HUMAN RIGHTS (MANDATORY SENTENCING OF JUVENILE OFFENDERS) BILL 1999

GOVERNMENT SENATORS REPORT

1. BACKGROUND

1.1 The purpose of the *Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999* ('the Bill') is to invalidate any part of Commonwealth, State or Territory law that requires a court to impose mandatory detention or imprisonment for offences committed by a child under 18 years of age or to take account of prior juvenile convictions in the mandatory sentencing of an adult.

1.2 The Bill is directed to overriding the specific mandatory sentencing regimes incorporated in the Western Australian Criminal Code (amended 14 November 1996) and the Northern Territory's Sentencing Act 1995 and Juvenile Justice Act 1983 (amended 8 March 1997). A detailed history of the Western Australian and Northern Territory legislation respectively and the operation of the mandatory sentencing provisions are set out in the majority report.

1.3 Government senators on the Committee find themselves in agreement with certain aspects of the majority report. These comments will address the terms of reference of the inquiry and present further conclusions and recommendations.

1.4 The Committee has received valuable evidence from many witnesses, particularly witnesses in the Northern Territory and Western Australia. In addition to presentations from the Governments involved, the Committee was interested to hear from practitioners in each of the systems and hear feedback from community representatives on the impact of the laws.

1.5 Evidence received by the Committee in relation to the operation of mandatory sentencing laws in the Northern Territory and Western Australia has engendered significant public interest, as have external events during the period of the Committee's deliberations since the Senate reference of 1 September 1999. These events have included the tragic death of a 15 year old boy whilst in detention at Don Dale Detention Centre in Darwin and extensive political debate, particularly in recent weeks leading up to a by-election in the Northern Territory.

1.6 In recognising the tragedy of the death of a fifteen year old boy, Government senators acknowledge the disturbing levels of youth suicide across Australia. At the same time we note the strong recommendations of the Royal Commission into Aboriginal Deaths in Custody that clearly set out the heightened risk of suicide of indigenous Australians under incarceration.

1.7 Government senators recognise that the genesis of the laws was a widely discussed concern about increasing levels of property crime in the Northern Territory, and of home burglary in Western Australia. These are concerns that we acknowledge and take seriously. There is no suggestion in this report, nor has there been during our participation in the public hearings of the Committee, that offenders should not be punished for their offences. We are cognisant of the evidence given by both governments of the concerns in their respective communities that apparently lenient sentencing was diminishing faith in the justice system and that their decisions to introduce mandatory sentencing provisions were broadly in response to these concerns.

1.8 Government senators are also mindful that much of the evidence received by the committee went to the broader social and cultural problems faced by many communities, in particular in the Northern Territory. It is suggested that many of these problems are exacerbated by the imposition of mandatory sentencing. The causes and underlying factors influencing these issues are beyond the scope of this Committee inquiry but the evidence did assist the Committee in appreciating the complexity of the situation.

2. MANDATORY SENTENCING

2.1 Briefly, mandatory sentencing laws impose prison or detention sentences of minimum periods on persons convicted of specified offences. Mandatory sentencing removes judicial discretion in sentencing procedures that would otherwise enable the courts to determine a penalty based on the circumstances of the offender, the victim and the gravity of the offence.

2.2 As detailed in Chapter 2 of the majority report, the laws in Western Australia apply particularly to the offence of home burglary. They are often described as the 'three strikes legislation', meaning that on a third appearance before the court for the offence of home burglary, the offender is subject to a mandatory minimum period of imprisonment for twelve months. The laws in the Northern Territory apply to a broader range of general property offences and for juveniles the first minimum mandatory period of detention is applied from the second charge. The period is specified at 28 days.

2.3 The majority report in Chapters 2 and 5 has presented in some detail aspects of the operation of the Western Australian laws. It has already been noted that the breadth of the law in terms of offences covered is markedly narrower than that of the Northern Territory. In addition, the report notes the construction of 'safeguards' in the practical application of the provisions of the legislation. The Government senators note that in their view the operation, and, by extension, the impact, of the Western Australian legislation is significantly ameliorated by these safeguards.

3. PROVISION OF STATISTICAL INFORMATION

3.1 Government senators agree with the concerns expressed in Chapter 3 of the majority report. As noted, the Committee endeavoured to obtain and analyse statistics from both jurisdictions to enable members to address the impact of the sentencing regimes in a number of specific areas.

3.2 The Western Australian government noted that statistics they provided relating to adult offenders were probably not an accurate reflection of the situation but that they were reasonably confident of the information derived from the reporting of the number of juveniles[1].

3.3 In the Northern Territory, detailed information was not readily available to the Committee and efforts of witnesses to interpret the statistics that are published resulted in a variety of claims about the effects of mandatory sentencing.

3.4 The following tables summarise the age groups affected by the Western Australian and Northern Territory regimes:

Western Australia's Mandatory Sentencing Regime for Home Burglaries

	Offence No.	**Penalty**
Adults (18 years)	Third or subsequent offence	12 months gaol.
Young persons (16 and 17 year olds)	Third or subsequent offence	12 months prison or detention. OR Intensive youth supervision order.

[1] See Submission No 96, Western Ministry of the Premier and Cabinet, p8

Northern Territory's Mandatory Sentencing Regime for Property Offences[2]

	Appearance No.	**Penalty**
Adults (17 years)	First sentencing	Min. 14 days gaol, but court does not have to impose mandatory sentence in special circumstances.
	Second sentencing	Min. 90 days gaol.
	Third and subsequent sentencing	Min 12 months gaol.
Juveniles (15 and 16 years)	First appearance Second appearance	Court has wide range of sentencing options Min. 28 days detention or juvenile must join a special program. If program completed, court may discharge without penalty. If juvenile fails to complete program, court must order 28 days detention. Court may also impose punitive work orders.
	Third or subsequent appearance	Min. 28 days detention.

3.5 Specifically the impact of mandatory sentencing can be seen to affect

- in Western Australia , adults (18 years or over) and juveniles (aged 16 or 17) who must receive at least 12 months for a third or subsequent offence of home burglary, (although there have been instances where Conditional Release Orders have been used to circumvent a mandatory sentence for juveniles.)
- in the Northern Territory,

  -adults, including young adults 17 years of age -

[2] Property offences comprise theft (except where the theft occurred when the offender, not being an employee, was lawfully on premises where goods were sold), criminal damage, unlawful entry to buildings, unlawful use of vessel, motor vehicle, caravan or trailer, receiving stolen goods, assault with intent to steal, armed and unarmed robbery, being armed with intent to enter, taking a reward for the recovery of property obtained by means of crime and possession of goods reasonably suspected to be stolen.

i) for a first appearance on property offences, at least 14 days except in special circumstances,

ii) for a second appearance at least 90 days and

iii) for a third or subsequent offence, at least 12 months and

- juveniles –

iv) for a second appearance at least 28 days or participate in a diversionary program and

v) for a third or subsequent appearance at least 28 days.

3.6 The Western Australian government stated in its submission that data provided by the Children's Court showed that a total of 83 juveniles had been sentenced under the mandatory sentencing legislation up until 30 June 1999.[3] The submission also stated that that number included 9 juveniles who received an Intensive Youth Supervision Order and 2 cases that were overturned on appeal. It further stated:

> "The number of juveniles being sentenced under the legislation has diminished over time. The legislation became operative in November 1996, with the first sentence being handed down in February 1997. For the remainder of 1997 the monthly average number of sentences was 5.2; for 1998 the average was 0.7; and for the first six months of 1999, the average was 2.3."[4]

3.7 In his evidence, given on 3 February 2000, the Western Australian government representative said that 88 juveniles had been sentenced since the introduction of the legislation.[5] The addition of only 5 sentenced juveniles after 30 June 1999 (see paragraph 3.6) suggests that the number of juveniles receiving sentences under the legislation had fallen again in the second half of 1999.

3.8 The figures made available by the Northern Territory government on 2 and 6 March 2000[6] indicate:

i) in 1997-98, the mandatory sentences of 28 days received by juveniles for property offences numbered 16 whereas the other sentences received by juveniles for property offences numbered 37;

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3 Submission No 96, Western Australian Department of the Premier and Cabinet, ,p.6.

4 Submission No. 96, Western Australian Department of the Premier and Cabinet, p. 88.

5 Transcript of evidence, p. 111.

6 That is, Submissions Nos 91 D and 91E.

ii) in 1998-99, the mandatory sentences received by juveniles for property offences again numbered 16 whereas the other sentences received by juveniles for property offences numbered 63; and

iii) in the first half of 1999-2000, the mandatory sentences received by juveniles for property offences numbered 3 whereas the other sentences received by juveniles for property offences numbered 10.

3.9 Although the statistics may be open to question, it seems a fair conclusion that, in Western Australia, the number of juveniles detained has diminished after the first 12 months of operation of the legislation.

3.10 In relation to the Northern Territory, the statistics suggest that the number of juveniles detained has dropped sharply since the introduction of the amendments providing for grouping of offences and diversionary programs for second-time juvenile offenders that commenced on 1 August 1999.

3.11 It has been argued that in practice the laws target a relatively small group of repeat offenders responsible for property crime who were likely to have been detained in any event. This is supported by the statistics recently supplied by the Northern Territory and the inferences that can be drawn from them. We were told that a first-time offender is charged with an average of five property offences and a second-time offender is charged with an average of eight property offences.[7]

3.12 However, the evidence is incontrovertible that, at least in the Northern Territory, juveniles and young adults have on occasions received mandatory detention for what are widely regarded as trivial offences, and that the sentence has been disproportionate to the gravity of the offence.

4. STATE AND TERRITORY RIGHTS

4.1 The Government Senators are acutely conscious of the fact that the mandatory sentencing regimes of Western Australia and the Northern Territory are validly enacted laws of democratically elected State and Territory governments respectively and that those laws enjoy a measure of popular support.

4.2 Sentencing practices are properly the province of each State and Territory. International treaty obligations provide a potential basis for the Commonwealth to intervene in many areas of State and Territory responsibility on virtually an ad hoc basis.

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7 Transcript of evidence, Northern Territory Government, p. 52

4.3 The importance of maintaining the 'federal balance' remains a fundamental plank in the distribution of power between the Commonwealth and the States and Territories. To maintain it, the exercise of any Commonwealth legislative intervention or override against the wishes of a State or Territory must be accompanied by restraint and only used in the clearest of circumstances. Simply because the Commonwealth may not agree with a State or Territory action or law confined in its operation to that State or Territory, is usually an insufficient basis to intervene.

5. SEPARATION OF POWERS

5.1 The mandatory sentencing laws were enacted in Western Australia and the Northern Territory as a response to the perceived high rates of crime, the need to protect the community and the need to deal with criminal behaviour in a way that received community acceptance.

5.2 Although it is not entirely clear why, it appears that there was loss of confidence in the ability of the judiciary to sentence offenders in accordance with community expectations in both Western Australia and the Northern Territory.

5.3 The prescription of mandatory sentences and removal of judicial discretion has been criticised as offending the doctrine of separation of powers. There are, however, doubts whether the doctrine has application to State Courts[8] and the question has not been settled as it affects the Northern Territory.

5.4 Although the Government Senators are concerned for the rights of individuals denied the benefit of judicial discretion in sentencing, we recognise that Parliaments may need to respond to community concerns if the judicial system fails to strike an appropriate balance between the rights of an individual offender and the needs of the community.

6. COMMONWEALTH POWERS

6.1 Concerns have been expressed that leaving aside the social aspects of mandatory sentencing and the potential impact on Australia's indigenous people, the mandatory sentencing laws infringe common law and other legal obligations assumed under international law that warrant Commonwealth intervention.

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8 *Kable v DPP* (NSW) 1996 189 CLR 51.

6.2 Obligations under treaties to which Australia is a party are obligations owed by Australia as a nation irrespective of whether these obligations are implemented by the Commonwealth government or by State or Territory governments.

6.3 As the Commonwealth has no general power to legislate with respect to juvenile justice, the question is, where does it derive its power to legislate to override mandatory sentencing laws that affect juveniles?

6.4 The Commonwealth Parliament has plenary power pursuant to section 122 of the Constitution to legislate in respect of Territories. The legal position is set out in the majority report and need not be repeated.[9] The more confronting issue with the Northern Territory is whether the Commonwealth should intervene and how, not whether it can.

6.5 The Western Australian legislation poses very different legal problems and involves the use of the external affairs power. Neither the Convention on the Rights of the Child (CROC) nor the International Covenant on Civil and Political Rights (ICCPR) specifically proscribes mandatory sentencing. However a number of provisions of both these treaties are said to create apprehended obligations that would provide a basis for implementing domestic legislation that would invalidate the offending State laws.

6.6 In determining whether any of these provisions have been breached, the following general principles of treaty interpretation are appropriate:

a) a treaty is to be interpreted in good faith, in accordance with the ordinary meaning of the words in their context and in the context of the treaty as a whole and in light of the object and purpose of the treaty;

b) States are accorded a 'measure of appreciation' in their implementation of international obligations. This is the degree of latitude in how treaty obligations are interpreted and applied.

6.7 The matters that are taken into account in assessing the breadth of the measure of appreciation will depend on a number of factors such as:

- the specificity of the treaty language;
- State practice;
- the significance of the rights involved;
- the object or purpose of the treaty;
- whether the treaty points to balancing considerations.

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9 Chapter 4, paragraphs 4.7 – 4.26.

6.8 If there are concerns as to whether a State or Territory has breached international obligations, there are a number of options available to the Commonwealth which include:

a) a detailed ongoing review of the relevant laws to better determine how the potential difficulties in meeting international obligations could be overcome;

b) an assessment of available alternative programs, and how better co-ordination, reach or resourcing might be achieved;

c) consultation with the States and Territories through the Standing Committee of Attorneys-General (SCAG) or the Standing Committee on Treaties to help address the breach and provide a remedy.

In this regard, mandatory sentencing is on the agenda for the next SCAG meeting;

d) as a last resort, passing inconsistent Commonwealth legislation relying on s109 of the Constitution to invalidate so much of the State/Territory legislation as is inconsistent with the Commonwealth Act. In the present case, this would require legislation that must be reasonably capable of being considered appropriate for achieving the purpose or object ascribed to the obligation[10].

6.9 The likely outcome of intervention based on the external affairs power would be twofold. Firstly such an attempt at override by use of the external affairs power would be challenged in the High Court. Second, it would be relatively easy for a State/Territory government to circumvent a specific Commonwealth law by the amendment of its own legislation.

7. VALIDITY OF THE BILL

7.1 Assuming for the purpose of argument that the Commonwealth has the necessary power to pass legislation to prohibit mandatory sentencing, the next question is whether the Bill is likely to be upheld as a valid exercise of that power.

7.2 Arguably, the Territories power could support the entire Bill as it applies to the Territories, but not as it applies to the States. Likewise, it is possible that the external affairs power could be used to identify a relevant obligation as it applies to juvenile justice upon which to base implementing legislation. However, it may not be able to support the Bill to the extent that it relates to the prior juvenile offences of adults.

7.3 No consideration has been given to whether or not the Bill is capable of being read down to fit within the Territories or external affairs powers, although

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[10] *Victoria v. Commonwealth (Industrial Relations Act case)* (1996) 187 CLR 416

Commonwealth Acts are usually interpreted so as not to exceed legislative power.[11] There may well be a difficulty where a single provision intentionally deals with disparate subject matters. Moreover, on a literal reading of clause 5 of the Bill it could operate as a blanket prohibition on detaining a person under 18 years of age, whatever the circumstances.

8. MANDATORY SENTENCING – INTERNATIONAL OBLIGATIONS

8.1 A preponderance of evidence received by the Committee asserted that mandatory sentencing for juveniles breaches Australia's international obligations, more particularly:

- Article 40(4) of CROC, which requires the facts of the offence and the circumstances of the offender to be taken into account,
- Article 3(1) of CROC that the best interests of the child are to be a primary consideration,
- Article 37(b) of CROC that the detention of children should be a last resort and for the shortest possible period,
- Article 40(2)(b) of CROC and Article 14(5) of ICCPR that the conviction and sentence should be reviewable by a higher court.
- Article 40.2(b)(vi) of CROC that every juvenile alleged as, accused of, or recognised as, having infringed the penal law has the guarantee to have the free assistance of an interpreter if the child cannot understand or speak the language used.

The arguments are canvassed in the majority report.

8.2 The Western Australia and Northern Territory governments each vigorously disputes the assertions that their respective mandatory sentencing regimes breach Australia's international obligations under CROC and ICCPR. They claim that mandatory sentencing is consistent with Article 40(4) of CROC, because the offences are serious and warrant the minimum sentence. They claim that the requirement in Article 3(1) of CROC that the best interests of the child are to be a primary consideration does not require those interests to be put ahead of other considerations such as the protection of the community.

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[11] *Acts Interpretation Act 1901* (Commonwealth), s 15A: 'Every Act shall be read and construed subject to the Constitution, and so as not to exceed the legislative power of the Commonwealth, to the intent that where any enactment thereof would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power'.

8.3 Regarding the requirement for the detention of children to be a last resort and for the shortest possible period, the Northern Territory government states that mandatory sentencing is not used against particular juveniles until other non-custodial and diversionary options have been tried and failed and that the grouping of offences for the purpose of sentencing reduces penalties. The Western Australian government, on the other hand, refers to the serious nature and prevalence of the crime and to the small number of juvenile offenders targeted. In relation to the requirement that the conviction and sentence be reviewable by a higher court, the Northern Territory government argues that this applies in relation to any sentence imposed in addition to or in excess of the minimum. On the other hand, the Western Australian government claims that a juvenile given a sentence of detention in excess of 12 months can appeal its length or if given a sentence of only 12 months detention, can appeal on the basis that he or she should have only been sentenced to an intensive youth supervision order.

8.4 Although there is no definitive or binding opinion on whether or not the operation of mandatory sentencing breaches international obligations, subject to the margin of appreciation and State practice the weight of the evidence suggests that it does. The proposition is clearly arguable if not conclusive.

9. SOCIAL AND LEGAL IMPACTS OF MANDATORY SENTENCING

The impact of mandatory sentencing on particular groups, including indigenous people and people with disabilities.

9.1 The Committee received lengthy evidence on many of the social and legal impacts of both the general policy environment and the operation of mandatory sentencing. Government senators agree with the majority report that it is difficult to separate those impacts in a number of areas.

9.2 The Government senators note that the provisions of the laws in both jurisdictions are applied universally ie. they do not discriminate legislatively based on race, gender or disability. However, in terms of evidence received by the Committee it is clear that the impact of the legislation in the Northern Territory is felt most severely by the Aboriginal community, although the statistics were difficult to interpret. There was also extensive evidence of the discriminatory implications for women in the Territory regime.

9.3 Examples of concerns raised in evidence include

- the isolation and resultant stresses arising from the removal of young people from remote areas to detention centres hundreds of kilometres from their families;

- the difficulties associated with contacting their families even by telephone, or arranging visits from family members whilst in detention;

- the possibility that the offender will have a complex set of significant social problems including substance abuse, homelessness or illiteracy amongst others;

- disruption to education or employment responsibilities arising from what may have been a minor offence for which the offender has been imprisoned for 28 days; and

- obviously and most importantly in the context of this inquiry, the inability of the sentencing judicial officer to take into account such circumstances, let alone the nature of the offence committed and its impact on the victim in the process of determining the most appropriate sentence for the offence.

9.4 The impact of the Western Australian legislation on the indigenous community was acknowledged in evidence[12]. In addition, the Western Australian government also informed the Committee of the efforts being made to address these concerns, including the Aboriginal Justice Plan and Juvenile Justice Teams.

9.5 These issues are detailed comprehensively in the majority report in Chapters 6 and 7 and address the key matters raised in evidence.

10. REFORMS AND OPTIONS

10.1 It must be acknowledged that both the Northern Territory and Western Australian governments have independently taken steps to amend the operation of their respective mandatory sentencing regimes.

10.2 The Western Australian legislation binds the Minister to conduct a review of the operation of the mandatory sentencing provisions after four years from its commencement, namely 14 November 1996, and to report to parliament no later than a year after that.

10.3 Since the introduction of the legislation there have been a number of rulings which have qualified the operation of the 'three strikes' provisions in respect to juveniles. These include:

- as an alternative to immediate detention, the President of the Children's Court can, where it is deemed appropriate, place a young person on an Intensive Youth Supervision Order which means that the offender is supervised in the community (with detention as a default option);
- giving credit for time spent on remand and backdating sentences;
- ruling that previous convictions more than two years old do not count as strikes; and

[12] See Transcript of evidence, Western Australian Ministry of Justice, p.111

- ruling that previous convictions for home burglary where no penalty was given do not count as a strike (*Young Offenders Act*, sections 66 and 67).

10.4 In the Northern Territory, the legislation applying to both adults and children has been amended several times. The most notable amendments were those in 1999 in which it was provided that offences could be grouped and that adults need not be sentenced for a first strike in certain circumstances (commenced 4 July 1999) and that juveniles could be assessed for diversionary programs instead of mandatory detention for second appearances (commenced 1 August 1999).

10.5 Results so far indicate that the number of juveniles being sentenced under the legislation has diminished significantly over time. In 1997-98, 46 juveniles were convicted under the legislation, compared with 60 in 1998-99 and 21 in the second half of 1999.

Diversionary Programs

10.6 Regarding diversionary programs, initially ten were approved and gazetted. They included programs aimed at enhancing self-esteem, training and employment programs and sports programs aimed at encouraging potential. Another diversionary program includes victim/offender conferencing.

10.7 It has been difficult to make a considered assessment of how well the programs are working. Evidence given to the Committee indicated that the programmes currently in operation had received no more than 15 referrals since their operation commenced. None of the significant number of legal practitioners who gave evidence to the Committee had an indigenous client referred to a diversionary programme.

10.8 On 15 February 2000, a further 11 programs were approved, followed by another ten planned. One size does not fit all requirements for these programs. Logically enough, each program has to be individually tailored to meet the needs of people in remote communities, including the available facilities and the social dynamics of each community. Such programs only succeed if there is community support. We were told that sometimes community elders believe that it is in the best interest of the community that young offenders be temporarily removed, but this is not always the case.

10.9 Obviously these programs have potential to meet the needs of both young offenders, their communities and the victims and they need to be properly resourced and developed. This requires trained conference facilitators and other personnel to provide viable diversion from the court system. However we are encouraged by the willingness of the NT to embrace a more appropriate regime for dealing with juvenile offenders.

Indigenous Initiatives

10.10 Measures that deserve further assessment and development are being generated from within indigenous communities. From visiting town camps and discussing their

problems with case workers it is clear that Aboriginal communities do not want their young people to be continually in trouble. They recognise the need to address these problems from within their own communities and gave evidence of some promising initiatives. They were described by William Tilmouth, the Executive Director of the Tangentyere Council at Alice Springs, as follows:

Night patrols

The night patrol is an initiative that came from Aboriginal people to combat the law and justice issues in relation to Aboriginal people, particularly those relating to drunkenness. Aboriginal people, once again, were going through the watch-houses and the police stations like nobody's business. So the Aboriginal community developed, I think originally in Tennant Creek, a strategy called the night patrols. They acquire a vehicle. It is not a police force. It is a service that does not have the powers of arrest and never wants the powers of arrest. It is a buffer zone where they get to the people before the police get to them. They deal with the people and put them into dry-out centres or relocate them back home into family groups where they are not going to create so much violence or display such violence. It is a measure that has been developed by Aboriginal people themselves to bring about some change from the harsh and hard environment and the realities of prison life. It is quite an effective program. It is totally recognised by the police in the Northern Territory. In fact, the assistance we give to the police is quite prominent. If there is a dispute and a night patrol can get there to deal with it in the way that night patrols deal with such disputes, the police are far freer to do other jobs as well as assisting the night patrol if the crisis gets out of hand. The night patrols are very skilled in dealing with situations like that. It is a complementary program that runs parallel to the law and justice system.

Return to country bus

Another program we have is called the ‘return to country bus'. When people come into the town of Alice Springs, sometimes from 700 or 800 kilometres out, the vehicle they come in – and it is probably accepted by the community as being roadworthy – may no longer be roadworthy. As a result, that vehicle is taken off the road and impounded, whereby these people do not have transport. They come in for shows and hospital visits and to visit relatives in jail and educational institutions. They come in because they may require kidney dialysis. Only one area has that machine, and renal patient statistics are going through the roof. So more and more these people are coming in.

It is very likely that they will get economically stuck within the confines of Alice Springs. Once that happens, they fall back onto the goodwill of family members. Then overcrowding occurs, there is social dysfunction and, as a result, alcohol becomes very prominent. The ‘return to country bus’ is a release valve that goes and assists those people at their choice – and nine

times out of 10 they will choose not to live in poverty. None of us wakes up and says, 'We're going to live in poverty', but Aboriginal people have no choice. Those people choose to go back to their communities. Their cheques, food and stores are out there, and they are back with their families. It alleviates a whole heap of pressure in relation to those people. That program is run by the wardens scheme and works very effectively to alleviate the pressure not only for those individuals and their families but for the community of Alice Springs and the town camps themselves. Everybody benefits from that small instigated service, the 'return to country bus'.

Indigenous camps for juveniles

There have been numerous attempts made by many Aboriginal groups to work with juveniles out in remote areas like Winbarrku, Intjartnama and such places, but those people have only received very small or non-existent support for those programs. No doubt if those programs were funded to full capacity, they would show real effect. A lot of these programs are designed to deal with kids who are petrol sniffing, kids who are exploring the boundaries of their lives. I think what a lot of us older people do not realise is that we too explored the boundaries of our lives and now, with our ancient mindsets, we try to put such boundaries around children and young people. But petrol sniffing is not a way of exploring the boundaries of your life; it is a way of suppressing hunger. A lot of these programs out in remote areas were set up with that prime focus but have never had equal or complete funding. Tangentyere does that in half measure. We have an Undoolya project at Mount Undoolya, which is about 25 kilometres away from here. We take kids there for a bit of respite from the pressures of living in urban areas and with poverty being a full-time job. We alleviate that pressure by taking them out there and giving them a bit of fresh air and something to do out there. It is just a piecemeal and token gesture, but it is all we are funded for. [13]

10.11 As Mr Tilmouth said:

Overall, there are a lot of strategies that Aboriginal people themselves will come up with. They live 24 hours a day with the problem; therefore, they must have an idea about how to get out of the problems that exist. It is just that nobody ever asks them or tries to access those solutions for them. I think if you were to do a very comprehensive survey of Aboriginal people, they would come up with some very cost effective and efficient answers.[14]

[13] Transcript of evidence, pp. 28 –29.

[14] Transcript of evidence, p.29.

Indigenous communities should be assisted and resourced to develop such initiatives within their own communities.

11. COMMONWEALTH GOVERNMENT PROGRAMS

11.1 The Government is committed to a collaborative approach to juvenile justice issues. The $13 million National Crime Prevention initiative provides research commissioned jointly by the Commonwealth and the States and Territories on ways to steer young offenders from a path of crime. This research indicates that investing in programs that support young people and their families in their communities is at least as effective as punishment, both economically and as a means of preventing crime. These findings reflect the international experience of mandatory detention. For example, cost benefit analyses conducted in the United States estimate that investment of $1 million in mandatory sentencing prevents 60 serious crimes. Alternative approaches (such as diversionary programs) can prevent around four times as many crimes for a similar investment.

11.2 The Government is committed to addressing the problem of youth suicide through a range of programs funded through the National Suicide Prevention Strategy. The Strategy maintains a significant focus on youth while expanding suicide prevention activity across the general population to those identified as being at high risk, such as rural and indigenous communities, older people, those with a mental illness, those with substance abuse problems, and prisoners. The Government has committed $39 million to the Strategy over the next four years.

11.3 The Government also recognises that dealing with juvenile offenders requires a variety of programs to support, rehabilitate and educate, as well as to deter and punish. For this reason, the Government funds a number of programs which help to tackle juvenile crime in this way. For example, there is Commonwealth funding for:

- Programs aimed at preventing juveniles re-offending, including the Young Offenders' Pilot Program in the Northern Territory. These projects aim to reduce the marginalisation of young offenders from mainstream employment, education and training programs, and to provide intensive support to help young people reintegrate into society when they are released from detention. Additional funding in the 1999 Federal Budget has been provided to assist the Western Australian and Northern Territory Governments to establish these projects.

- The Job Placement, Education and Training Program (JPET), which is also an early intervention program. The program is designed to assist disadvantaged young people to overcome barriers which prevent them from getting jobs, undertaking education or training and from having a productive, sustainable future.

11.4 Clearly the Government needs to work with the States and Territories to ensure that these support programs are effective in preventing repeat offending by addressing

the underlying causes of juvenile crime. There is a large number of Commonwealth Government support programs more particularly described at Attachment A.

12. CONCLUSIONS AND RECOMMENDATIONS

12.1 Government senators on the committee have considered the extensive evidence presented in relation to the terms of reference. As noted in the majority report, evidence given to the Committee both in hearings and by way of submissions concentrated on the Northern Territory. Notwithstanding that, detailed consideration has been given to the mandatory sentencing laws as they pertain in Western Australia.

12.2 In relation to the terms of reference, the Government senators have concluded as follows:

International Obligations

i) Regarding the power of the Commonwealth to override State or Territory legislation and the binding nature of international obligations;

- The Commonwealth does have the constitutional power to override Territory legislation (section 122 of the Constitution)

- The Commonwealth is responsible for ensuring that Australia's international obligations are met and where a State/Territory law is found to be in breach of our international obligations, the Commonwealth can pass inconsistent legislation and rely on section 109 of the Constitution that will invalidate so much of the legislation as is inconsistent with the Commonwealth Act.

ii) Noting the lengthy consideration given to the matter of breaches of the Convention of the Rights of the Child (CROC) in the majority report, Government Senators conclude that it is arguable if not conclusive that the Northern Territory mandatory sentencing legislation breaches the spirit of Australia's international obligations.

iii) Government senators support the view that in practice, the Western Australian law does not breach the Convention although mandatory sentencing remains objectionable in principle. Government senators have particularly considered the detailed information provided in relation to Aboriginal interpreters, visits by relatives, policies in relation to funerals, the operation of Juvenile Justice teams and the use of Intensive Youth Supervision orders in the sentencing process and the reservation of mandatory sentencing for third strike offenders for home burglaries. We note the diminution of the effect of the mandatory sentencing laws in Western Australia.

iv) Government senators note that the Commonwealth has already written to both jurisdictions in relation to the impact of their mandatory sentencing laws

on juvenile offenders. It is expected that when responses are forthcoming, the State and Territory governments may undertake to address the concerns raised by the Commonwealth in relation to juveniles.

Operation of Mandatory Sentencing

v) As previously stated, the evidence is incontrovertible that, at least in the Northern Territory, juveniles and young adults have on occasions received mandatory detention for what are widely regarded as trivial offences, and that the sentence has been disproportionate to the gravity of the offence.

vi) The concern of Government senators may well be expressed by describing the laws as they apply in the Northern Territory as a blunt instrument, essentially an inappropriate way to deal with juveniles in the justice system, notwithstanding the evidence that second and third time offenders may be charged with multiple property offences on a sentencing occasion.

Social Impact

vii) Government senators remain concerned at the impact of the legislation on Aboriginal people and their communities. We received extensive personal and anecdotal evidence from legal practitioners, community workers and members of indigenous communities of the damaging impact of mandatory sentencing, particularly on the lives of young Aboriginal people.

viii) Government senators recognise community concerns about the impact of crime as experienced in the Northern Territory.

Diversionary Programmes

ix) Nevertheless, we are encouraged that the Northern Territory government has made some legislative amendments that allow the use of diversionary programmes for juveniles aged 15 and 16 years. On 15 February 2000, the Government announced that further programmes were to be made available to remote areas.

x) The Government senators recommend that the Northern Territory government ensure that the expansion of diversionary programmes is adequately resourced, and takes into account the specific needs of remote indigenous communities.

xi) We also note the importance of involving the indigenous community in the delivery of the programmes to ensure ‘ownership’ and acceptance of the government’s efforts and that communities be assisted to develop self-generated initiatives to deal with indigenous juvenile offenders.

xii) The Government senators further recommend that the scope of diversionary programmes be expanded to include 17-year-old offenders currently treated as adults in the Northern Territory system.

xiii) We also note that a diversionary programme is only available to an offender on one occasion in the sentencing structure. We recommend that the Northern Territory government consider expanding the application of such programmes at each level of the sentencing process.

Commonwealth Support

xiv) We note that the Commonwealth currently has some involvement in this area, in particular the Young Offenders Pilot Programme (YOPP) currently funded in its second round for the Northern Territory and Western Australia. As previously noted, details of the YOPP and other Commonwealth programmes are found at Attachment A.

Interpreter Services

xv) Government senators are concerned at evidence given to the Committee in the Northern Territory that some juvenile offenders who speak tribal languages and have little proficiency in English, may be charged, enter the judicial process, including a court appearance and be convicted and detained without the benefit of an interpreter. Although the Northern Territory government claimed that they were leading the way in the provision of interpreter services the Committee was not provided with clear evidence of this. The Government senators acknowledge that given the remote location of many communities and the variety of tribal languages, the provision of an adequate interpreter service is an intensive and expensive process.

xvi) We recommend that the Commonwealth government support the Northern Territory government with funding to assist the continuing development of an adequate interpreter service to ensure that young people who do not speak or understand English will not continue to be disadvantaged in the legal system. This is consistent with the recommendations of the Royal Commission into Aboriginal Deaths in Custody. Government senators note that the Commonwealth has previously provided support in this area. The committee received evidence that in Western Australia, development of an Interpreter Service is well underway.[15]

Standing Committee of Attorneys-General

xvii) In addition, Government senators note that mandatory sentencing is a matter for consideration at the next meeting of the Standing Committee of Attorneys General (SCAG). In addition to the exchange of correspondence

[15] See Submission 96A, Western Australian Ministry of the Premier and Cabinet, pp. 1-2

between the Commonwealth, Western Australia and the Northern Territory, SCAG may present another opportunity to explore the issues arising out of the imposition of mandatory sentencing and to determine other ways to overcome possible breaches of the CROC under the legislation.

Options

xviii) Government senators have identified several options in the body of the report for addressing the broad range of concerns in relation to the Northern Territory's mandatory sentencing legislation and its impact on juveniles.[16] These options are by no means exhaustive and may comprise only part of the Northern Territory government's consideration, if any, of possible approaches.

xix) We would prefer that action is taken by both the Western Australian and Northern Territory governments independently to address those serious matters that have been raised in the course of extensive public debate and in this Inquiry.

xx) Government senators have endeavoured to make constructive recommendations in relation to expansion of the scope and activity of the diversionary programmes available in the Northern Territory. This may include the Commonwealth, in consultation with the relevant governments, addressing the following:

a) To undertake an audit and review of all available diversionary and other support programs for juvenile offenders

b) To actively canvas and develop options for rehabilitating and deterring juvenile and young adults from repeat offending, as alternatives to mandatory sentencing

c) To consult with indigenous communities to resource and develop from within those communities alternative programs to deal with juvenile offenders

d) To monitor the impact of mandatory sentencing on juveniles and young adults and publish the results at least annually.

xxi) Finally, we have also noted the possible role for the Commonwealth in the provision of interpreter services for juvenile offenders where necessary and the option of the SCAG considering the matter.

Senator Marise Payne, Deputy Chair **Senator Helen Coonan, Member**

Note: Separate concluding comments by both of the Government senators follow.

[16] At paragraphs 8.11 – 8.13

ATTACHMENT A

COMMONWEALTH PROGRAMS

This Attachment outlines some of the strategies that the Commonwealth has developed to address issues affecting the welfare of young people. The programs cover a range of portfolios and are only a sample of some of the programs which may be relevant to assisting in preventing juvenile crime and rehabilitating young offenders.

National Suicide Prevention Strategy

The Commonwealth's ongoing commitment to suicide prevention is demonstrated by the Government's allocation of $39.2 million in the 1999-2000 Federal Budget over four years to the National Suicide Prevention Strategy (NSPS). The NSPS will maintain a significant focus on youth while expanding suicide prevention activity across the general population to include other age groups and those identified as being at high risk, such as, rural and indigenous communities, older people, those with a mental illness, those with substance abuse problems, and prisoners.

The National Advisory Council on Youth Suicide Prevention is currently funding a national framework document called *Living Is For Everyone (LIFE): a national framework for the prevention of suicide and self-harm*. LIFE emphasises strategic partnerships and shared responsibilities and will provide logical links between suicide prevention and mental health promotion and mental illness prevention. This document will be available in mid 2000.

The bulk of funding under the NSPS will be distributed by State Offices of the Department of Health and Aged Care, ensuring that the funds provided are consistent with local needs and priorities. The prevention of suicide in indigenous communities is a priority area under the NSPS and the LIFE national framework.

Young Offenders' Pilot Program (YOPP)

The Commonwealth Government has contributed funding to preventative programs for juvenile offenders including the Young Offenders' Pilot Program (YOPP) in Northern Territory and Western Australia. The YOPP provides for intensive coordinated assistance for young offenders as they prepare for reintegration into the community. The program is directed at young people at risk of re-offending, who are in detention or community custody and young people exiting from detention or detention arrangements as well as indigenous young people in similar circumstances. The pilot projects are aimed at reducing the marginalisation of young offenders from mainstream employment, education and training programs, and providing intensive

upport mechanisms to assist reintegration following release from detention. Additional funding in the 1999 Federal Budget has been provided to assist the Northern Territory and Western Australian Governments in establishing YOPP projects.

Job Placement, Education and Training Program (JPET)

The Commonwealth Government Job Placement, Education and Training Program (JPET) is an early intervention program which focuses on youth in transition. It is designed to assist disadvantaged youth aged between 15 and 21 years with a focus on 15 to 19 year olds and who are homeless (or at risk of becoming homeless) ex-offenders, refugees or wards of the State. JPET provides assistance to overcome barriers which prevent young people from participating effectively in employment, education or training and having a sustainable future. It helps young people to establish a stable lifestyle, attain life skills, strengthen and re-establish links with their family and prepare and participate in education, vocational training and employment.

Pathways to Prevention: Developmental and Early Intervention Approaches to Crime in Australia

Much scientifically persuasive international evidence has emerged over recent years that interventions early in life can have long term impacts on crime and other social problems.

Overseas research also indicates the cost effectiveness of early intervention strategies when compared to the long term costs of crime and the criminal justice response. Little was known about Australian early intervention programs, their impact, and whether they had crime prevention as a specific objective.

Therefore National Crime Prevention, in conjunction with States and Territories through the National Anti-Crime Strategy, commissioned Australian research that found:

- The likelihood of an individual becoming involved in criminal activity and or substance abuse is influenced by risk and protective factors in their family, school and community. Risk factors include family violence and disharmony, poor supervision and monitoring of children, and social or cultural discrimination. Protective factors include social skills, a sense of belonging and a positive school environment. These factors can operate cumulatively. Child abuse and neglect are of particular significance.

- Family support and parenting education can have a major impact on families, young people and children at risk of offending.

- Early intervention can effectively be delivered at key transition points in the lives of children and young people, including crisis points

- Coordination of programs and service delivery needs improvement and more attention needs to be given to evaluation of existing and new services to focus on crime prevention outcomes.

The Commonwealth is strongly committed to early intervention as an effective method of preventing future crime and violence, and an $8 million Youth Crime and Families Strategy will be developed to maximise the crime prevention outcomes of early intervention programs in Australia.

National Crime Prevention strategies for young people

The National Crime Prevention (NCP) section of the Federal Attorney-General's Department focuses on youth crime prevention as one of its key priority areas.

It places particular importance on early intervention and approaches which might reduce the likelihood of crime occurring in the first place.

National Crime Prevention assists Australian youth by:

- Increasing awareness of underlying factors that effect youth crime
- Increasing awareness of young people's experiences of victimisation
- Identifying good practice in relation to the prevention of youth crime and victimisation
- Trialing models of intervention that lead to the prevention of youth offending and victimisation

NCP's focus is on family and youth support, through community education, skills development, and models of integrated service delivery within local community settings.

Although primary responsibility for crime prevention, law enforcement and community safety rests with the State and Territory governments, NCP works closely with the National Anti-Crime Strategy (NACS) which is a shared initiative of all the jurisdictions.

A number of shared national initiatives specifically related to young Australians have resulted from this collaboration. To date, there have been initiatives directed towards violence in public spaces and public events, domestic violence, and early intervention. In addition, other national initiatives on priority areas such as fear of crime and motor vehicle theft have incorporated issues relevant to youth crime prevention. All States and Territories benefit from these initiatives.

The Federal Government has also provided direct funding to State and Territory governments for programs and initiatives that enable or improve existing crime prevention activities and strategies, many of which have related directly to young people. The domestic violence prevention pilot project in Western Australia is an example of this kind of cooperative strategy. Similarly, the Northern Territory participates in the project management groups for management groups for domestic violence prevention and early intervention.

NCP also works closely with other Commonwealth departments and involved key agencies in projects related to Indigenous communities, national research on young people's attitudes to domestic violence, and homeless youth.

Pilot projects have been funded in a range of settings across Australia, and reports produced on public space, homeless youth, early intervention, and domestic violence prevention.

Crime prevention is also facilitated by other Commonwealth programs aimed at the prevention of youth crime such as JPET and YOPP and larger strategies on which the Federal government is taking the lead, such as the National Families Strategy, Regional Summit and the Youth Pathways Action Plan Taskforce.

Activities on youth crime prevention to date will inform the development of the Youth Crime and Families Strategy. Over the next three years this Strategy will consolidate and provide national leadership on youth crime prevention.

Recent achievements

NCP activities are both national and State and Territory based. The achievements and results of all activities are available to all jurisdictions to assist them in developing their own criminal justice systems.

Some of NCP's recent achievements and publications are listed below.

Information and resources

- Crime issue briefing on young people and crime - released by the Minister of Justice and Customs in 1998.

- Public spaces for young people: a guide to creative projects and positives strategies released in August 1998 (published with the Australian Youth Foundation).

- National database on violence prevention programs for adolescents.

- Z-card on sexual violence distributed to female university students throughout Australia during orientation week in 2000.

Guidelines on preventing violence at public events, which include guidelines for raves and dance parties (forthcoming).

Published reports

- Working with adolescents to prevent domestic violence: rural town model

- Working with adolescents to prevent domestic violence: Indigenous rural model

- Hanging out: negotiating young people's use of public space

- Pathways to prevention: developmental and early intervention approaches to crime in Australia

- Living rough: preventing crime and victimisation among homeless young people.

Pilot projects

- Working with adolescents to prevent domestic violence, in schools and through outreach work, in two country towns of Western Australia

- Reducing fear of crime in public spaces, by working with youth and other groups in the community – Tasmania

- Employing young people as community safety guides who provide community and crime prevention information to the public – NSW

- Working though football clubs to reach young males on range of crime prevention topics – SA

In the near future NCP will undertake new activities in crime prevention which will have a significant impact on youth crime.
Some of these activities are outlined below.

Youth Crime and Families Strategy

The development of the Youth Crime and Families Strategy will involve working closely with all jurisdictions, including NT and WA.

Priority areas will potentially include funding for:

- Trials that identify models of coordinated service delivery within local neighbourhoods that lead to crime prevention outcomes

- Information for schools on a range of issues, and school based initiatives designed to support at risk young people and their families

- Diversionary schemes and interventions for young adolescents appearing in court eg models of single case management, diversionary conferencing and mentoring

- Review of key initiatives across Australia eg Indigenous night patrols, bullying programs

National Initiatives in Crime Prevention - Western Australia

Domestic violence prevention among adolescents

Stage 1 (a literature review of Australian violence prevention programs for adolescents) has been completed and one Stage 2 pilot has been in the field for 12 months. The first Stage 1 report *Working with Adolescents to Prevent Domestic*

Violence: Rural Town Model was released in July 1998.

Outcomes from Stage 1:

- a rural town model for a domestic violence program with adolescents. This is being piloted in Northam, Western Australia.

- a data base of violence prevention programs for adolescents

Second report from Stage 1 - Indigenous issues

The Western Australian Crime Research Centre has completed the fieldwork relevant to indigenous communities. A second report for Stage 1, Working with Adolescents to Prevent Domestic Violence: The Indigenous Rural Town was released on July, 1999.

Stage 2 - Northam, WA Project

The pilot running in the country town of Northam, WA, has been in place since October 1998.

The pilot is being evaluated by Edith Cowan University, under a contract administered by the Western Australia Police Service.

Stage 2 - Derby, WA

The Indigenous rural town model will be piloted in Derby in the Kimberley, WA.

Working with homeless youth to prevent crime and victimisation

Project description

US statistics on criminal victimisation show that young people (12-24 years) have the highest rates of victimisation for violent crimes. Studies indicate a similar situation in Australia. Some of this victimisation contributes to homelessness among young people. There is some perception that young homeless people contribute to violence and crime but little recognition of their victimisation. This project takes account of both young homeless people's experience as victims and as perpetrators of violence and crime. A key role is played by the non-government sector in the delivery of services to young homeless people and that sector will be central to the project.

The project aims were to:

- provide an overview and classification of current service delivery to homeless and disadvantaged youth

- identify successful practices and strategies that help young people and which result in a decrease in victimisation and offending rates

- develop measures to determine the success of strategies and practices

- identify the range of outcomes resulting from these strategies and practices
- work with non-government organisations to implement successful strategies nationwide

The report *Living Rough* was released on the 23 September 1999.

Key findings

This report concluded that a coherent framework and approach to crime prevention with homeless young people is lacking. There are no clearly articulated best practice principles across the sector with related standards and outcomes which could be applied to practical situations. The consultants identified and documented a number of best practice principles from the literature.

Discussions are taking place with the Department of Family and Community Services and the Department of Prime Minister and Cabinet, to consider how best to implement the report's recommendations including via the Commonwealth's Youth Pathways Action Plan.

Prevention of violence and crime at public events: Implementing good practice

Project description

Safety at large public events is a matter of concern to the organisers, participants, the surrounding neighbourhood, and those involved in policing the event. Often, popular opinions of large public events are that they include crime, violence and disorderly behaviour.

Guidelines will be released shortly.

Negotiating young people's use of public space

Project description

There are connections between public perceptions of youth crime, fear of crime and young people's use of public space. Public space can become a focus for conflict between young people and other groups in the community resulting in increased pressure for use of criminal justice measures.

Research was commissioned to examine good practice in relation to young people's use of public space. The issues specific to identifiable groups within the community of young people (ethnicity, Aboriginality and gender) were considered, as were the requirements of country and regional Australia.

The summary of the research was released on 25 March 1999.

Early intervention and developmental approaches to crime prevention

The summary of the report, Pathways to Prevention, which was commissioned by NCP, in conjunction with the States and Territories through the National Anti-Crime Strategy, was released on 14t January 1999. The full report was released in April 1999.

Key findings included:

- The likelihood of an individual becoming involved in criminal activity and/or substance abuse is influenced by risk and protective factors in their family, school and community. Risk factors include family violence and disharmony, poor supervision and monitoring of children, and social or cultural discrimination. Protective factors include social skills, a sense of belonging and a positive school environment. These factors can operate cumulatively. Child abuse and neglect are of particular significance.

- Family support and parenting education can have a major impact on families, young people and children at risk of offending.

- Early intervention can be effectively delivered at key transition points in the lives of children and young people, including crisis points.

- Coordination of programs and service delivery needs improvement and more attention needs to be given to evaluation of existing and new services to focus on crime prevention outcomes.

Future directions are being considered as part of National Crime Prevention's $8m new Youth Crime and Families Program.

National Research on Young People's Experiences of and Attitudes to Domestic Violence

The project is a joint initiative of the National Crime Prevention in the Commonwealth Attorney Generals Department and the Commonwealth Department of Education, Training and Youth Affairs (DETYA). It is being conducted for these agencies by a joint consortium comprising the Crime Research Centre of the University of Western Australia and a private social research company, Donovan Research. The members of the consortium provide, respectively, a strong academic record in the theoretical debates surrounding domestic violence and its prevention and a proven track record in research on sensitive social topics, including domestic violence.

Aims of the Project

The overall aim of this project is to provide national data on young people's attitudes to domestic violence and on the experiences that helped shape these attitudes. The outcomes of the research will primarily be used to:

- Inform the development of policies and strategies by government and community sectors in the areas of prevention and early intervention;

- Provide national baseline data that will form the basis on which future changes in attitude and experience can be monitored;

- Assist in the development of messages for communication strategies that target young people and relate to violence prevention;

- Produce research measures that can be used in policy evaluation.

Preliminary results

Preliminary results from extensive research on youth aged between 12 and 20 indicate that a significant proportion of young people have experience with violence, including domestic and peer relationship violence. Also, the survey indicates considerable variations in attitudes to domestic violence, related to age, gender and socio-economic background.

It is anticipated that reports on the research will be released in April 2000.

Project Australia

Project Australia (caring for youth) Association is a Queensland based organisation that has been granted approval for NCP funding to operate a trial project for youth. The project has attracted some funding from the Queensland Government and there is an expectation that some corporate sponsorship will be available.

The association is preparing to operate a rural based program for youth who are alienated from society and at risk of premature parenthood, suicide, drug/alcohol/substance abuse and crime, or become involved in anti-social activities.

The project will aim to provide education and training opportunities for participants over a two-year period. The project will use experiential and action learning, group processes and provides opportunities for incidental learning. It will provide guidance and support to participants in independent living and employment readiness.

Three monthly reviews are scheduled for the project. An independent evaluation consultancy will run in conjunction with the project to ensure that outcomes can be objectively measured.