence to suggest that these developmental factors are heavily influenced by the context of the young person, and stress the importance that sanctions don't adversely affect this development.

As Cauffman et al. states, "This process of development toward psychosocial maturity is one of reciprocal interaction between the individual and his social context. Several environmental conditions are particularly important, such as the presence of an authoritative parent or guardian; association with prosocial peers; and participation in educational, extracurricular, or employment activities

30 UNICEF (No Date) Convention on the Rights of the Child, Accessed at: <http://www.unicef.org.au/Discover/What-We-Do/Convention-on-the-Rights-of-the-Child.aspx>

31 United Nations Committee on the Rights of the Child (2007) GENERAL COMMENT No. 10 (2007) Children's rights in juvenile justice, <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>

that facilitate the development of autonomous decision making and critical thinking.”³²

The importance of early life experiences, social context and the relationship to the healthy psychosocial development of young people is entrenched in a variety of scientific studies and is now irrefutable.

As the Jesuit Social Services report into alternatives to remand has put it, “Young people in contact with the justice system—particularly those who have experienced child abuse, neglect and trauma, stressed and dysfunctional family relationships, (including exposure to homelessness, domestic violence and crime)—are more likely to have grown up in environments that are not optimal for healthy brain development. Consequently, their life opportunities have been severely compromised.”³³

Opportunities must be created at the point of prevention and early intervention to engage these disadvantaged young people in pro-social contexts, and disrupt anti-social behaviour and contexts as well as limiting their exposure to environments like detention.

Young people to be held responsible for their actions: The acknowledgement of young people as both important and different in the justice context does not preclude the necessity and ability for young people to be accountable for their actions, and to learn from their actions. Young people should have ownership of, and be empowered in, their transition to functioning and healthy members of society.

Deprivation of liberty must only be used as last resort: The justice system in Australia, underpinned by the aforementioned international instruments, seeks to use detention as the last resort. This range of principles reflect established assessments on the ineffectiveness of incarceration.

Both the basic rights of young people and the obligations of governments whom are signatories to the CROC are made clear here:

“Article 37 of the Convention makes it clear that arrest, detention and imprisonment should always be a measure of last resort when dealing with children. Article 40 requires measures for dealing with juveniles without resorting to judicial proceedings — in other words, diversionary options. This Article is further explained in General Comment no.10, where it draws a distinction between two types of diversionary interventions — one in order to avoid judicial proceedings, and the other in the context of judicial proceedings. The first relates to options such as cautioning and the use of Juvenile Justice Teams. The second group refers to sentencing outcomes that are more social/educational in nature, as opposed to punitive options (such as juvenile detention).”³⁴

As included in the previous section, *the need for change*, the data shows an increase in the remand of young people, indicating that our reality is moving

32 Elizabeth Cauffman & Laurence Steinberg (2012): Emerging Findings from Research on Adolescent development and Juvenile Justice, *Victims & Offenders: An International Journal of Evidence-based Research, Policy, and Practice*, 7:4, 428-449

33 Jesuit Social Services and Effective Change Pty Ltd (2013). *Thinking Outside: Alternatives to remand for children* Richmond, Jesuit Social Services, p17

34 Youth Justice Think Tank (2013) *The report and recommendations of the 2012 Youth Justice Think Tank: Building a more effective Youth Justice system in WA*. February, 2013

further from our commitments and aspirations. The Australian Institute of Criminology has cited various explanations for the unsustainable levels of remand, including the implication that changes to bail legislation and conditions have had (very disproportionately) on young people' which is an unacceptable failure of policy.³⁵

It should be made clear that extensive and unnecessary use of remand places a significant burden on police, court, and custodial services, particularly when compared with more constructive community-based services for young people in the youth justice system.³⁶ Prevention, early intervention and diversion are key.

Incarceration for young people is expensive, does not act as a deterrent, is ineffective in addressing the underlying causes for contact with the justice system in the first place, and is in fact positively correlated with higher rates of reoffending behaviour. Deprivation of liberty - the incarceration of young people - can have negative impacts on the young person, resulting in a decrease in wellbeing, and an increase in offending, or recidivism. Remanding or detaining a young person can:

- Increase their exposure to the risk of further criminalisation due to peer contagion
- Stigmatise the young person
- Disrupt positive relationships and socially exclude the young person
- Disengage the young person from education and involvement with the labour force
- Be a missed opportunity to intervene effectively and positively for better outcomes for the young person

Clearly, there will be situations where the interests of justice and public safety mean that remanding a young person is the only feasible option available to a particular decision maker. However, there are also situations where the use of remand for young people can be questioned, such as when suitable alternative support or accommodation for a young person cannot be located.

Young People as part of the solution: Young people are experts in their own lives and are the best advocates on their experiences. As consumers of a range of government policy and as key stakeholders in the community, Government should consult directly with young people who have had contact with the justice system, focussing on solutions in development and implementation of policy and practice of youth justice.

Working effectively with Young People: Knowledge and skills of effective practice when working with young people is well established in Australia. This includes the establishment of trust and relationships through services that are available over longer periods.

These concepts have been established in a plethora of research,³⁷ including in a 12-year longitudinal study of Australian young people. The longitudinal study has posed implications for the way services for young people are established.

35 Richards, K. (2011). Trends in juvenile detention in Australia. Trends and Issues in Crime and Criminal Justice, (416), 1

36 Jesuit Social Services and Effective Change Pty Ltd (2013). Thinking Outside: Alternatives to remand for children Richmond, Jesuit Social Services, p5

37 Such as Cooper & White, 2009; Bruce, Boyd, Campbell, Harrinton, Major, & Williams, 2009; Sercombe, 1997; Stuart, 2009;

Wierenga explains, “In particular, respondents [young people] have highlighted the importance of stable community resources and long-term nurtured networks. At particular times of change and crisis, we saw all respondents drawing only upon their allies, and the relationships that they already trusted. Findings of this study suggest that in practice we can give young people all the information and opportunities in the world, but without trust relationships based upon individual and group history, they may be unable to make use of these resources at all.”³⁸

Services, therefore, must be available to fill the gaps in support for disadvantaged young people, and be stable, long-term and established.

Wierenga also highlights the need for ‘human bridges’. There are a number of known barriers relating to help-seeking behaviours in young people, including lack of knowledge about what services are available and appropriate, transportation issues, stigma associated with accessing help, costs involved, attitudes of staff to young people, confidentiality and anonymity (especially with family GPs) and the anxiety of disclosing personal issues.³⁹

Youth workers and other community workers that are trained to work with young people have a strong understanding and ability to bridge and negotiate these issues, and link young people in with the necessary services. These services require strong, sustainable funding agreements, whose longevity reflects the necessary time needed to build trust and sustain relationships with young people. This requires a coordinated approach, which could be based on the Cooperative Research Centre model, or rather, a Commonwealth Cooperative Investment Centre (further details on this model are to be provided by Noetic solutions in their submission).

The youth work sector in Australia has a considerable and positive impact on the lives of young people. There is clear evidence that youth work helps disengaged young people to become more active in their community, become gainfully employed and attend school.⁴⁰ Youth workers offer a large array of services,⁴¹ to address increasingly complex needs.

While the involvement of a range of specialised professionals in youth issues and in the care of individual young people is important and necessary, the commitment that youth workers have to the young person as the primary client is an integral part of the picture.⁴² The youth work approach enables youth sector workers to develop professional relationships with young people, viewing the young person as the primary client, in their social context.

38 Wierenga, A. (2009). *Young People Making a Life*. New York: Palgrave MacMillan

39 Select Committee on Youth Suicides in the NT, op. cit., p141

40 Minister for Young People: <http://ministers.deewr.gov.au/garrett/applications-open-school-chaplaincy-and-welfare-services> and <http://ministers.deewr.gov.au/garrett/strong-demand-chaplaincy-and-student-welfare-program>; p.124 Strategic Review of Indigenous Expenditure, Australian Government, Canberra; W Muller, A Strength-Based Approach to Building Resiliency in Youth, Families and Community (2005);

W Hammond, *Nurturing Resiliency in Youth and Community*, Canada (2005); A Kalil, *Family Resilience and Good Child Outcomes: An Overview of the Research Literature* (2003); Youth Mentoring Network, *Building connections for youth mentoring in Aotearoa New Zealand*;

41 that include, but is not limited too: child welfare and child protection, employment services, housing services, youth justice, supported accommodation for people with a disability, legal services, education, probation services, health services (including drug and alcohol), individual and family relationship counselling, and community activities, information and referral services, living skills, drop in, school level education and literacy, work skills, employment seeking, and training (Bessant, as in Fusco (Ed.) 2011; YAPA, 2011).

42 Sercombe H, (2004) ‘Youth Work: The professional dilemma’ in White, R (ed). *Concepts and methods of youth work*. ACYS Publishing, 2009.

Most services for young people target specified needs, are not youth-specific, and have obligations to other parties that conflict with the needs of their other clients. The youth work approach, on the other hand, is holistic and strengths-based, covering all aspects of a young persons life - not just one or two specific 'problems' - and is best placed to address how these aspects interrelate. Youth work is unique.

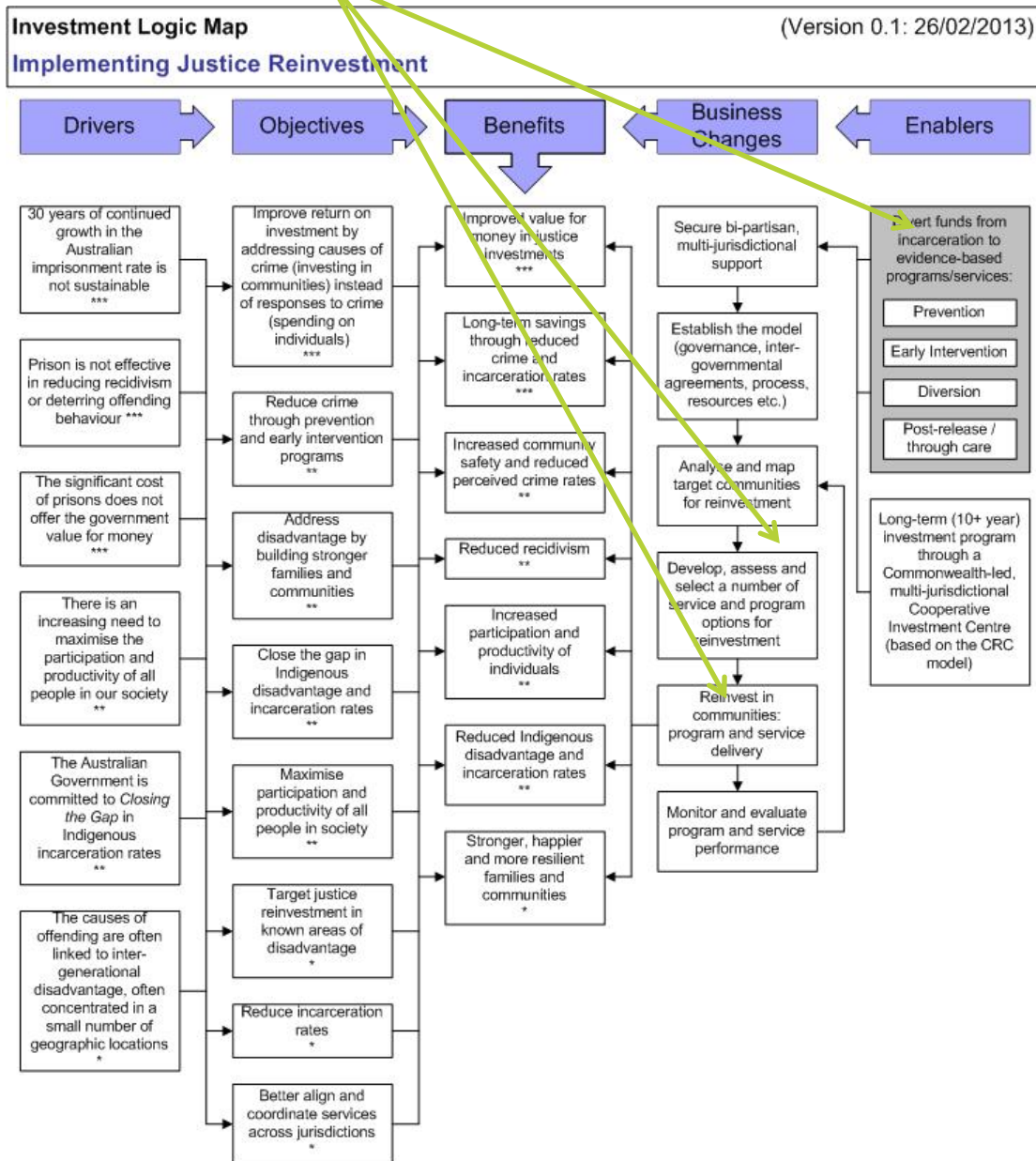
In a justice specific setting, the effectiveness of these techniques utilised by youth workers (such as relationship-building, pro-social modelling, building on strengths of young people etc.) in reducing recidivism has been further established in a study by the Australian Institute of Criminology (AIC). The study aimed to examine the relationship between the use of these techniques in youth justice and client recidivism. It concluded that the use of certain techniques produced a lower rate of re-offence as compared to those who didn't employ such techniques.⁴³

43 Trotter, C. (2012). Effective community-based supervision of young offenders. Trends and Issues in Crime and Criminal Justice, (448), 1.

Justice Reinvestment Framework

Our submission benefits from the following investment logic map for implementing Justice Reinvestment. This map has been developed for submission to this inquiry by Noetic Solutions, and provided to AYAC for our reference. Further details on this investment logic map are to be provided by Noetic solutions in their submission.

In the context of such an implementation framework, AYAC’s submission provides insight to the ‘enablers’ and ‘business changes’ needed to harness the principles of a Justice Reinvestment approach to public safety.



* A subjective weighting has been applied to each driver, objective and benefit to indicate the relative importance of each component. A scale of 1-3 stars (3 stars denoting the highest importance) has been applied. Weighting has not been applied to the enablers and business changes given all components are required to realise the expected benefits.

Objectives

The Justice Reinvestment framework aims to reduce the amount of funding spent on incarceration of, for example, young people and instead, reinvest public expenditure into community-based programs and strategies. This is done by utilising data to analyse and implement evidence-based initiatives that focus on the origin of the behaviour and motives behind crime in communities that yield high numbers of offenders. Implementation and evaluation of investments should be overseen by external and independent review.

If implemented correctly, the Justice Reinvestment framework suggests the generation of a better return on investment in the long term. Although Justice Reinvestment is not a complete replacement for incarceration⁴⁴ it can address the increasing costs of the justice system by reducing crime and recidivism rates, strengthening communities and increasing public safety.

The Justice Reinvestment framework shifts the focus of interventions from the individual to the community, and from reactive punishment to proactive prevention and early intervention. Therefore, community-based initiatives are utilised to confront crime at a 'grass roots' level, to address the factors within that environment that may be causing and maintaining crime.⁴⁵ These initiatives include youth-specific programs and services that are relative to each targeted⁴⁶ community and designed with significant community input and partnership.

The Justice Reinvestment framework should be employed at all stages of the criminal justice path, including in prevention of offending, remand and incarceration, as well as through-care, thus reducing numbers of those returning to custody. Prevention and early intervention is crucial for young people as their developmental stage makes them more receptive than adults to responding to interventions.⁴⁷

44 Noetic Solutions, A Strategic Review of the New South Wales Juvenile Justice System, 'Report for the Minister of Juvenile Justice' (NSW) [The Noetic Report], 2010.

45 Allard, T., Ogilvie, J. & Stewart, A. (2007) The Efficacy of Strategies to Reduce Juvenile Offending. Justice Modelling @ Griffith (JMAG).

46 "Targeted communities" here refers to geographical communities that yield the highest levels of young people in contact with the justice system.

47 K Richards 'What makes juvenile offenders different from adult offenders?' Trends & Issues in Crime and Criminal Justice no. 409. Canberra: Australian Institute of Criminology, 2011 http://www.aic.gov.au/publications/current_series/tandi/401-420/tandi409.aspx

Availability and effectiveness of alternatives to imprisonment: from the coal-face

Summary:

In advancing strategies that decrease crime and strengthen communities, AYAC has here considered the expertise of those who work directly with young people who have had contact with the justice system. This sector is a critical network in the delivery of services to young people. The youth work sector has the capacity to respond quickly to clients to identify and address their whole circumstance to deliver tailored programs. They are flexible and accessible to young people. The youth work sector provide vital services for a range of young people (including Aboriginal and Torres Strait Islander young people, culturally and linguistically diverse young people as well as newly arrived and refugee young people) in a variety of areas, such as:

- Advocacy
- Behavioural
- Employment
- Education and training (including alternatives)
- Family
- Financial
- Housing and accommodation assistance (e.g. finding accommodation options and supported accommodation)
- Justice and legal services
- Life skills
- Parenting education and assistance
- Physical and mental health wellbeing
- Alcohol and other drug education
- Diversion and prevention

AYAC consulted directly with the sector, via an online survey, targeting those who work with young people in contact with, the justice system. The in-depth qualitative survey was conducted nationally, reaching metropolitan, regional and rural youth sector workers. In a Justice Reinvestment framework, AYAC here provides a collection of insight from those engaged in effective outcomes for young people, yielding important insights and advice on:

- What issues young offenders are facing
- What works for young people
- What is not working

In total, 152 workers, including youth workers (incorporating managers, mentors, and team leaders), social workers, health workers (including mental health workers), educators, community development workers, justice workers, aboriginal workers, psychologists, lawyers (including legal aid), academics and researchers, and policy officers gave us their first-hand perspectives on the biggest issues facing young people who have had contact with the justice system.

For the purpose of this submission, this group will be herein referred to as 'youth sector workers'.

Issues for Young People

Incarceration of a young person does little to assist with resolution of the underlying issues that cause young people to offend. Incarceration of a young person can in fact exacerbate the problems young people face, through socialisation with more serious offenders and through the disruption of a young person's engagement with support structures, employment, and education.

Justice Reinvestment suggests a shift from the punishment of young people to the addressing context of young people, which through the lens of the justice system, falls on those communities with a high concentration of offenders. In focussing on the family and community context of young people it is important to understand what factors are related to crime. It is well established in research and literature that young people who have had contact with the justice system are plagued with a variety of disadvantages from a very young age.

Youth sector workers highlighted a number of issues that are facing young people who they work with and who have had with the justice system. All respondents listed multiple issues, signifying the complex and concurrent situation of young people in contact with the justice system. The issues young people face were identified as:

- Family dysfunction or lack of family support
- Disengagement (including from education, employment and/or community)
- Lack of appropriate services
- Alcohol and other drugs or substance abuse
- Poor physical and mental health
- Homelessness
- Poor peer and adult relationships (i.e positive role models or mentors)
- The Justice System itself

“Young people involved with the justice system, either on a community or custodial order, often represent a marginalised section of our community who require long-term professional intervention and supports. They struggle with a myriad of issues which require a comprehensive and systemic approach by the government to address”

- Youth sector worker

The fact that young people who have contact with the justice system face a broad range of complex issues, often presenting with a combination of issues, is not new. Offending behaviour does not happen in isolation, it is very much linked to patterns of disadvantage, as identified by the youth sector workers in this survey. It is not possible to consider youth justice without considering the issues reported here. Rising remand and incarceration figures point to a failure to address these unmet needs of young people.

To rectify the problem of increasing remand and incarceration figures, these drivers associated with offending behaviour need to be addressed. Moreover it is vital this happens early, with identification and mitigation of potentially 'risky' situations for young people prioritised.

Recommendation 1: Primary Justice - Respond to circumstances in the context of a young person that lead to offending behaviour through prevention and early intervention initiatives.

The Justice System:

A number of youth sector workers also identified the justice system itself as a big barrier for these young people. They highlighted the inability of the justice system to provide the support needed to address the multiple and complex issues that young people were presenting with. Furthermore, others highlighted how the justice system can actually amplify such issues due to the nature of the justice system, with young people left feeling out of control and with a sense of powerlessness.

“The punitive system offers no hope/aspiration but only further disadvantages young people who have entered JJ's. It only serves/sees young people as criminal- branding them and failing to build their skills, hope and self esteem to empower them to make healthy choices for themselves and their families.”

- Youth sector worker

Comments were also received that the justice system is very disruptive to any positive relationships and influences the young person might be obtaining. This is due to both processing time and time in detention:

“Often when young people are incarcerated they lose touch with any valuable supports or opportunities that they have developed for themselves within the community. For example, they might have to give up employment, training or another opportunity that they have negotiated. In other instances the young person is no longer able to interact with a youth worker with whom they have developed long-term rapport outside of the justice system, as the workers organisation is inflexible or unable to allow contact throughout a period of incarceration.”

- Youth sector worker

“Young people are often facing charges long after they have committed the offence. They are often uncertain of the consequences of their offence and by default expect the worst outcome. This can lead to ambivalence surrounding repeat offending or hinders motivation to make steps towards the development of a pro-social lifestyle, as their efforts can be quickly trampled by one decision in the courts.”

- Youth sector worker

Recommendation 2: Detention as a last resort for young people - Focus on diversion and support measures for young people.

Difficulty navigating the justice system was also indicative for these young people, who have little understanding of the process and the jargon used, impact a conviction may have on them in the long term, how to access legal aid, and more.

Recommendation 3: A Youth Friendly System - Due consideration should be given for the specific needs of highly disadvantaged young people, ensuring they have a support person or youth-friendly legal support to help them navigate and understand the justice process.

It is also important to note here the effect of the justice system on young people in the aftermath of any contact, which many respondents referred to as

stigmatisation. One respondent describes the effect here, as adopting the label of 'criminal' as something they are, not something they did:

"Their own life experiences have often resulted in unresolved anger that manifests itself in criminal and antisocial actions that make them known to police. Police often label them as nothing more than 'criminals' and they begin to act out this role."

- Youth sector worker

Stigma also manifests itself in how young people are treated differently (and often unfairly) in a community, at their school, by peers, after they have had contact with the justice system, further positioning that young person at a disadvantage.

The overestimation of the possibility and extent of juvenile crime have been found to be prevalent in public opinion⁴⁸. Public misconceptions play a large role in the law and order debates, with misleading and negative views of young people and their supposed involvement in crime diverting discussions towards punitive approaches. There is a role for government to engage in breaking down misconceptions through the facilitation of well-informed communities and positive media strategy, to allow young people community support, not disregard.

Recommendation 4: Positive Media Relations - Governments and political parties should agree to formally prohibit public statements that serve to stigmatise young people in law and order debates.

Recommendation 5: Community Education - The government should develop a small public education campaign to showcase successful programs that result in positive outcomes for young offenders leading to reductions in youth crime.

Lack of Services and Access to services

When asked if there were sufficient supports for young people in contact with the justice system, an overwhelming 90% of survey respondents said "no".

Whether due to accessibility or complete lack of available support for young people, there needs to be better support for young people at all points of contact with the justice system.

Most of those who believed there are sufficient programs did, however, indicate that the resources available could be used better and more efficiently. While there may be some programs available, in some geographical areas, young people and their families often lack awareness of the existence of programs. Also that programs and services available may not be youth-specific, engaging or they are short-term programs, limiting their effectiveness. These survey respondents here acknowledged of the services available, that are established, that are long-term and that have proven their ability to work effectively with young people.

Youth sector workers were adamant that support in a young persons life is crucial for healthy development. Often, through family dysfunction, community

48 Noetic Solutions, A Strategic Review of the New South Wales Juvenile Justice System, 'Report for the Minister of Juvenile Justice' (NSW) 2010 p47

disengagement and disengagement with other social structures including employment and education, a young person will have no positive role models or mentors in their life. When coming into contact with the justice system, this is even more apparent, as the services that can provide or mend this support and stability are also not available. This is evident at all points including prevention, early intervention, diversionary measures and especially in through-care.

“When they are released from prison there are no real support services in place which actually effectively help the young person. They need to have people in place, ready to go, the minute they leave jail. I do not think it is acceptable to incarcerate a young person for however long then just open the door when they are done and say ‘see you later’”

- Youth sector worker

“In my experience in the Children's Court, it appears to be accessing appropriate services. I have one client for example, who has 9 social workers. In spite of this, he remains homeless. It is not due to his workers' lack of effort, but rather the limited resources within the justice system and the inherent instability in his life.”

- Youth sector worker

“When young people enter a juvenile justice facility they often come from a home where there is a high degree of dysfunction. When their sentence ends they return to this situation without any additional supports and they very often reoffend”

- Youth sector worker

“With all the boys I mentor...we are always struggling to find good, solid, ongoing and practical support as opposed to the hundreds of job service providers who do not understand the complexity of these young people, rather are more interested in putting them into unsuitable and unsustainable employment. Some services are very good but so many of them are impractical and more concerned with KPI's and receiving money for 'success stories'.”

- Youth sector worker

Recommendation 6: Invest in Young People - Further investment is needed in providing support across all facets of a *primary* justice system: prevention, early intervention and diversion.

Recommendation 7: Focus on Youth Work - Governments should draw on successful flexible, place-based models of support that place young people's needs at the centre to support disadvantaged young people and ensure that services are available for young people to access, including in through-care to prevent reoffending.

Recommendation 8: A Coherent and Well-resourced Sector - All programs that directly work with vulnerable young people should be prioritised and properly funded. This requires the leadership Commonwealth, in order provide consistency and support to States and Territories, via a Cooperative Investment Centre (see Noetic solutions submission for more details). This sector should employ techniques effective to working with young people in contact with the system, as suggested in this submission.

Access to services for rural and remote communities and Aboriginal and Torres Strait islander young people

This is further exacerbated for young people in rural and remote communities and Aboriginal and Torres Strait Islander young people, for whom it is reported that the alternatives and especially culturally appropriate alternatives, to incarceration in the first place, let alone transitional needs, are just not available.

"[There are] inadequate outreach programs for rural areas (especially in the case of young persons with drug/alcohol and/or mental health issues), poor transport opportunities to support services in regional centres and lack of privacy for the young persons and their families in utilising local services."

- Youth sector worker

Recommendation 9: Address the Gaps in Rural and Remote Australia - Government must address the gaps in rural and remote Australia. Government should look to innovative examples of remote service delivery, particularly within the non-government sector that are sustainable, long term, and that use effective practices in working with young people;

Recommendation 10: Access to Culturally Appropriate Services - There is a strong need for services that are culturally sensitive and appropriate to the specific barriers faced by Indigenous and CALD young people and that provide appropriate and adequate supports.

Youth sector workers here also identified the need for coordination in addressing young peoples needs

"Complex needs cannot be addressed concurrently, sometimes due to confidentiality reasons. We need to break down the silos and collaborate more with other services and organizations in our field."

- Youth sector worker

It is recognised that the ability to access to information about the circumstances of a particular young person for a community agency can be difficult because of interpretations of privacy guidelines. This makes it difficult to address the needs of the young person in a timely and effective way, or can force the young person to tell an often traumatic experience repeatedly to various parties.⁴⁹

Recommendation 11: An Integrated Information System: Improve advice provided to both government and non-government sectors in regard to the sharing of information in the best interests of the young person. This can be modelled on the Western Australia memorandum of understanding between The Department for Child Protection and a number of community sector Family and Domestic Violence Case Management and Coordination Services (CMCS), which allows for information to be shared between agencies so as to prevent or respond to domestic or family violence.⁵⁰

What Works for Young People:

Within a Justice Reinvestment framework, the impetus is placed on community-based and owned solutions, which are founded in evidence. AYAC asked youth sector workers what is effective practice 'on-the-ground' in providing positive outcomes for young people in contact with the justice system.

⁴⁹ Youth Justice Think Tank (2013) The report and recommendations of the 2012 Youth Justice Think Tank: Building a more effective Youth Justice system in WA. February, 2013. P15
⁵⁰ ibid.

The majority of youth sector workers surveyed suggested that the most effective approaches for young people who have had contact with the justice system are intensive, tailored, flexible and long-term, the later being most vital to address the complex and specific barriers to positive engagement in society utilising a consistent relationship based approach.

Recommendation 12: Support Effective Practice - prioritise and invest in services and programs that employ effective skills and practices when working with young people.

Approaches suggested range from creative programs, mentoring-based programs, education or practical skills-based learning programs. These, at face value, look different, but have very common themes. Each approach or program described was grounded holistically, with each addressing the full circumstance of the young person.

Initiatives that aim to address needs such as education and employment should allow other factors to be address first if basic needs like food and shelter are an issue. As one youth worker tells:

"I provided a young person with a biscuit and a drink and I had left him for a minute by the time I came back he had eaten the whole packet. This young person needed nurturing and above all his basic needs met prior to identifying approaches to assist him"

Recommendation 13: Tangible Outcomes for Young People - programs that place young people's needs at the centre, achieving realistic goals produced with the young person, rather than targets or quotas set by centralised processes without the involvement of the young person concerned.

Overall, most youth sector workers said that only the most intensive and holistic supports will work for young people in contact with the justice system, being those who are most at risk and disadvantaged.

"Intensive case work support encompassing recreational programs, life skills, education and employment focused courses with the possibility of gaining work experience and/or employment, family support and mediation, mentoring programs. These services keep young people engaged, build positive relationships with them and allow us to tailor our service delivery to the individual client. It is important to build relationships with family members of the young people to create a more supportive environment and to get a better understanding of the support that is needed."

- Youth sector worker

The importance of sustained relationships with caring and knowledgeable adults is vital in programs that assist these young people. Young people from vulnerable backgrounds need continued positive adult contact - the kind of relationship that builds trust and depth and understanding and don't require the young person to tell their story to multiple workers.

"For many young people who have more than minor interaction with the juvenile justice system their parents or carers are not coping. In those cases programs that have a case management approach work better. This means putting a single service in charge of interacting with the youth and the family, they can establish a relationship of trust with the youth, be responsible for ensuring all

areas where support is needed are identified and co-ordinate the various services that can help. Services that can provide a personal relationship with the young person, such as a work mentor, or support worker in the drug and alcohol field, seem to be more effective. **Continuity is important.** Services are successful if young people are able to have long term relationships with support workers”

- Youth sector worker

Recommendation 14: Sustainable Services - Ensure on-going support to young people who need stable relationships using a youth work approach, via a Commonwealth Cooperative Investment Centre model (please refer to the submission provided to this inquiry from Noetic solutions for more detail)

Support services that begin with in-depth assessment to cater to the individual needs of at risk young people were rated highly. Intensive case work that is flexible and tailored is central to the most successful approaches, involving young people in the discussion from the start about how the problem can be addressed, identifying future goals, giving them ownership.

Some of the most successful programs focus on the strengths and skills that the young person has, and on giving them a sense of purpose and routine in their life.

“Successful programs need to be strength based and give young people a focus on the future and identify goals and aspirations, not just focus on the issues. Programs need to include a strong element of case management that is available across a spectrum of issues and that provide long term support. Case management must be family orientated and support the young person in the context of the family and within the broader community. Successful programs also need to provide adequate follow up with the young person and their family. Programs that have longer term recurrent funding work best as there is greater consistency for those young people and their families.”

- Youth sector worker

“Engaging programs aimed at setting up young people for their future and empowering them to take charge of their lives and find success in achieving goals they set for themselves. These programs need to be consistent and work along side the young person to help them get to place where they feel confident in their ability to succeed without institutional help. The essential aspect to any kind of work or approach would have to entail getting to the root causes of the young person offending in the first place. Ideally a holistic approach would be able to take into account various aspects of the young persons life which led them to be involved in illegal activities and contextualize their specific case.”

- Youth sector worker

Creative and skill based approaches are a way to engage young people using a strengths based approach that focuses on what the young person is good at to help them build and reconnect with other life skills necessary to take on a positive role in society.

Recommendation 15: Commitment to Capacity Build - Develop staff with specialised expertise in working with young people and knowledge of the youth sector

Recommendation 16: Young Person Centred - structured programs that offer individualised assessment and flexible interventions as each young person experiences different barriers and different reasons as to why they have had contact with the justice system.

What does not Work:

A Justice Reinvestment approach requires programs and services that have a proven effect on reducing and mitigating contact with the justice system and moving money to strengthen communities using these programs. This requires an understanding of what should be avoided or minimised in working with young people in a justice specific setting

Youth sector workers have given feedback with a consolidated view of what is not effective. They reported that when approaches are time-limited and short-term, they fail to acknowledge the young person as an individual, with individual needs. Short-term approaches only necessitate inflexible, 'one-size fits all' solution. Youth sector workers also described certain aspects of the 'system' here, describing it as 'disparate' - where services and programs are disjointed or not presented in a timely way making it very confusing for young people to successfully engage:

"Attempts are made to provide alternative education plans or other forms of positive engagement with young people, but none of it happens within a reasonable time frame and the young person ends up reoffending and opportunities for intervention can be lost. An example of the importance of timeliness is that often inadequate forward planning means young people are released from custody without a concrete plan in place. By the time services are organised the young person is at risk of getting into trouble again or disengaging from the process (such as working with probation officers) because nothing appears to be happening."

- Youth sector worker

"Young people who have been in contact with the justice system often do not "fit the box" for many services intake criteria due to their complex needs. Often they need multiple services that can sometimes create inconsistency and difficulty for the YP, bouncing between services. This happens due to a lack of complex case management."

- Youth sector worker

Youth sector workers, when asked what approaches are not successful for young people in contact with the justice system, pointed to approaches that are:

- Inflexible and time-limited
- Punitive and deficit based
- Subscribe to formal and conventional 'solutions'
- Force participation through mandatory orders or other coercive means

Inflexible and short-term interventions are of little benefit to young people. There is little scope to form trust, and little scope to tailor the approach to the needs of the young person. Young peoples goals and circumstance can and do change, which need flexibility of approach to respond and change with the young person.

"Each young person is different and therefore, the approaches need to be different based on the young person's history of offending behaviour, current

environment, family history and background, presenting behaviours, future goals, motivation to change, needs, etc. There is not one model that fits all young people.”

- Youth sector worker

While there is a need for young people to be accountable, deficit based approaches and punitive measures, that focus on ‘problems’, ‘blaming’ or what the young person has done wrong and on avoiding risks, do not sustain change. Young people involved in such approaches do not feel understood, or worthy and don’t engage. Furthermore it increases their perceptions of powerlessness and of not being heard. As one respondent put it:

“Punitive programs that focus on the young persons actions without addressing the underlying issues do not work. How hard is it for a young person to not steal if there is no money and no one has supported them to find employment. How hard is it for the young person to change their values and beliefs when they are the values and beliefs at home How hard is it for a young person to not act out their anger when that is the only way they have been shown/taught to do so.”

- Youth sector worker

“Programs that focus on the 'bad' not the positive for example a young person being taught that they are a bad person instead of them being taught that they're behaviours are inappropriate.”

- Youth sector worker

“Programs that don't address all the issues for example youth identified as having mental health issues or other dignosed disorders not being able to receive appropriate treatment. It is really hard to walk up stairs if you are in a wheelchair yet we expect youth with a pervasive development disorder to behave in a certain way, for example, to conform within our schooling system.”

- Youth sector worker

The combination of the ‘inflexible’ and the ‘mainstream’ was commented on by numerous youth sector workers as difficult for young people who had been in contact with the justice system. This is a factor that has been established by AYAC in previous research⁵¹ about young peoples engagement in certain structures. The research found that young people who struggled most to engage were facing the most serious and significant barriers, exacerbated by systemic issues with conventional systems, for example, education. Young people, it was found, need support not coercion to engage - that is, highly targeted solutions. When a young person has been through trauma, they don’t have the same skill set as those who have been nurtured and cared for. This necessitates the need for alternatives to mainstream systems that enable young people to focus on building skills that other ‘mainstream’ young people have already developed, and allowing these young people to focus on their strengths. When there is no room for this - the most disadvantaged are excluded.

Young people in contact with the justice system are often forced or mandated to participate in programs. While this can be useful in referring young people to support, and making sure they attend, it can be detrimental to true engagement and progress. It does not enable a young person to be a part of identifying what they need, or enable them to be part of the decision -making process. It can

51 Lammas, N (2012). Beyond Learn or Earn: Young people tell how policy can better support those who need it most. Published by the Australian Youth Affairs Coalition, Sydney.

create distrust of services into which they have been placed, as they seem part of the punitive, blaming process.

There is value in coming to understand different approaches to involving young people in support services. Both community sector and government all wish to achieve the same outcome for young people, but there lays a difference in approach, which is highlighted here.

When young people come from a background of trauma, abuse, neglect and more, trust needs to be established to begin to address the underlying issues the young person is working through. Where a program or service is mandated, or short term, very rarely will a young person be able to engage as these approaches cannot address root causes of contact with the justice system - young people will continue to feel blamed, unworthy and misunderstood, without aspirations or belief in a positive future and role in society.

Case Studies

Justice Reinvestment is not a foreign concept. The very principles that underlie such an approach are being used in Australia by some services to great effect. However the current climate in Australia is so that these services are piecemeal, under resourced, and targeted at the individual, as opposed to the comprehensive, coordinated Justice Reinvestment approach which targets the whole community, with great involvement from community.

Following are case studies of youth-specific services and projects in the youth work sector, as developed with the services in question⁵². These case studies give in-depth detail to the approaches and recommendations provided in this submission.

Case study #1: Throughcare, Northern Territory

Project Name	Throughcare
Organisaiton Website	North Australian Aboriginal Justice Agency http://www.naaja.org.au/

Bio

The North Australian Aboriginal Justice Agency Ltd (NAAJA) aims to empower Aboriginal and Torres Strait Islander people and advance the interests and aspirations of Aboriginal and Torres Strait Islander communities by providing a comprehensive range of legal and support services throughout the Top End of the Northern Territory.

“Working in this area is immensely rewarding even though setbacks are part and parcel of the work. Ultimately it comes down to the young people themselves but the greater the support structures they have at their disposal the better chance of establishing a life without reoffending.”
- Terry Byrnes, Acting Throughcare Project Coordinator

What is Throughcare?

NAAJA’s Indigenous Throughcare Project provides innovative, coordinated and culturally appropriate throughcare services to Aboriginal and Torres Strait Islander clients. We aim to help reduce repeat offending and Aboriginal overrepresentation in the criminal justice system.

The Indigenous Throughcare Project’s ultimate goal is to reduce repeat offending in a culturally relevant way. But more than simply concentrating on this the Throughcare Program seeks to act as a conduit for the clients as they make their way back into the community ultimately leading to a more productive, fulfilled life.

⁵² AYAC has drafted two further case studies in the area of prevention/early intervention and diversion, however, were unable to provide copies at the time of submission.

We aim to provide intensive pre and post release rehabilitation and reintegration services. The program provides strength based case management and referral services for individual prisoners to assist them with accessing opportunities when they are released from prison or juvenile detention. This is to be achieved by addressing an individual's diverse transitional needs including rehabilitation, accommodation, employment, education, training, health, life skills, reconnection to family and community and social connectedness.

NAAJA's Indigenous Throughcare Project works with prisoners and detainees on a voluntarily basis. Clients must also be in a situation of 'high need' and there must be a suitable period of time prior to release for a relationship of trust and confidence to develop between the client and their case worker, and for a comprehensive post-release case plan to be prepared.

Our targeted client group are prisoners and detainees who are vulnerable upon release to reoffending and who are not currently being serviced by another organisation.

Why was Throughcare developed?

NAAJA sought funding for an Indigenous Throughcare Project to meet a desperate need of Aboriginal people in the Northern Territory. Many of our clients were leaving prison with little or no pre-release planning, and little or no post-release support. Throughcare programs are a tried and tested method of working with people who have served a term of incarceration who are keen to make their way back into the community.

NAAJA's Indigenous Throughcare Project has four case workers and each has a capacity of 15 active clients, with the exception of the Indigenous Throughcare Project Coordinator who has a maximum caseload of 10 clients. With a client load that is manageable it is possible to place the utmost emphasis on providing high quality case management support to our clients with a view to demonstrating a service that is both rigorous and able to achieve results.

The target group is specifically those who indicate that they will most benefit from the Throughcare model which hinges on a collaborative cooperative approach to case management.

Throughcare clients are less inclined to reoffend in comparison to notable increase in reoffending especially in the NT.

Who in the community benefits from Throughcare, and how?

There is an improved level of community safety due to a reduction in re-offending. This increases the quality of life for all in the community but it also benefits the public purse as the drain on finances to keep a prisoner in gaol, and particularly a juvenile in detention, is exorbitant. Families benefit having the children with them at home and the young people benefit from the security of home life and education.

Being better prepared for release and having access to services during the transition between custody and community life helps the young person make an ordered transition.

The project has developed a strong working relationship with the juvenile detention centre Don Dale. This relationship is the platform on which so much of the work is undertaken. With the high level of cooperation, which is evident through the level of communication through phone calls, emails and regular meetings, the nuances and particular difficulties the detainees are facing are teased out. This allows each client to be worked with on a particular case by case basis.

What is innovative or different about Throughcare, compared to other similar projects?

The NAAJA Throughcare program has been developed and devised through many hours of revision and communication. In Darwin there is only one other program of this nature and this program is implemented by a sole operator. Throughcare makes the most of the team knowledge and experience. There is a highly collegial atmosphere which fosters a high level of communication and information sharing. This affords each worker a further certainty, beyond his or her own judgment,

that a particular path is best for an individual client. Thus each client's case management is tailored to their individual needs.

It is the individual, strength based, intensive case management that is the distinguishing feature of this program and where the caseworker derives the most satisfaction. Also the pathway which the case management takes is arrived at by the caseworker and the client in mutual agreement. Because of this the client has a stake in the implementation and the outcome of the case plan.

Throughcare was very fortunate to work in concert with the caseworkers and management at Don Dale Juvenile Detention Centre. This afforded the program to devise a range of activities and innovations that assisted with the reintegration of young people on their release. One of these programs was an association which was developed with the Riders for the Disabled Association where young people could do volunteer work. This saw the young people working with animals and helping others in the community.

In working with culturally diverse young people, Throughcare has benefited from cultural advisors, communication across a small team, working collaboratively with Aboriginal and Torres Strait Islander communities and the experience that employees bring to the team.

How is your Throughcare funded, and what other resources do you use?

Throughcare employs three caseworkers (which is currently standing at two whilst that position is being filled) a project coordinator and an administration officer. All of these staff are employed on a full time basis. There are no volunteer staff working with Throughcare.

Throughcare's funding comes from the Federal Attorney General's Department. No funding is received from the Northern Territory government.

Throughcare is not project partnered with any outside organisation although we have close working relationships with a range of stakeholders.

How is Throughcare evaluated?

As mentioned, we collect a range of statistical data about our clients. This includes the types of services we provide to our clients and numbers of clients who re-offend while part of our program.

However, the measurement of success of all human service delivery programs is always difficult to gauge. Success in helping a young person, who has served time in custody, make their way back into the community is complex. The gathering of information that supports this is equally complex. An obvious measure is recidivism but there are many other subtle ways in which clients demonstrate their capacity to exist successfully within the community. Keeping appointments, being on time, willingness to communicate, appropriate dress all go towards the caseworker making an evaluation of the client's progress.

Clients are asked to fill in a survey both during and at the completion of the Throughcare program. This allows the program to have first hand evolution from the person who is most central to the operation: the young person.

Throughcare perpetually tries to refine the evidence gathering which is given to the Attorney General's department on a twice yearly basis.

The young people have responded to the support that Throughcare gives them as this is often lacking at home.

Case Study #2: Outcare, Western Australian

Project Name Outcare
Website <http://outcare.com.au/>

Bio Outcare is Western Australia's only specialist non government provider of crime prevention services and programs. It was established in the early 1960's and has grown into an award winning and well respected organisation, operating in a variety of areas to enhance community stability and safety. Outcare's charter is to make Western Australia a safer place to live by providing rehabilitative and supportive services for offenders, ex-offenders and their families. We do this by taking a holistic approach to crime prevention. Our broad range of education, intervention and reform programs reduce the re-offending rate of people in conflict with the justice system and support their successful rehabilitation and re-integration into society. In turn, this leads to a safer community and lower costs associated with the justice system. Outcare looks to the future, not at the past. It's about creating a new beginning for people and a new beginning for the community of Western Australia.

"What works with young people is being honest, upfront and trusting while working in a positive environment with the right supports at the right time.

Outcare workers take the place of a number of supports and people in a young person's lives such as confidants, mentors, and friends with a positive influence. The relationship between Outcare workers and the people involved in their programs is ongoing."

- Sam Mesiti Manager of Youth Services

Introduction

Outcare in Western Australia aims to reintegrate disengaged young people back into society by increasing a young person's skills for successful reintegration and involvement in their communities. Outcare's organisational beliefs are aligned with the concept of Justice Reinvestment, with a large emphasis on reinvesting into communities with a high prevalence of offending behaviours,

Sam Mesiti, Outcare's Manager for Youth Services, states, "We need to invest in our community and these people that are at risk, and we can do this by investing in solutions that don't build jails or detention centres, but build futures."

What does Outcare do?

Outcare has been operating for close to 50 years, working with young people in contact with the youth justice system and connecting them back to community.

The three main services out of the Outcare Youth Services are:

1. Live Works (targeting males aged 15-22)
2. The Aboriginal Youth Intensive Support Service (targeting Indigenous young people aged 10-

25)

3. Reconnect (ages up to 22)

Outcare's main youth service is Live Works, which is a full-time 20 week program that works with young Indigenous males coming out of the justice system. This program places them into an environment that invites, entices and challenges them to start doing things that are different to what they are used to.

Live Works currently have 3 hubs of 15 young men running in areas that have predominantly high Indigenous youth populations, with a goal of getting young men work-ready.

Key issues for these young men involved a lack of connection to community and disengagement from mainstream activities like education, training, employment. Each have been incarcerated, as opposed to taking part in diversionary measures.

Outcare work with their clients in the long term. As these young men gain more independence, Outcare reduce the amount of support given to them. There are no time periods for these outcomes.

The Live Works program is delivered by a team that includes: a case manager, a qualified trainer that organises the program, a Registered Training Organisation that oversees that program, an employment officer on each site, and a mentor who work with the young men all day.

Why was your project developed?

Live Works was developed to address the mass marginalisation of vulnerable young people, as well as working with them to assist engagement and inclusion. Outcare works with young people to overcome obstacles via positive programs that benefit both young person and community alike.

Outcare provides a comfortable and acceptable environment that young people feel that they can be part of. Marginalised young people are given the support, education and qualifications to be job-ready, handle an interview, and to go to school and to avoid situations of shame or exclusion that can occur when a young person has been engaged in education, for instance, due to incarceration. Outcare is committed to ongoing, lasting and positive outcomes for young people.

Outcare identifies the needs of their clients via in-depth assessments, building on trust to identify what the issues are for them specifically, underlying causes, and devise, with the young person, a plan to achieve their goals.

Who in the community benefits from this project and how?

The participants of the program, as well as their wider community, benefit from Live Works.

A big achievement for Outcare is the change of self-perception amongst the young men they are working with. These young men start to see themselves as worthy, respected and view their role in the community positively. Offending is greatly reduced by such a holistic service, and often results in fulfilling employment for its participants.

Outcare's success rates are evident in the drop in recidivism rates of those that are involved in their accommodation and re-entry programs. Currently the approximate recidivism rate for in WA is 41%, compared to the recidivism rate of 17.5% if involved with Outcare.

The cost of running Live Works is substantially lower than the cost of incarcerating a young person per day in WA, with much higher success rates. There is also an improvement of the perception of young people in the community.

What is innovative or different about your project, compared to other similar projects?

The Live Works team is made up of both Indigenous and non-Indigenous team members who aim to

lead by example by acting as mentors and role models for the young people involved in the program. This involves taking a pro-social approach.

A distinguishing feature of project is that it's all for the young people. It is non-discriminatory in service delivery and incorporates advocacy for the benefit of participants. Live Works promotes the positive behaviours of these young people, and gets them excited about their futures and what they are doing to get there.

An example of effective strategies Outcare has employed is their action research. They have set up Key Performance Indicators (KPIs) that are realistic and entered on the young people involved in the program rather than the organisation, which differs greatly from other organisations.

How is your project funded and what other resources do you use?

Live Works is specifically funded by the Department of Corrections, and works specifically with young people coming out of correctional facilities. Live Works also have continued support from the Department of Attorney General and FaHCSIA.

Live Works' budget over 4 years is \$7.5mil.

Outcare has 26 youth services staff, with 18 of them funded by the Live Works program, as well as a range of volunteers who help with various services that Outcare delivers to the community.

Live Works have set KPIs to achieve, which been formulated collaboratively with their clients to identify what is realistic and achievable. They evolve and revolve around the benefits and outcomes of young people.

Outcare takes a whole-of-community approach to youth justice, acting collaboratively. Some of Outcare's project partners are: Department of the Attorney General, the Department of Housing, the Department of Education, Employment and Workplace Relations, the Department Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), Department of Corrective Services, Swan Emergency Accommodation, Dale Alcock Homes and Woolworths.

Project evaluation process

At Outcare, feedback mechanisms are essential. Monthly meetings are conducted with the contract managers of the Department of Corrections, as well as monthly meetings with the mentors in the field that are managing staff and interacting with young people. The feedback is shared with the participants of the programs.

Prior to the start of each Live Works program, a pre-commencement evaluation is conducted to identify the goals of each client. During the program, a daily report is taken on the attendance of the young men, as well as a weekly report on the level of participation and interaction of the clients. A report is also done every 6 months on each hub. At the end of the program, a post program evaluation is then conducted to identify what goals each client has achieved.

The project has evolved over the years by constantly evaluating and reviewing the program and the outcomes to identify any gaps by Outcare and also these young people, with a major emphasis on ownership of actions and connection of culture. Outcare workers are constantly involved in the process of identifying what opportunities and supports can be given to young people, and what other realistic pathways there are for them.

Conclusion

Through the collection and analysis of research, data, advice from those who work directly with young people, and the provision of case studies, AYAC advocates for Government to address the gaps in the youth justice system, utilising the Justice Reinvestment framework.

Young people in contact with the system are our most disadvantaged and vulnerable, yet critical to the wellbeing of Australia. Current policy and practice has not served to reduce crime by addressing the factors that are correlated with offending.

Justice Reinvestment proposes pathways to resolve high rates of offending and recidivism, while ensuring value for money.

What is required is a determined, coordinated commonwealth effort to break the cycle and provide the necessary data, evidence-base, and appropriate support and services to local communities, so they, in turn, can strengthen circumstances for young people, with young people.

Governments must not overlook the tremendous societal problems young people in contact with the justice system face when tackling crime. Young people are part of the solution.

In the words of Professor Chris Cunneen, “We need to ask ourselves, how many more generations of ...young people will be taken away from their families and communities, locked away in institutions and propelled into life courses of poor education, high unemployment and social dislocation? Justice re-investment offers us an opportunity to think differently and to act differently in the way we approach crime and marginalisation. Rather than more of the same failed policies, it provides us with a chance to shift resources into community development and rehabilitation strategies with positive outcomes. For too long governments have been prepared to throw money at destructive polices that reproduce criminal offending and fail to reduce recidivism. Do we really want to live in a society where, for example, Aboriginal young men are more likely to be found locked in a prison cell, than sitting in a university class room? Justice re-investment offers a different path for political and community leaders who are insightful and fearless enough to envision better social outcomes.”⁵³

⁵³ NSW Justice Reinvestment Campaign, 2013. Campaign Supporters, accessed via <http://justicereinvestmentnow.net.au/category/supporters/>