

INQUIRY INTO CRIME IN THE COMMUNITY: VICTIMS, OFFENDERS AND FEAR OF CRIME

Legal Aid Queensland has a specialist Youth Legal Aid (“YLA”) unit which represents young people who have been charged with criminal offences. The experience of YLA relates to three items of the Terms of Reference being:

- (b) Perpetrators of crime and motives;
- (c) fear of crime in the community;
- (g) effectiveness of sentencing.

The following comments are based on our experiences as legal practitioners acting for young people in the youth justice system. Data in relation to youth offences brought before the courts in Queensland can be obtained from the Annual Reports of the Children’s Court of Queensland which we urge you to consult.

Perpetrators of crime and motives

Legal Aid Queensland represents directly over 18% of all young people charged with criminal offences, and funds the representation of many other matters, through private practitioners funded by Legal Aid. Our experience has led us to form a firm view on the type of young person most likely to come before the criminal courts.

In our role as legal representatives, it is our experience that many of those young people come from troubled family and community backgrounds that lack support networks. In our experience the young people:

- (a) May have been victims of proven or unproven criminal behaviour in the past, including sexual or other violent abuse;
- (b) Are in need of child protection orders, are currently on child protection orders, or have been on such orders in the past;
- (c) May have committed offences as a direct result of some form of substance abuse, such as alcohol, illegal drugs, or insolvents;
- (d) Commonly suffer from some form of psychological disorder.
- (e) Are often outside mainstream education systems.

Our experience as outlined above, points to many young people as offenders being themselves vulnerable within society, apart from age. This in turn raises challenges for government and community in relation to addressing the serious support needs, such as those identified above, of young people *prior* to those young people entering the youth justice system. In our view, the early identification and addressing of some of these life problems is a critical challenge

for government and the community and one that must be better met than is currently the case.

We further note that our present legislation in Queensland - the *Juvenile Justice Act 1992* – provides for detention as a last resort. This is, in our experience, the correct approach to dealing with youthful offenders. This approach must, however, be complemented by adequate resources to support young offenders who are facing detention. A publication from the Department of Families “Youth Justice in Queensland 2002” supports the literature that “most young offenders “grow out of” offending as they mature and assume positive roles in the community through employment and training.” It is our experience that commonly those resources are not readily available, and that a Magistrate will be left with little option but deal with that young person by way of a period of detention. An outcome such as this which is the result of a scarcity of resources, rather than what meets the real needs of the young offender is unacceptable if some serious positive outcomes are to be achieved in breaking a youthful offending cycle. The alternative consequence is that a young person risks becoming “institutionalised” in detention. That young person misses out on experiencing positive modelling in the community which is more likely to divert them from re-offending.

Fear of Crime in the Community

We have real concerns that the level of community fear of crime is contributed to significantly by the manner of media reporting of crime, and specifically youth crime. There is propensity in the media to focus youth-related stories on “youth-crime”, rather than to also report positive stories involving young people.

Further, it is our experience that some media outlets misreport issues in order to exaggerate a perceived “youth crime problem”. An example may be found in the way that the Courier Mail reported the release of the Annual Report of the Children’s Court of Queensland for 2000/2001. The “angle” that the Courier Mail took, in its front page article of 4 June 2002 (article attached) related to what it described as the “dodging” of court by young people who were cautioned. This approach mirrored that of the Courier Mail’s reporting of the release of the Children’s Court of Queensland’s annual report from the previous year, 1999/2000 in which its 23 March 2001 angle was “Jail and courts “a joke” to juveniles” (article also attached). The Courier Mail’s coverage of the Annual Report was sensationalist. Both Annual Reports in fact revealed positive trends in relation to youth offending, with categories of reported either largely stable or decreasing. The Courier Mail chose not to report this real story, but rather to actively seek a sensationalist, fear-mongering approach.

We are concerned that such reporting contributes to a false sense of fear in the community about levels of youth offending. In this respect we note that there is research which is supportive of our experiences and concerns (see for example

“Youth, Crime and the Media: Media representation of and reaction to young people in relation to law and order”, Ed Bessant and Hil, National Clearing House for Youth Studies, 1997)

Effectiveness of Sentencing

The youth justice system in Queensland adopts a principle that detention should be a last resort for juveniles. As noted above, this is, in our view, the correct approach. Alternatives to detention, and in lesser matters to appearing in court, have been utilised for some time. Our experience has been that diversionary sentences are by-and-large effective.

We note generally the findings of the 2000/2001 Annual Report of the Children’s Court of Queensland to the effect that:

The statistics do not support any significant increase in juvenile crime, indeed the substantial decrease in the number of defendants appearing before the Children’s Court of Queensland and the District Court, suggest a reduction in more serious crime by juveniles (p3)

This would appear to us to indicate that current sentencing options are proving broadly effective.

A particularly effective diversionary option that has been adopted in recent years in Queensland is that of “community conferencing”, an option which is increasingly being used by the courts. It is our experience that community conferences are commonly successful in reaching outcomes that are satisfactory to the parties involved in the offence, such as the victim and the offender. Community Conferences, however, are not available state-wide for resource reasons. In our view, the operation of the youth justice system will be more effective when community conferencing is available in all areas of Queensland.