



Northern
Territory
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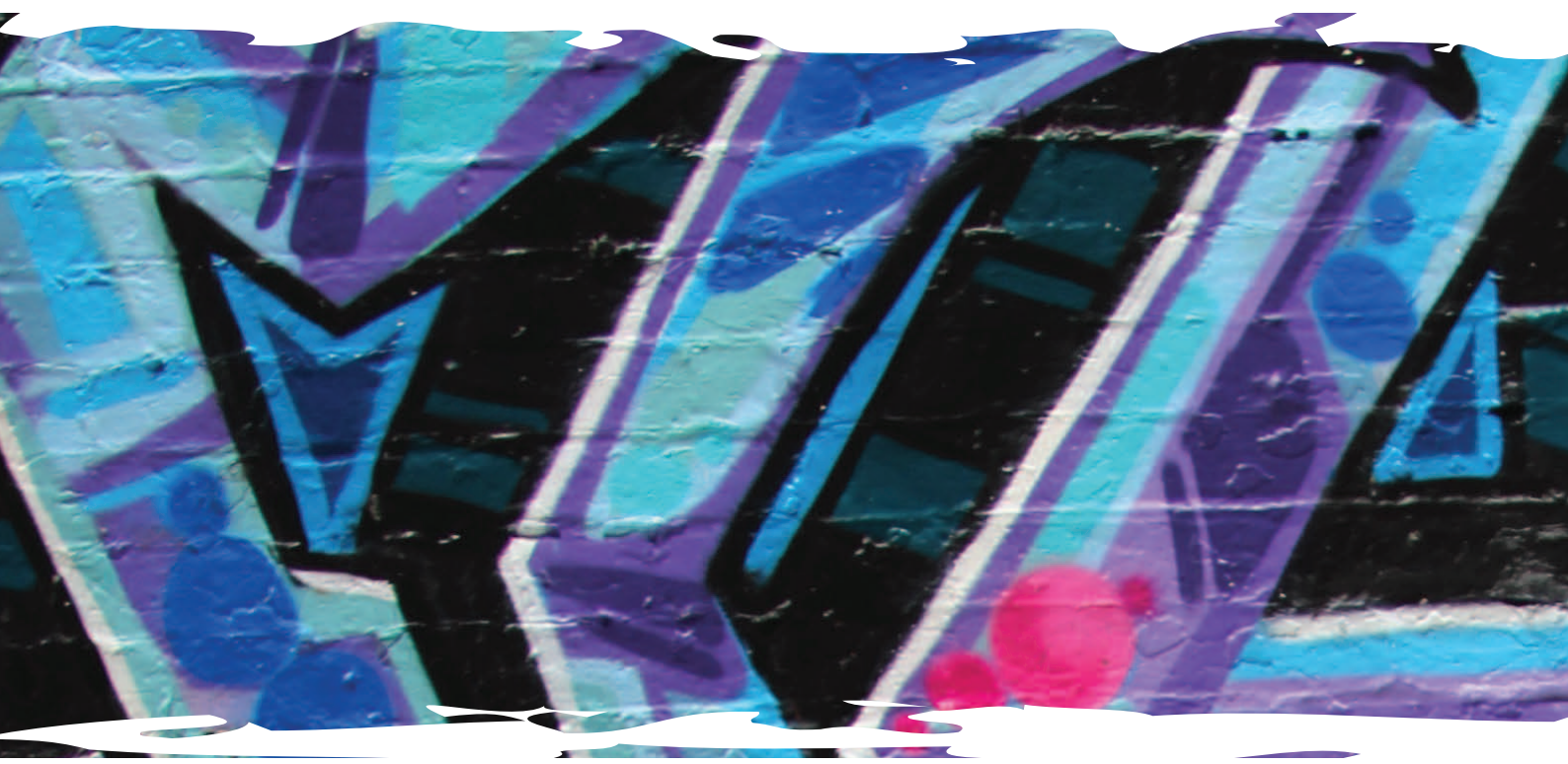
DEPARTMENT OF CORRECTIONAL SERVICES

YOUTH JUSTICE ADVISORY COMMITTEE

ANNUAL REPORT

2012 - 2013







Prepared by:

Youth Justice Advisory Committee Secretariat

Youth Justice Division

Department of Correctional Services

GPO Box 3196

DARWIN NT 0801

August 2013

YOUTH JUSTICE ADVISORY COMMITTEE NORTHERN TERRITORY

The Hon Jon Elferink
Minister for Correctional Services
Parliament House
Darwin NT 0801

Dear Minister Elferink

The Youth Justice Advisory Committee (YJAC) in accordance with the *Youth Justice Act* is pleased to present the 2012/13 Annual Report.

In the 2012/13 year, YJAC has seen a change in some of its medium-term committee membership. This has been due to members resigning for personal reasons or, for some Northern Territory Government members, a change of position following the 2012 Northern Territory Election.

These changes have enhanced and strengthened the YJAC membership, with members undertaking research on evidence-based youth justice programs that are considered best practice in other jurisdictions.

YJAC has presented written submissions to the Senate Committee Inquiry into the Value of Justice Reinvestment, and to the Northern Territory Government inquiry into proposed amendments to the *Bail Act*, advocating for bail support programs and corresponding with you and the Youth Justice Division (YJD) of the Department of Correctional Services to have these programs and services implemented in the Northern Territory youth justice system.

The primary focus of YJAC meetings and discussions in 2012/13 has involved:

- the Value of Justice Reinvestment (see Appendix A);
- bail support programs with a residential component and holistic case management component and emphasis;
- detention centre visits in regard to adhering to the *Youth Justice Act*;

- lack of Northern Territory youth justice system data and evidence being reported and made available, particularly to the Juvenile Justice National Minimum Data Set (2011/12), making it difficult for YJAC to advocate for evidence-based programs of best practice for young people involved in the youth justice system in the Northern Territory;
- Youth Justice Court Practice Directions;
- implementing Youth Justice Court and youth justice system common language fact sheets, particularly for Indigenous young people and their families, so they understand their court responsibilities; and
- pilot boot camp consultations and implementation, and the implications this has in relation to the Northern Territory Government review of the youth justice system's advocacy of youth camps and the implementation of after-camp case management and provision of holistic support services.

I especially appreciate the conscientious efforts of YJAC committee members and commend the Secretariat's endless support of YJAC throughout this year.

YJAC is already planning its future direction with a strong and robust involvement in the development of the Northern Territory's youth justice system with you, the Northern Territory Department of Correctional Services and the YJD.

This is to reduce or cease the increasing number of young people and their families involved in the youth justice system through advocating for early intervention prevention and restorative justice programs and services that involve family members, and evidence-based models of best practice using a through-care planning approach as an alternative to detention, to address the complex needs, issues and barriers of young people.

YJAC in accordance with the *Youth Justice Act* is pleased to present the 2012/13 Annual Report.



Stewart Willey

Chair

Youth Justice Advisory Committee

Background

The *Youth Justice Act* commenced on 1 August 2006.

Part 13 of the *Youth Justice Act* provides for the establishment of the Youth Justice Advisory Committee (YJAC).

On 1 July 2008, responsibility for the *Youth Justice Act* (except Part 3 and provisions relating to youth detention) was transferred from the Minister for Justice and Attorney General, Department of Justice to the Minister for Children and Families, Department of Children and Families.

On 1 July 2012, responsibility for the *Youth Justice Act* (except Part 3 and provisions relating to youth detention) was transferred from the former Minister for Children and Families, Department of Children and Families to the Minister for Justice in accordance with the *Review of the Northern Territory Youth Justice System: Report September 2011*.

August 2012 saw a change in Government and responsibility for the *Youth Justice Act* transferred to the Department of Correctional Services. The Youth Justice Division, Department of Correctional Services is responsible for providing administrative and secretariat support to the YJAC.

Functions

The functions of the committee are:

- a. to monitor and evaluate the administration and operation of the *Youth Justice Act*;
- b. to advise the Minister (whether on request by the Minister or otherwise) on issues relevant to the administration of youth justice, including the planning, development, integration and implementation of government policies and programs concerning youth;
- c. to collect, analyse and provide to the Minister information relating to issues and policies concerning youth justice;
- d. any other functions imposed by the *Youth Justice Act*; and
- e. any other functions as directed by the Minister.



Youth Justice Advisory Committee Members as at 28 February 2012

Membership

Under the *Youth Justice Act*, YJAC comprises not less than eight and not more than 12 members appointed by the Minister. The committee must reflect the composition of the community at large and comprise government, non-government and community representatives. The term of office is three years or as stated in the Instrument of Appointment. Members are eligible for reappointment.

At the beginning of 2012/13, the committee had 12 members. A number of members have resigned from YJAC due mainly to employment contracts ending or their current employment being no longer relevant to YJAC. Nominations were sought to fill these vacancies.

The members whose terms ended were:

- Ms Tess Reinsch, nominated by a peak youth organisation – section 206(2)(f)
- Ms Margaret Anderson, nominated by the Director – section 206(2)(a)
- Ms Jennie Guinane, nominated by the agency responsible for the protection of children and young people – section 206(2)(c)

The YJAC would like to thank past members for their passion and commitment to the committee.

Community Members



Stewart Willey (Chair)

Tennant Creek

Appointed under section 206(2)(h) of the *Youth Justice Act*

For the last 29 years, Mr Willey's experience has been in designing, implementing and evaluating programs to develop and empower young people through education and training, life skills and case management. He has also been involved with the training, development, assessment and sustaining of youth workers to ensure that quality programs and services are delivered with positive outcomes.

During the last 15 years, Mr Willey has further focused on engaging with disengaged at-risk Indigenous and non-Indigenous young people, especially in relation to their involvement in the youth justice system. This may include, but is not limited to, court

support, early intervention and acting as an appropriate support person.

Mr Willey is currently employed as the Operations Manager with Barkly Youth Services (BYS), a recently formed not-for-profit organisation in the Barkly Region. The BYS engages young people in early intervention, prevention programs and services including diversion activities, in conjunction with other youth service providers, case management, pre-court diversion, post-court pre-sentence diversion, and post-court programs such as bail programs and co-case management of supervised programs with the Department of Correctional Services.



Bernie Wilson

Darwin

Appointed under section 206(2)(h) of the *Youth Justice Act*

Mr Wilson moved to Darwin from Melbourne in January 2013 to take up a position with the YWCA as a case manager in the Northern Territory Youth Diversion Program. He works closely with young people, their families and supporting community agencies. Through this role, he is able to bring insight and experience about restorative justice and youth diversion programs to the committee.

Mr Wilson previously worked in youth services in Melbourne including alcohol and other drugs, and youth housing. He has a passion for social justice and moved to the

NT with a desire to be challenged in a new environment. He has a strong interest in ensuring that young people have a voice that is listened to in their communities.

Mr Wilson completed a Bachelor of Social Work at RMIT University Melbourne in 2011, graduating with First Class Honours. He aims to use his degree to help influence policy and develop programs using the voice of young people in the Northern Territory. At 25 years of age, Mr Wilson is able to bring both a professional perspective, and young person's personal perspective, to the committee.



Keith Williams

Darwin

Appointed under sections 203(2)(e) and 206(2)(h) of the *Youth Justice Act*

Mr Williams has had a lifelong interest in working with young people, starting as the leader of a church youth group. He completed a two-year degree in Youth Leadership at the then YMCA College, and was employed in a wide range of positions for 25 years, including five years working in Indigenous communities in the Northern Territory.

During his time working at the Melbourne YMCA, Mr Williams became an Honorary Probation Officer, working predominantly with young people from country Victoria as well those from interstate.

Mr Williams has lived in the Northern Territory for more than 30 years and for most of that time has worked either professionally or voluntarily with young people, mainly but not exclusively Indigenous. He became involved in substance misuse work in West Arnhem Land, working primarily with Indigenous youth engaged in petrol sniffing, underage drinking and consumption of other substances such as cannabis and kava.

Mr Williams is currently an Official Prison Visitor attached to Don Dale Youth Detention Centre, and has been doing this work for five years.



Karina Gray

Darwin

Appointed under section 206(2)(h) of the *Youth Justice Act*

Ms Gray completed her education in Perth. Since then she has experience working in urban, regional and remote places in Western Australia, the Australian Capital Territory and New South Wales.

After many visits to the NT, Ms Gray moved to Darwin in 2008. Since then, she has held positions with the Tiwi Islands Shire Council, Darwin High School, the Department of

Health and Families, Saint Mary's Football, Sporting and Social Club, and ABC Local Radio – Sport, giving her the opportunity to build strong networks and experience in the community and sports sectors in the Northern Territory.

Ms Gray has a strong commitment to and passion for improving the lives of young people and community development.



Kevin Kadirgamar

Darwin

Appointed under sections 203(2)(c) and 206(2)(h) of the *Youth Justice Act*

Since moving to the Northern Territory nine years ago, Mr Kadirgamar has been actively involved with youth-led community initiatives promoting a sense of unity among young people of diverse cultural backgrounds. This includes being founding chair of Multicultural Youth Northern Territory, vice convenor of the National Ethnic and Multicultural Broadcasters Council Youth Committee, public officer

of the Northern Territory Committee for Human Rights Education and a board member of the Australia Day Council NT.

Mr Kadirgamar recently graduated from Charles Darwin University and is currently a lawyer with the Northern Territory legal firm, Ward Keller Lawyers, where he has a focus on migration law.

Government Members

Vacant x 2

Appointed under section 206(2)(a) & 206(2)(c) of the *Youth Justice Act*



Superintendent Sean Parnell

Darwin

Appointed under section 206(2)(b) of the *Youth Justice Act*

Superintendent Sean Parnell was nominated by the Commissioner of Police for his extensive experience in policing in the Northern Territory.

Over the past 26 years, Superintendent Parnell has served at Alice Springs, Harts Range, Yuendumu, Wadeye and Darwin and is currently responsible for the Territory Police Prosecutions Division, which includes the Youth Diversion Unit.

Superintendent Parnell graduated from the Australian Institute of Police Management

Manly, NSW and the Royal Military College Duntroon, ACT and is an executive member of the Northern Territory Police Association, as well as vice president of the Northern Territory Police Museum and Historical Society.

Superintendent Parnell is also the chairman of the Northern Territory Catholic Education Council, the Northern Territory parent representative for the National Catholic Education Commission and a member of the Indigenous Partnerships Council Alice Springs



Eddie Fabijan

Alice Springs

Appointed under section 206(2)(d) of the *Youth Justice Act*

Mr Fabijan is the Principal of Centralian Senior College after holding the position of Assistant Principal from 2006.

Mr Fabijan has been teaching since 1986, with his first posting being Oakbank Area School in South Australia. He has been a middle manager and teacher at a number of schools throughout South Australia as well as being the Director of the Centre for School Leadership.

His formal qualifications include a Bachelor of Education from the University of South Australia and a Masters of Education from Flinders University.

Mr Fabijan's further relevant credentials include secretary, Association of Northern Territory School Education Leaders (ANTSEL) since 2008, treasurer of the Alice Springs ANTSEL, and a representative of the Northern Territory Department of Education and Training on the South Australian Certificate of Education Board.

Mr Fabijan has a firm commitment to developing opportunities for all students in Central Australia.



Superintendent Brent Warren

Alice Springs

Appointed under section 206(2)(e) of the *Youth Justice Act*

Superintendent Warren joined the Northern Territory Police Force in 2000.

He commenced his career in Darwin, working within both General Duties and Investigative areas, before completing a secondment to the Strategic Planning Command. In 2006 he moved to Alice Springs as a detective sergeant within Southern Investigations, before completing a secondment to the Australian Crime Commission National Indigenous Intelligence Task Force.

In 2008, Superintendent Warren moved to Darwin where he was appointed to the position of Staff Officer to the Assistant Commissioner Crime. In 2009, he moved to Katherine where he was appointed to the position of Superintendent Arnhem Division, with responsibility for managing the delivery of police services to remote Indigenous communities in Arnhem Land. In 2010, he moved into the portfolio of Superintendent Katherine Division, where his focus was on delivering police services to the Katherine community.

In July 2012, Superintendent Warren took up his current role as detective superintendent in charge of the Southern Investigations Division, where he has responsibility for the Child Abuse Taskforce and liaison between Alice Springs Police and the Office of Children and Families. He is a core member of the Alice Springs Multi-Agency Assessment and Coordination Team and a member of the Alice Springs based Integrated Response to Family and Domestic Violence Reference Group.

Superintendent Warren has a number of tertiary qualifications including a Master of Arts in International Relations from Deakin University, a Graduate Certificate in Applied Management from the Australian Institute of Police Management, a Graduate Certificate in Leadership and Strategic Management, and a Bachelor of Law and Bachelor of Business from Charles Darwin University.

Representative Member Bodies

Vacant

Alice Springs

Appointed under section 206(2)(f) of the *Youth Justice Act*



Fiona Kepert

Darwin

Appointed under section 206(2)(g) of the *Youth Justice Act*

Ms Kepert has been working as a criminal solicitor in the Northern Territory for the last seven years, firstly in Katherine with Aboriginal Legal Aid and now in the Darwin Office of Northern Territory Legal Aid.

Ms Kepert continues to work in both the youth and adult jurisdictions and was the specialist Youth Justice Court solicitor for Northern Territory Legal Aid in 2010/11.

Meetings

YJAC held four meetings during the 2012/13 financial year. The first and third meetings of were held in Darwin at the Darwin Central Hotel on 12 September 2012 and 23 February 2013. The second and last meetings were held in Alice Springs at the Alice Springs Convention Centre on 5 December 2012 and 13 June 2013.

Following each meeting, minutes were prepared by the Secretariat and distributed to members. The minutes were also forwarded to the Minister for Correctional Services through the Commissioner of the Department of Correctional Services for noting.

Priority Tasks

In developing its work plan, the committee identified the following key priority tasks:

- preparing the YJAC Annual Report;
- monitoring the Register of Appropriate Support Persons;
- monitoring the *Youth Justice Act*;
- providing a submission to the Senate on the value of justice reinvestment with a focus on youth; and
- developing plain language sentencing pamphlets for young people involved in the youth justice system.

Issue Register

YJAC maintained the Issue Register which was developed in 2009, where issues of concern in relation to youth justice are recorded and discussed. The register is used as a mechanism for input and feedback to YJAC and the broader community.

Issues

Topical issues identified by members of the community and other committees to YJAC include but are not limited to:

- the lack of bail support programs in the Northern Territory;
- the value of justice reinvestment;
- lack of data collection capabilities in the Northern Territory;
- Australian Juvenile Justice Administrators (AJJA) standards for youth detention centres; and
- Register of Appropriate Support Persons (RASP).

YJAC's Involvement in Bail Support Programs

Background

Bail enables a young person in custody or on remand, who is charged with a criminal offence, to be released from custody on the condition that they undertake to appear in court and observe specified conditions. Bail laws attempt to strike the right balance between infringing upon the liberty of an accused young person who is entitled to the presumption of innocence and ensuring that an accused young person will attend court and will not interfere with witnesses or commit other offences.¹

In addition, bail support is defined as the provision of services, intervention or support, designed to assist a young person to successfully complete their bail period conditions.²

For bail and bail support to be effective for young people, it must involve intensive, holistic and supported interventions, strategies, programs and services. This includes supporting the most appropriate family members, Elders and other youth service providers through a lead case manager, and integrated case management and through-care planning that addresses the nature of offending (for example, alcohol and other substance abuse programs and accommodation solutions) and needs to consider socioeconomic disadvantage as well as access to education and training.

It may also include residential programs and other holistic interventions, strategies and supported and facilitated referrals to other youth service providers in their area of expertise, using a multi-systemic approach. This is to ensure that the young person will not re-offend while on a supported bail program and addresses their needs, issues and barriers which caused the offending, in an integrated case management and through-care planning model framework.

Bail programs that use a model such as the 'Griffiths Remand' three month bail program, may address the young person's issues, needs and barriers prior to the young person returning to court for sentencing, and negating sentencing or resulting in a good behaviour bond or a 'no further trouble' order. This ensures that they are following through with their program conditions and promises to the court, and is enhanced through residential programs with holistic programs and services that address their needs, issues and barriers.

¹ Lenny Roth, *Bail Law: developments, debates and statistics*, NSW Parliamentary Library, Research Services Briefing Paper, May, 2010.

² Gabrielle Denning – Cotter, *Bail Support in Australia*, Indigenous Justice Clearinghouse, Brief 2, April 2008.



Impact of bail conditions for young people

The majority of bail conditions for young people in the Northern Territory involve a curfew condition. There is evidence that curfew conditions are not effective due to young people not being able to go home, thereby setting them up to fail the condition (refer Appendix B).

There are also concerns about young people on pre-sentence, post-court diversion programs where they have to adhere to bail conditions as well as diversion conditions responsibilities. Is this a case of double dipping? For example – a young person on pre-sentence, post-court diversion programs that breach their bail, which prevents them from continuing in their diversion program.

In the Northern Territory, there are no official bail support programs, either residential or non-residential, apart from referral to three or four residential support services which have long waiting lists.

Additionally, police are primarily the first point of contact to assess the young person and their family's situation for suitability to grant bail, as they often have first-hand knowledge of the young person's circumstances, family environment and likelihood to re-offend. A residential bail support program option could assist police in their decision to grant bail.

Advantages of bail support programs, evidenced-based residential and non-residential bail support programs in other Australian jurisdictions and other countries

Research indicates that a young person in a supported residential or non-residential bail support program is less likely to re-offend if provided with the opportunity to address their issues, needs and barriers in conjunction with the most appropriate family member, Elder or respected community member, and in consultation with youth service providers.

Bail support programs provide for services, interventions and support to assist the young offender to successfully complete their bail program. These programs aim to reduce re-offending whilst on bail and provide police and magistrates with viable alternatives to custodial remand.³

This is evidenced in the Western Australian and United States of America (USA) models that uses a multi-systemic approach involving family, community, therapist/counsellor and the young person in their own environment, and is further evidenced based on the Multi Systemic Therapy Model in Memphis, Tennessee.

In the United Kingdom, the Youth Justice Board provides a model for remand management and reduction through a system of diversion programs. These programs are initiated upon

³ Denning – Cotter, *Bail Support in Australia, Indigenous Justice Clearinghouse, Brief 2, April 2008.*

the young person's first entry into the youth justice system, to meet their individual needs and provide access to programs and services that meet those needs by providing support and including family involvement.

In Australia, bail support programs should also provide the opportunity for young people to be responsible for their actions and to support and self-initiate their involvement in the programs offered to address their needs, issues and barriers.

YJAC's involvement in advocating for residential and non-residential bail support programs

The Northern Territory is the only jurisdiction in Australia that does not have resourced bail support programs for young people. YJAC has been advocating for bail support programs to reduce offending and the reasons young people offend, prior to the *Review of the Northern Territory Youth Justice System: Report September 2011* (the Review).

This was raised in a letter to the Attorney General explaining the advantages of bail support programs, both residential and non-residential, and citing evidenced-based programs of best practice with outcomes that reduced offending rates and addressed the offending issues, needs and barriers of young people, to reduce the number of young people being held in detention, either on remand or on a sentence.

Young people being remanded in detention versus residential bail support programs

The cost of holding a young person on remand is \$556 per day, which may not address or reduce their offending, with additional financial, society and community burden costs of failing to address the issues of recidivist offending.

A holistic residential bail program costs \$227 per day. This involves a case manager, case management and case plans, referral support to appropriate youth services, and support for the appropriate family member, Elder or respected person, to address the needs, issues and barriers of the young person, their reasons for offending and recidivist offending.

In addition, remand conditions isolate a young person from family, community and country, which reduces a young person's ability to assume family responsibility, address their offending issues, needs and barriers. Further, the family may not have the means to visit the young person.

As well as punishment for serious offending and for the protection of the community, one of the major justifications in the court system for imprisonment is rehabilitation.

The deterrent effect of imprisonment can be greatly reduced for groups that are over-represented within the criminal justice system. This is seen

in some Northern Territory communities where the high rates of detention and imprisonment have led to it being normalised. Anecdotally, organisations speak of young people seeing imprisonment as a rite of passage.

Conclusion

YJAC's research on residential and non-residential bail support programs has indicated that it reduces recidivist offending to 22 per cent. If a multi-systemic approach is used there is a 25 per cent to 70 per cent reduction in arrests rates of young people, using the Western Australian model. This is achieved by addressing young people's needs, issues and barriers before their sentencing.

Bail support programs must involve holistic programs and appropriate services, and a residential component that supports not only the young person but also includes the involvement and support of the most appropriate family members, Elders and respected persons and the community.

Currently, residential and non-residential bail

support programs are only available to young people in Queensland, New South Wales, Victoria and Tasmania. However, there is no evidenced-based data on the impact of Indigenous young people's involvement and support need requirements, and the need to develop an Indigenous residential bail support program model of support and case management.

YJAC recommends that holistic bail support programs and services should be tailored to the individual needs, issues and barriers of Indigenous young people, through integrated case management and through-care planning in their community and using the involvement of Elders and/or respected persons combined with the support and facilitation of family members, in a residential environment.

What is effective in an urban environment may not be appropriate for a young person and their family from a regional and remote location. It is more effective if young people are rehabilitated and empowered on country in conjunction with their most appropriate family member and Elders in receiving support and advice on the interventions and strategies that are working with young people.



The Value of Justice Reinvestment

In March 2013, YJAC prepared a submission on the value of justice reinvestment, based on the views of YJAC members through their employment, knowledge and experiences in the youth justice arena. The paper was submitted to the Senate Legal and Constitutional Affairs References Committee as part of an inquiry into the value of a justice reinvestment approach to criminal justice in Australia.

Justice reinvestment is a concept that has developed in locations around the world in response to growing rates of incarceration, and proposes an alternative, targeted and potentially more cost-effective option than traditional imprisonment for people committing offences. The concept is of particular relevance in the Northern Territory, where the imprisonment rate of 663 prisoners per 100,000 head of population is the highest of any Australian jurisdiction, and comes close to the world record rate of 743 per 100,000 recorded in the USA.

The Northern Territory experiences a number of factors that appear to drive the increased rate of incarceration, including an increase in offending behaviour, an ever-increasing consumption of alcohol, an expanded police presence in remote communities, a shift towards violent offences committed by young people, Indigenous youth living in environments with high levels of social breakdown and family dysfunction and the consequences of high penetration of social media.

The cost of imprisonment in the Northern Territory is significant, particularly in relation to young people. At the Alice Springs Youth Detention Centre there are, on average, 8–20 detainees per day. Combining corrections and education staff numbers there are about 15 employees at work during the day. This could equate to about \$50,000–\$60,000 per week in terms of the cost of delivering an imprisonment service for young people. From an infrastructure perspective, it will cost approximately \$1 million to build one new prison bed.

A justice reinvestment approach would consider the other side of this financial equation. How could money currently invested in imprisonment be used more effectively in services elsewhere in the community? What would it cost to address the underlying issues of social, cultural and environment isolation with little hope for a brighter, more culturally appropriate future?

The suggestion is that an investigation be conducted to consider the actual costs to develop and operate the services and programs these young people need. If the behaviours observed are a consequence of not investing in these services when the young people were children, then the true cost is that we as a society have a dysfunctional community. If social dysfunction is not addressed, this dysfunction will lead to an increase in the level of antisocial behaviour.

If the ultimate aim of a justice reinvestment approach is to utilise community-based programs to prevent individuals committing crimes, then clearly programs and funding need to target those groups which are over-represented in the prison and criminal justice system:

- People experiencing mental illnesses are over-represented in our criminal justice system, yet alternatives to prison such as in-house rehabilitation services are often unable to cater for these people.
- People who have committed violent offences make up a significant percentage of the Northern Territory prison population, yet many programs aimed at rehabilitation exclude those who have a violent criminal record. While violent offenders may not themselves be a 'disadvantaged group', many do fall within the target groups such as Indigenous people, or those with a mental illness, or alcohol or other drug dependency etc.

It also needs to be acknowledged that many offenders and potential offenders have multiple risk factors. Effective justice reinvestment programs need to provide holistic support. Young people are a classic example of this, where it is common for an individual to have difficulties in the education system, be a victim of or witness to violence and have a dysfunctional family environment, in addition to suffering substance misuse problems. To address just one of these

issues would be unlikely to achieve the justice reinvestment goal of preventing offending and incarceration.

There is also a need for parallel programs that support individuals within the justice system. Many young offenders are in detention due to breaching court orders, including both bail and sentencing orders. Disadvantaged groups such as Indigenous youth and those with mental illnesses are at higher risk of breaching these orders and need to be supported to achieve compliance. There is significant scope for justice reinvestment programs to work alongside the existing formal justice programs to achieve reduced recidivism.

Justice reinvestment does not eliminate the need for correctional centres. It is acknowledged that there is a requirement for a well-resourced Department of Correctional Services, and the balancing act is in ensuring the department remains adequately supported to provide excellent services to inmates.

Research is clear that detention of children and young people is not effective at reducing recidivism rates. In 2011, the Review noted it cost over \$100,000 per annum to incarcerate an adult and over \$216,000 a year to detain a child or young person.

To YJAC's knowledge, no cost benefit analysis has been done in the Northern Territory on the economic and social benefits of community-based programs and services, relative to the cost of imprisonment, across the spectrum. A justice reinvestment approach could re-allocate limited funding to achieve more effective results for the community and individual offenders.

YJAC supports the identification of cost savings to correctional centres based on investment in community-based initiatives, and re-allocation of identified savings into further community-based initiatives. However, such savings can only be identified through robust data collection, evaluation and economic analysis.

In the Northern Territory, there are some alternatives to imprisonment for children and young people. Programs such as the federally funded pilot the Northern Australia Aboriginal Justice Agency's (NAAJA) Through Care Program, the Mt Theo program, Bushmob Adventure Therapy, Balanu Youth Camps and Central Australia Youth Link-Up Service, an Australian Government pilot are some examples of positive youth-specific programs that aim to address underlying causes of crime.





Data Collection

One of the issues identified throughout discussions and in submission of papers in regards to youth justice in the Northern Territory is data collection.

To implement successful community-based programs to prevent individuals committing crimes, programs and funding need to target those groups which are over-represented in the criminal justice system. It is necessary to direct funding and resources to high-need areas, especially in regards to reversing the trend of Indigenous youth being over-represented in both the sentencing and remand portions of the detention population.

New approaches, such as justice reinvestment, rely on locally based data to make cost-effective decisions about community safety and rehabilitation. This does not eliminate the need for correctional centres, but rather seeks to keep those who do not need to be incarcerated out of the system.

To implement a justice reinvestment model, we must first conduct an analysis of robust data and evaluate economic and social impacts. To do so requires systems and processes that the Northern Territory currently does not have.

Limited systems and processes for appropriate data collection are a current barrier to making the case for further investment in primary and secondary interventions in the most

disadvantaged and remote communities of the Northern Territory.

The Review reported concern at the ‘lack of coordinated and complementary information systems across departments’², making it difficult to collate and analyse justice-related data that might assist a justice reinvestment approach.

Such analysis has been conducted nationally and internationally, the findings of which the Inquiry will undoubtedly be incorporating into its analysis¹. While the Northern Territory is a unique context, much can be learnt from such studies in other jurisdictions and such findings can largely be adapted.

The Review states, in Recommendation 4, relating to data collection:

“That resources be provided to the youth justice unit for the purposes of collecting, coordinating, interpreting, analysing and disseminating whole of government data and statistics on youth justice issues, and that a Territory wide and nationally consistent set of systems and measurement indicators (including recidivism) be developed to provide information for decision makers on a range of youth justice issues.”

¹ For example:

- Australian National Council on Drugs Research Paper 24, *An economic analysis for Aboriginal and Torres Strait Islanders: Prison vs. residential treatment*, (2013);
- Washington State Institute for Public Policy, *Evidence based public policy options to reduce future prison construction, criminal justice costs, and crime rates* (2006) and others available at <http://www.wsipp.wa.gov/topic.asp?cat=18>

² Review of the Youth Justice System: Report September 2011 p.10; also, p.26 – 32



To ensure the Northern Territory is well resourced and able to contribute to a nationally consistent approach (while being flexible enough to meet the unique factors of the Northern Territory), YJAC recognises:

- the funding of a customised and consistent data collection tool, including quantitative and qualitative data, to produce a consistent reporting approach to measuring impact; and
- the establishment of a national clearinghouse for justice reinvestment where reports, case studies and best practice resources can be made available.

Detention Centres

During the previous 12 months, the issue of the three youth detention centres in the Northern Territory was the subject of frequent and strong discussion with both the previous and current governments.

To further reinforce the validity of these discussions and submissions, all three facilities were visited during the year. Comments on each centre follow, but in summary, the committee felt strongly that all were seriously deficient in their physical layout, and fell far short of the Australian Juvenile Justice Association (AJJA) Standards.

The Don Dale Youth Detention Centre (DDYDC) is the only purpose-built Northern Territory facility, although it was designed for single sex

occupancy. The increasing detention of females, and the problems raised by their presence in a situation of easy contact between the genders, forced the creation of completely separate quarters. This development, while necessary, made the facilities even more unsuitable for positive rehabilitation programs. A member of YJAC is an Official Visitor to the centre and frequently reports the problems caused by the restrictive layout to the manager of the detention centre.

The YJAC visited the Alice Springs Youth Detention Centre (ASYDC) on 6 December 2013. Committee members were seriously concerned by the obviously unsuitable layout, for both staff and detainees, and found the visit to be a depressing experience. Detention staff have reported that many detainees have requested a transfer to Don Dale because “there is much more to do up there”. Concern has been expressed that transferring young people to Darwin is taking them out of country and away from family and culture. Anecdotally, very few detainees have family visits at ASYDC.

At a later date, a committee member re-visited the ASYDC and, although still lacking in a number of areas, was pleased to see, and commended the positive use of the industrial baking facilities, which enabled detainees to gain certificates in baking and hospitality skills. Further programs like this are recommended to enhance future



career prospects and foster holistic rehabilitation post-release for youth detainees.

YJAC visited Aranda House on 13 June 2013, and found it to be quite small and lacking in educational and recreational facilities. As with the other facilities, it is unsuitable for accommodating detainees of different sexes. Again, this highlights the need for the development of purpose-built facilities for young offenders in Alice Springs and Darwin.

It was brought to YJAC's attention that Aranda House is being used as a detention facility by Department of Correctional Services. It was understood that Aranda House had been closed once the ASYDC had opened. YJAC is satisfied that Aranda House is used as a last resort, to manage complex young men with violent behaviour who cannot be housed with other detainees, or as an overflow facility when both ASYDC and DDYDC are at capacity, and occasionally to facilitate family visits. To advocate the need for purpose-built facilities in the Territory while recognising the lack of funding available, the YJAC wrote to the Federal Minister for Funding and Deregulation, the Hon Senator Penny Wong, seeking funding from the Commonwealth Own Purpose Expenses for a purpose-built youth detention facility in

the Northern Territory. The committee has not received a reply from Senator Wong.

In September 2012, YJAC wrote to the Northern Territory Minister for Correctional Services, the Hon John Elferink MLA, regarding the detention facilities in Alice Springs. Minister Elferink attended the YJAC meeting on 28 February 2013 and acknowledged that the current centres are less than ideal and that the Northern Territory Government's ultimate goal was to construct two purpose-built facilities in Darwin and in Alice Springs. This would, however, be dependent on a number of factors including funding. He also stated that if it could be demonstrated that having a single adequate facility would be effective, that could be an option.



Youth Court Practice Directions

The committee discussed and raised a number of issues pertinent to the Youth Justice Court Practice Directions issued by the Chief Magistrate.

Separation of youth from adults

One of the principles listed in section 4 of the *Youth Justice Act* is that, as far as practicable, proceedings in relation to youth be conducted separately from those in relation to adults (see section 4(r)). The Act also makes reference to separation of youth in custody (section 26), and provides certain requirements in relation to where a Youth Justice Court may be held (section 48).

Section 48 requires that the Minister must ensure that the places where the Court sits:

- a. provide adequate and appropriate facilities for the proceedings of the Court; and
- b. as far as practicable are separate from the places in which proceedings in relation to adults are being held.

Practice direction 6 of 2012, which sets out general procedures to be followed in the Youth Justice Court, makes reference to the separation of youth from adults. Specifically, part 1.1 directs that youth are to appear before Youth Magistrates, where such Magistrates are available. Further, youth in custody are not to appear in the main bail and arrest court, and that in facilities away from Darwin and Alice Springs, which generally only contain one court room, arrangements are

to be made to separate youth matters from the general list.

Some practitioners have raised concerns to YJAC about the level of adherence to these principles and requirements of separation. While it was acknowledged that, particularly at remote courts, facilities are quite limited, concerns were raised that available mechanisms, such as closing the court or separating lists, were not utilised as extensively as they could be.

The following specific issues in relation to the separation of youth from adults have been noted:

- The committee has been made aware that young people in custody are not being held separately from adults in facilities away from Darwin and Alice Springs.
- The remand facilities in Darwin place young people in separate cells to adults but still allow for verbal contact. Further, when young people are taken in and out of their cells they may be taken past the adult remands, allowing not only further verbal contact but also visual contact. There have previously been discussions around modifying the Darwin Magistrates Court to provide better physical separation of youth both in custody and while in court. The YJAC is hopeful that these changes will soon be implemented by Government to create better compliance with the Act.



- The complete physical separation of the Youth Court from the rest of the Magistrates Court in Alice Springs does have advantages for meeting the requirements of the Act. However, the existing facilities, not being purpose built, are lacking in a number of areas. The YJAC was advised that the holding cells are quite small and issues of overcrowding arise where the presence of a female detainee results in all other male detainees being held in a single cell. This raises concerns not simply in respect of overcrowding in cells but the potential impact where very young offenders are held with those much older. It is a sad reality that those as young as 10 years of age are coming through court in custody. The holding of a 10 year old with a 17 year old would obviously be a cause for concern.

The general facilities at the Alice Springs Youth Court also do not appear to meet the requirements of section 48(2)(a) of the Act. Practitioners raised concerns about a lack of access to a phone, computer or photocopier without approaching

the court staff and using the court office. Access to these basic facilities would clearly assist in progressing matters, as prescribed in the Act. A timely finalisation of youth proceedings is important. There are only two interview rooms available to practitioners to see clients who are not in custody and they are quite small. Particularly with young people, it is common to have a number of interested parties to be seen along with clients, for example the responsible adult, extended family and youth support workers.

The committee was pleased to hear of the efforts being made at circuit courts to hear youth matters first. This allows a young person and their family to minimise time at court and encourages prioritisation of youth proceedings. However, difficulties were also noted. It appears that matters are regularly not dealt with in the early part of the list, either where responsible adults are not at court to allow this to happen, or where there is a need for lawyers, who are generally travelling to attend court, to progress matters by taking instructions from clients or negotiating with prosecutions. It was noted that in Tennant Creek a separate listing of youth matters at 1pm on a Monday is in place. Concerns were raised that this separate list was being encroached upon by adult matters and there was a further flow-on effect that lack of time meant youth matters were adjourned into the regular list.



The committee acknowledges that many of these issues are ongoing and has raised its concerns with the Chief Magistrate.

Video Conferencing

The use of video-link conferencing for court mentions is generally being encouraged by the Youth Court and this is set out in Practice Direction No. 2 of 2012.

Technology continues to be a hurdle in achieving this, with connection problems frequently occurring. There have also been concerns raised with time delays. Where matters are not dealt with at the expected time the Department of Correctional Services faces the difficulty of having a youth separated from their usual class or activity and requiring supervision while waiting in the video link room at the relevant detention centre.

Non-publication of youth names in the court list

The privacy and protection of youth from stigmatisation through public court lists has been improved by the court no longer publishing a Youth Court list. This was welcomed by YJAC. Concerns were raised about the impact this is having on workers who legitimately need access to this information in order to provide an efficient support service for youth at court. The committee was advised that the listing registrar can provide names and interested parties were encouraged to follow this path. This appears to be effective

for legal aid services, although there have been problems with delayed or late provision of the list. The committee is waiting to see whether youth workers and NGOs will be given the same access.

Use of plain language

YJAC welcomed parts 6 and 7 of Practice Direction 6 of 2012 which require that the language used in court be in a form that is comprehensible by the youth. Specifically, it encourages more informal forms of address and, more importantly, calls for statements in court to be explained in plain language to young people. It is hoped this will improve understanding of court proceedings and create a more meaningful engagement with youth.

There had also been a push to have charges re-framed into appropriate language for youth when they were asked to plead. Unfortunately, the committee is advised that this has not progressed and charges continue to be read in technical language that is unlikely to be understood by young people. It is hoped that a joint project with schools and the legal profession could allow for some standard charges to be rewritten in appropriate language and that this could be adopted in court.



Boot Camps

Two types of boot camps have been proposed:

- an Early Intervention Youth Boot Camp Program targeting young people at risk of entering a criminal trajectory; and
- a Youth Boot Camp Program for sentenced youth targeting young people subject to orders under the *Youth Justice Act*.

The Department of Correctional Services has approved two organisations to run early intervention pilot camps.

Operation Flinders will hold its camp in August 2013 and will employ a local coordinator and engage qualified local professionals to prepare young people for the camp and provide case management and assistance to them on their return to Darwin.

Tangentyere Council is scheduled to commence the camp component of its program in early September 2013.

Each program will incorporate the following phases:

1. Pre-camp – assessment and preparedness for camp.
2. Camp – outdoor adventure incorporating activities designed to physically and mentally challenge young people.
3. Post-camp – community reintegrating with youth and family.

Evaluation of these pilot programs is scheduled for September 2013.

YJAC have been satisfied with the level of consultation the department has had with the committee and other youth organisations and stakeholders in developing these camps and they look forward to the evaluation of the camps.

Register of Appropriate Support Persons

The establishment and maintenance of the Register of Appropriate Support Person (RASP) is a key responsibility for the YJAC under section 14 of the *Youth Justice Act*.

The purpose of RASP is to provide an appropriate support person to attend and be present at a police station while a youth is being questioned, interviewed or processed, in the absence of another appropriate support person such as a parent, guardian or carer.

In June 2013, YJAC identified a new service provider to administer RASP. Funding was allocated by the Department of Correctional Services to Australian Red Cross (Red Cross). Red Cross will commence this role in Darwin on 9 August 2013 and in Alice Springs on 2 September 2013.

Red Cross advertised for volunteers to act in this role and received a favourable response in both Alice Springs and Darwin. Red Cross has received appropriate training from the NAAJA and is looking forward to reporting to YJAC about its findings and experiences.



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YJAC Submission to the Review of the Northern Territory Youth Justice Act and Youth Justice System

The Youth Justice Advisory Committee (YJAC) supports the establishment of a consistent practice philosophy throughout the various operational areas of the youth justice system.

This philosophy should recognise the principles of restorative justice and the need to divert young people from the criminal justice system at the earliest opportunity. Diversion strategies need to be provided at every stage of the criminal justice system from first contact with police through to post detention.

Positive Aspects of the Northern Territory Youth Justice Act and Youth Justice System

- Provision in the Act for:
 - » diversion (section 37 – 45 of the Act),
 - » post court diversion (section 64 of the Act),
 - » approved programs (section 90 of the Act),
 - » Good Behaviour Orders (section 91 of Act),
 - » Community Work Orders (section 93 – 97 of the Act),
 - » pre sentence reports (section 69 - 75 of the Act),
 - » pre sentence conferencing (section 84 of the Act),
 - » suspended sentences (section 98 and 98A of the Act),
 - » alternative sentencing options to detention (section 99 – 110 of the Act);
 - » periodic detention orders (section 111 – 120 of the Act); and
 - » detention (section 129 - 131 of the Act).
- being used as a last resort is a proactive approach to young people involved in the youth justice system. The focus is a restorative one, but is being under employed and early intervention prevention models more cost effective than incarcerating young people with better outcomes? There are some circumstances where incarceration may be a necessary tool to reinforce to young people their responsibilities to their community and YJAC acknowledges that in some cases, of serious offending incarceration may be appropriate for the protection of the community.
- YJAC administers the register of appropriate support persons (RASP) (section 14 of the Act) in Darwin, Katherine and Alice Springs, and is delivered by Life Without Barriers. The RASP is effective in these localities but what about other NT jurisdictions due funding limitations? Please note that YJAC have been told that within communities, the need to have a RASP tends not to arise because there is family that can easily be contacted who are able to perform this role.



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- Community Work Orders (section 93 – 97 of the Act) with NT Correctional Services that ensure young people on community work orders spend a third of their hours in education/ training or counselling (this is available under these orders). These orders are not being effectively used because effective programs are not being offered. In the past some of these young people have gained employment because of successful completion of their order and skills gained whilst on the order.
- In the Barkly Region and other Northern Territory jurisdictions, we do not have access to Family Responsibility Agreements and Orders (part 6A section 140A- 140M of the Act) as they are Alice Springs and Darwin specific. However, there is a need and we facilitate family conferencing to better the needs, discuss issues, offer support and interactions between young people and their families.
- Section 46(2) of the Act states the “Chief Magistrate may appoint a Youth Magistrate who, in opinion of the Chief Magistrate, has the knowledge, qualifications, skills and experience in the law and the social or behavioural sciences and in dealing with youths and families, as the Chief Magistrate considers appropriate”.
 - » The Northern Territory Youth Justice Court has only one appointed magistrate to preside over the Youth Justice Court, sitting in Darwin. YJAC is proposing the training of all magistrates, whom preside over

Youth Justice Court matters, to possess the necessary skills, knowledge, experience and have cross cultural grounding. Thus, leading to an increased understanding of Indigenous young people involved in the youth justice system and a principal focus to decrease recidivist offending through a restorative and victim impact approach.

- The Principles and the provisions of the Act do not require change, what is required is a commitment to implement and adhere to the Act and resource the sector accordingly.

Sections of the Northern Territory Youth Justice Act and Youth Justice System That Need Enhancement

Youth Justice Act

- » There are prior incidents where the Act was not being adhered to by police and the court system. This is in respect to young people not having a responsible adult present, section 18, 19, 23 and 35 of the Act, when being interviewed and when bail is permitted (section 83, 134 of the Act and 37B of Northern Territory *Bail Act* 2011) and is granted and appearances in court . Young people do not understand criminal proceedings including bail conditions (section 15, 61, 150 of the Act) and need these explained to them, in a language they understand in relation to their responsibilities. (please see case studies (a) and (b))



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Separate Youth Justice Court

- » Throughout the NT with the exception of Darwin, bush circuit courts have no separate court facilities for adults and young people's court matters (section 26 of the Act, states separation from adults wherever practicable). In all cases, the magistrate states we are closing the Court of Summary Jurisdiction and opening the Youth Justice Court, or vice versa, however the same people are present in the court room, namely adults. The only closed court proceeding are for DCF matters. This is not done in other Australian jurisdictions.

Numerous Adjournments

- » There are several examples (please see case studies (c) and (d)) of lengthy adjournments for young people. This is especially the case when young people are given the option of diversion or they are on post court diversion. These matters can take a least three adjournments till the young person is granted diversion and then three more court appearances whilst they are on a diversion program. This process can take at least six to eight months with about eight court appearances, until the diversion is completed.
- » The aim of the diversion program is to keep young people out of the youth justice system. However, the current process is involving

young people more and more and is clogging up the court system unnecessarily.

- » Plea bargaining with the prosecution to drop charges, as the defendant is a young person, usually without a prior offending history. This usually takes up to three adjournments before the matter is finalised.

Diversion

- » All young people on post court diversion (section 37 – 45 of the Act) are also on bail with the same or similar conditions, especially curfews. This appears to be double dipping. If they breach their bail, they will fail their diversion program.
- » Curfews seem to be a standard program condition which is in place for the whole of the diversion program, sometimes three months. It seems the youth justice system is setting up young people to fail.
- » The Youth Diversion Unit (YDU) completes the assessment for diversion within a two week time frame (in Tennant Creek). However, it can take at least three months for the program providers to initiate the diversion program after the conference. Most programs are at least three months long. In most cases, the whole diversion process can take up to eight months to complete and some of the offences were committed eight months prior. In saying this, Police are reviewing their diversion program procedures.



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The NT has the Highest Incarceration Rates of Indigenous Young People than Any Other Australian Jurisdiction

- » The majority of the young people incarcerated are Indigenous. The majority of these young people have alcohol and other drug issues and because they pursue this in the open they become the target of police.

Alcohol and Drug Issues (AOD)

- » There are little or no programs, Territory wide, for young people under 16 with alcohol and other drugs (AOD), volatile substance abuse (VSA) and petrol sniffing and other behavioural needs and issues. There needs to be holistic program with education/ training, life skills, anger management, sport and recreation and access to counselling and other health services.
- » The YDU has a residential program which addresses the needs and issues of young people. In Tennant Creek, young people have gained access to counselling for AOD, VSA and mental health through the VSA clinical nurse in town.

Therapeutic Programs to address criminogenic needs

- » There is a lack of capacity for programs to address the needs of young offenders generally. There is a need to increase resources to youth generally in areas that

can address the issues that lead to offending. We need to be careful to provide programs to all youth i.e. not make the justice system the gatekeeper. (“I can only get help if I am an offender”). This may require a commitment from Northern Territory Government beyond Youth Justice.

No Peak Youth Body In The Northern Territory For Youth Issues and Youth Justice System

- » This makes it challenging for youth service providers to lobby government for the needs and issues of young people and funding for programs and services that effect these needs and issues. Also, young people are not given a voice at this level of government.

Cyclical Nature Of Offending

- » In the Barkly offending and anti social behaviour increases over the wet season. This is due to people moving in town due to the wet season and school holidays. This is also prevalent in Alice Springs and Central Australia. There is need for youth service providers to provide programs and services for young people in this period during and after hours.

Training of All Court Officials, Police and Youth Workers

- » Young people need to have a constructive experience and to understand their involvement in the youth justice system. If this occurs, they are less likely to become recidivist offenders.



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- » Youth workers especially need training in court support, youth advocacy, being a responsible adult and diversion matters.

Concerns Regarding the Review of the Northern Territory Youth Justice Act, Youth Justice System and the Function of Youth Justice Act Advisory Committee

- Australasian Juvenile Justice Administrators Standards are not being utilised in regards to the Northern Territory Youth Justice System.
- Fragmentation of ministerial portfolios in regards to young people and their involvement in the youth justice system and overloading of ministerial portfolios.
 - » Chief Minister – Police.
 - » Minister for Attorney General and Minister for Justice – Department of Justice, Court Administration, Family Responsibility Agreements and Detention.
 - » Minister for Corrections – Correctional services and detention, roads construction and arts
 - » Minister for Children and Families – youth camps, Family Responsibility Agreements, the Act, YJAC, youth justice system, Youth Action Plan, Child Protection, Family Support Centres, Interagency Collaboration Panel and suicide prevention.

From the ministerial portfolios listed above, it can

be demonstrated that it is extremely difficult to case manage young people involved in the youth justice system, from a grass roots youth worker's perspective (please see solutions for the Act.)

- The Minister for the Department of Children and Families (DCF) is not meeting with YJAC when their role is clear under the Act. The Minister stated he sees his role targeting more child protection areas not the Youth Justice System. YJAC recognises there is need for this involvement, as evidenced by recommendation 111 of the Bath Report that the Youth Justice Court be transferred to DCF, however the Minister also has an obligation under the Act for youth justice. This also includes the transfer of NT Community Corrections to DCF in regards to young people under their supervision and young people in detention. It is logical and easier to case manage young people in youth justice system under the one portfolio.
- Hence, YJAC cannot fulfil its legal obligations under the Act when it is not informed and consulted with and cannot effectively monitor and administer the Act.
- Section 148 of Act approval of the establishment of a detention centre by the Minister. The new detention centre in Alice Springs is in breach of the Act in regards to its current co-location with adult prison and sections 150 and 151, 3(c) of the Act. Young people are in confusion as to rules and regulations, standings, associating



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with adult prisoners and their obligations. In saying that, at this time, this is being addressed through the adoption of the Don Dale Youth Detention Centre operating procedures and policies.

- Alternative measures to deal with young offenders should ensure that they do not increase young people’s involvement in the criminal justice system. Measures that deal with young people in the shortest possible timeframe and send them on their way should be favoured over those that draw young people into the system for longer periods. We should be conscious that new initiatives do not have the effect of drawing even more young people into this system and keeping them there for longer.

Other Solutions: Alternative Detention Programs and Best Practice Programs in the Northern Territory and Other Jurisdictions that are Evidenced Based

Northern Territory Youth Camps

- Early intervention and prevention model in a remote location to challenge young people so they can gain personal skills with their needs and issues, to better function in their home environment.
- Involves a cultural healing program that addresses grief and abuse needs and issues for young people.
- Youth Camps must provide post program

support and assistance for young people and their families.

- More cost effective than detaining a young person with better outcomes of decreased offending.

Non-Conditional Bail Support Services in Queensland

- Early intervention and prevention model.
- Accommodation and Youth Worker support service whilst on bail with holistic programming i.e. case management, education and training and access to sport and recreation programs.
- Family support and conferencing to up skill parents and guardians to better work with their young person with assistance.
- Post court youth worker provision for young people, their families and holistic programming for both parties.

Heeadeess Youth Justice Health NSW model

- Trained clinical nurses in health, mental health, sexual health, AOD programs and case management to work with young people who have been incarcerated, for increased outcomes for young people.

Police as Youth workers NSW Model

- Police Youth Liaison Officers (case managers) trained to better work with young people, rather than a NT Police School Based Constable



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Proposition for Diversion Programs to be facilitated by Non Government Organisations (NGO's) Youth Workers, in conjunction with police and NT Correctional Services Supervised orders to be co-case managed with NGO Youth Workers.

- Proposal for trained NGO youth workers to conduct and facilitate diversion programs and Youth Justice Conferencing with the police involvement only in the conferencing phase, as active members of the conference.
- This is a case management model, enhancing the restorative approach, in regards to the barriers that young people are experiencing with their involvement in the youth justice system. This would alleviate the overburdening of police and their background involvement in and expediting the diversion process, for an immediate impact on young people to re-offend.
- Proposal for Correctional Services supervision, community work orders and post release detention parole plans to be co-case managed with an NGO youth worker assisted case management model, in regards to a restorative approach and providing access to and assistance for young people to appropriate programs and services i.e. education and training, counselling, family conferencing, accommodation and alcohol and other drug services.
- Therefore, providing improved outcomes for victims, police and Indigenous young people involved in the youth justice system, to recidivist offending.

Justice Reinvestment USA Model (Texas USA)

- The government funding spent on incarcerating people is better utilised to improve early intervention/prevention programs in disadvantaged communities. This includes less justice spending on building and staffing prisons, crime and law enforcement and now can be employed for reducing the high rates of incarceration, which benefits all people and crime in the community.
- The focus is on communities with low socioeconomic levels, negative social and physical circumstances and where communities have high rates of offending, of a recidivist nature. The crucial elements are programs and services that concentrate on education and training, health, mental health, alcohol and other drug programs, appropriate housing conditions, increase in the number of parole programs, decrease in unemployment, case management and support services and the rebuilding of human community resources.
- Evidence based on a Texas USA program, where there was an increase of one percent of population incarcerated from, 1985 – 2005. The number of people incarcerated was reduced when government increased funding of programs and services that concentrated on alcohol and other drug programs, reduced caseloads of parole officers and the use of alternatives to detention.



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STEPS Barkly Region Youth Justice System Outreach Program

- This program needs to be implemented Northern Territory wide as it is a program of best practice. STEPS are endeavouring to implement this program in Alice Springs. Mission Australia had a similar model in Darwin and the Top End which is no longer funded.
- Appropriate Support Persons for young people involved with police need training in regards to:
 - » knowing young people's rights in an Electronic Record of Interview
 - » explaining bail requirements to young people and
 - » explaining the rights of a young person under the *Youth Justice Act* in a language that young people understand.
- Youth Justice Court provides support involving case management, explanation of the Court processes, in a language that young people understand, education and training plans and support of families and guardians. This program is available in Tennant Creek and the whole of the Barkly Region, including the bush circuit in Elliott and Alekerange, which are growth towns.
- Co-case management of all young people under NT Correctional Services, under 25 years, to provide the necessary skills of a youth worker in case management and referral to identified services for the needs and issues of the young person. Young people on supervision and community work orders are treated like 'mini' adults without STEPS' involvement. This is due to the Corrections caseload demands and not being trained to work specifically with young people. STEPS also case manages these young people to ensure they adhere to the orders conditions, especially education and AOD awareness programs. These programs are tailored to the needs and issues of the young person.
- Tennant Creek Police refer all young people (25 and under) whom come to their attention for whatever reason to STEPS. This is an early intervention and prevention program involving young people in case management and families in family conferencing, so young people are not involving themselves in the youth justice system.
- Post release plans from detention that involve parental/guardian support and assistance for the young person to transition into education, training and employment and holistic programming, involving all aspects of young person's life i.e. case management. This is so they have the necessary skills not to re-offend and re-engage in antisocial behaviour.



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- Exploring and proposing to government cost effective funding of early intervention/prevention and holistic residential program models, as an alternative to detention for young people whom have recidivist offending, needs and issues, alcohol and other drug misuse, volatile substance misuse/abuse and petrol sniffing, with a focus on education and training.
- These programs were researched Australia wide, for the Barkly Region. This includes an outstation program model, which has necessary infrastructure for a proposed program and services and other residential programs including crisis accommodation, linked to the proposed Barkly Region Headspace program.
- The proposed holistic program model we are advocating for is for young people involved in the youth justice system, to have access to case management, counselling, education and training support, employment support, access to health services; including alcohol and other drugs and volatile substance abuse, housing conditions and family conferencing and skill support for families to better effect their relationship with their young person, to become a productive member of their community.

Case Study Attachments to the Review of Youth Justice Act and Youth Justice System from the Barkly Region

Case Studies: Preventable Involvement of Young People with Police in the Youth Justice System.

- a. In 2010, there is a case in point of a young woman, with no prior offending history, whom had breached her bail curfew. She was also on a post court diversion program and was not re-bailed, although she had no history of prior offending. She was flown to Alice Springs Holding Centre and her family were informed of her whereabouts. However, they were frantic as they were unsure of when she was going to return to Tennant Creek. This was her first breach of her bail and she did not appear in Alice Springs court on the next appearance day. She was brought back to court in Tennant Creek three days later. The prosecution where trying to fail her diversion program because of this breach of bail, although she had spent time in remand.
- b. In 2009, there is a case in point of a young man whom was held in custody all day for his first breach of police bail, which was given to him two days prior. He was granted bail again, only in the presence of a responsible adult to explain the bail conditions, in a language that he understood. This was not apparent on the first occasion, as there was no responsible



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adult present to explain the conditions of bail. This was the reason he breached his bail on the first occasion.

Please note the intention of the above mentioned case studies, is not to reproach police for their involvement in the Act. We are all human and make mistakes, especially under pressure and with excessive case loads.

Nevertheless, it is to provide examples where we all can improve our involvement in the Act through knowledge, training and experience, principally, as it relates to young people involved in the youth justice system. This involves training police, other youth justice system officials and youth service providers in the Act and the youth justice system, to better perform for young people.

*** Please note; to my knowledge this has not occurred in recent times.

Case Studies: Numerous Adjournments of Young People Involved in the Youth Justice System.

c. There is a case in point of a 17 year old young man with no prior convictions attending court for offending. The objective was for him to receive post court diversion (section 64 of the Act), for an improved outcome for reoffending. He attended court on the first occasion on 23/08/10. He had subsequent appearances on 22/10/10, 28/02/11, 14/03/11, 15/03/11, 11/04/11 and 09/05/11. He was also on bail conditions for this period. He completed his

Diversion program prior to the last court sitting. He has had no further offending or youth justice system connection and is a productive member of his community working as a stockman on a nearby station.

d. There is a case in point of a 14 year old young man with no priors attending court for offending where he stole merchandise. Family members made him give all the stolen merchandise back and apologise to the shop owner. The intention was for him to receive post court diversion (section 64 of the Act), for an enhanced outcome for re-offending and to record no convictions on his criminal record. His first appearance in court was on 04/10/10. He had subsequent appearances on 04/10/10, 06/12/10, 18/01/11 (in Alekerange), 31/01/11, 28/02/11, 11/04/11 and 14/03/11. He is now on a Diversion program and attended court on 11/07/11 to determine if he had finished his Diversion program.

The purpose of the Act is for first time offenders to have the least possible involvement in the Youth Justice Court, with better outcomes achieved through Diversion programs. Clearly, this is not evident in these two case studies. These young men have not re-offended and are productive members of their community through support and case management.



Appendix B

Outcare Western Australia. <http://www.outcare.com.au/>

Curfews for juveniles - do they work?

With the Western Australian State Government's introduction of the Young People in Northbridge Policy, the issue of juvenile curfews is both current and prevalent within our community. In recognising this issue as one of considerable interest, this paper introduces and critiques the Young People in Northbridge Policy and juvenile curfews more generally, leading to a statement of Outcare's position on the matter.

Background: Responding to juvenile delinquency and offending

Both nationally and internationally, juvenile offending has consistently and pervasively been presented as a crucial area of concern among governments, their policymakers, and the general community alike. In Australia, statistics reveal that juvenile offender rates have generally been twice as high as adult ones. While the latest statistics from the Australian Institute of Criminology (AIC) demonstrate a significant decrease in Australian juvenile offender rates in the period from 1996-97 to 2003-04, from 3,965 to 3,023 per 100,000 per year, there has been a noteworthy increase since 2005 to 3,532 per 100,000 in 2006-07. Further, while the same statistics reveal a decrease in most offences, there has been a 48 percent documented increase in juvenile offender rates for assault in the decade from 1996-97 to 2006-07 (AIC, 2009,

p. 58). These statistics serve to reinforce the importance of developing innovative responses in addressing juvenile crime, especially given that the juvenile stage represents a crucial point for intervention.

In responding to juvenile crime and delinquency, the implementation of juvenile curfew policies, which restrict the movement of juveniles in public spaces (usually nocturnally), have become an increasingly popular strategy, being revered as a means of crime prevention, harm minimisation and crime detection (Adams, 2003; Reynolds, Seydlitz & Jenkins, 2000; Simpson & Simpson, 1993). The imposition of such juvenile curfew policies has a long history in the United States, with a documented 80 percent of its largest cities and 75 percent of its moderate-sized cities, having juvenile curfew laws (Reynolds, et al., 2000). It seems Australia is following suit with most jurisdictions having enacted or at least considered such policies.

Despite their popularity, however, curfew initiatives have remained a controversial topic. On one end of the spectrum, curfew policies represent a cost-effective strategy that promises to reduce juvenile crime and victimisation. Yet on the other, they can be seen to infringe on civil rights and liberties, among other criticisms to be discussed within this paper. These arguments are particularly relevant to the Western Australian experience, with the implementation of the Young People in Northbridge



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Policy, which continues to draw attention even six years after its announcement. With such policies enjoying immense popularity among governments both here and abroad, it begs the question: Do they work?

The Young People in Northbridge Policy

In June 2003, the Western Australian State Government, led by Premier Geoff Gallop, implemented the Young People in Northbridge Policy, which stipulates a curfew to all unsupervised children in the Northbridge entertainment precinct. The policy prohibits children under the age of 12 from the area after sunset, and children aged 13-15 after 10pm, unless under the immediate care of a sober, responsible guardian. The policy also directs a 'hard-line approach' by police to all under-18-year olds engaged in anti-social behaviour or under the influence of alcohol or other drugs.

With the legal position of the policy outlined in Section 41 of the *Children and Community Services Act 2004 (WA)*, police and other authorised personnel are directed to engage unsupervised young people within the precinct and direct them to their homes (Carpenter, 2006). Those youths that are deemed to be 'vulnerable' are taken to the WA Police Juvenile Aid Group facility where risk assessments are completed, determining their degree of risk both within the community and in their homes. Arrangements are then made to transport the young person to a safe place (Right Track, 2009).

Gallop's curfew policy was announced amid a climate of growing concern over a perceived deterioration in community safety in what is Perth's premier adult entertainment precinct. These community concerns were documented in the *Northbridge: Shaping the future* report, released by the Department of the Premier and Cabinet (DPC) in 2002. While the domineering concern cited by the report was the increasing rate of assault within the district, the report also acknowledged "anti social behaviour, particularly by young people" as a crucial area requiring attention, with a "particular focus on the issues relating to Aboriginal youth" (DPC, 2002, p. 3). The report concluded with a recommendation for a 'cooperative approach' to address crime and community safety (DPC, 2002).

In responding to these issues, the Gallop Government and the Office of Crime Prevention (OCP) presented the Young People in Northbridge Policy as a "part of a major long-term strategy to enhance the Northbridge precinct area and to respond to the immediate problem of 'at risk' children and young people in Northbridge at night" (OCP, 2009, p. 1). Three years later, the Carpenter State Government reported on the success of the Young People in Northbridge Policy as documented in an operational review by the Office of Crime Prevention. The review cited a 35% reduction in unsupervised juveniles roaming the area, along with a reduction in the level of anti social behaviour by juveniles. It also



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revealed an improved community confidence and support for continuation of the policy as well as improved agency and organisational operations (Carpenter, 2006).

Responses to the Young People in Northbridge Policy

Despite the apparent success of the Northbridge curfew policy, as outlined in its three-year operational review, public attitudes have revealed divided views. The policy was received with great support from Northbridge business proprietors, and given its presentation to the public as a 'well planned welfare intervention' (Youth Affairs Council of Western Australia (YAC), 2003), it proved to be extremely popular with the local tabloid newspaper and most radio and talkback commentary (Rayner, 2003; YAC, 2003). However, the policy was subject to major criticism from various stakeholders who revealed the government's failure to consult with government departments and non government agencies and service providers working with young people in the inner city (Rayner, 2003; YAC, 2003). There was also concern that the government had made no provisions to inform young people of their new responsibilities under the policy (YAC, 2003).

Aside from these developmental criticisms, the Young People in Northbridge Policy has also been subject to public debate regarding its legality as well as its effectiveness as a crime prevention tool.

Such public debate mirrors the reception of the Northbridge Policy's controversial predecessor, Operation Sweep, the short-lived police-led campaign launched in Western Australia in January 1994.

In the same manner of the Young People in Northbridge Policy, Operation Sweep utilised powers under Section 138B of the *Child Welfare Act 1947* to remove youth found on the streets of Northbridge (and Fremantle) at night, thereby enforcing a de facto curfew on young people. While the campaign was embraced by the City of Perth and the Northbridge Business Association, who expressed concern about "the threatening presence of young people" (Sercombe, 1999, p. 4), it was met with significant opposition within the Fremantle community. With mounting protests regarding civil rights arguments, Operation Sweep was subsequently rejected by Fremantle City Council and despite being declared a 'success' by then Police Minister Bob Weise it was not long before the Northbridge operation was dissolved. Many argue that the current Young People in Northbridge Policy should receive the same fate.

Arguments for curfew policies

The popularity of the juvenile curfew lies with the notion that curfews make the streets safer, a compelling public interest amid perceptions of the increasing 'juvenile crime problem' (Adams, 2003). The rationale behind this reasoning is derived from the curfews' two principal stated purposes. That is, by restricting the presence



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of juveniles in public during specified hours on a continuing basis, juvenile curfews can firstly, effect a reduction in juvenile crime by preventing and deterring the commission of crime during these hours, and secondly, protect young people themselves from becoming the victims of crime during these hours (Brown, 2000; Simpson & Simpson, 1993). In this way, curfew policies reflect a straightforward application of opportunity theory and commonsense thinking which denotes that juveniles are less likely to commit crimes and to be victimized if they are not on the streets (Adams, 2003; Reynolds, et al., 2000).

Further, by directing police and other authorities to engage juveniles, curfew policies not only increase the tools of crime detection but also allow for the early identification of children who are at high risk for criminal offending and victimization, thereby presenting a crucial opportunity for early intervention (Adams, 2003). Additionally, curfew policies can act to reinforce important social values by placing responsibility back on to parents, thus emphasising the role of the family. In doing so, curfews place particular emphasis on, and encouragement of, parental responsibility, influence and control, as well as the strengthening of family networks and supports (Adams, 2003; Brown, 2000; Simpson & Simpson, 1993). From this perspective, curfew policies can go beyond the representation of a simple instrument of crime control by providing an opportunity to address crucial social issues and welfare needs. In this

way, curfew policies can be seen to be attractive both politically and philosophically (Adams, 2003).

Arguments against curfew policies

Despite the seemingly obvious political and philosophical persuasions of juvenile curfew policies, little is known about their effectiveness. While reviews of the Young People in Northbridge Policy have revealed positive results, as reported by the Western Australian State Government, the limited empirical research that is currently available (conducted mostly within the United States) have generally indicated that curfews don't work (Adams, 2003; Reynolds, et al., 2000; YAC, 2003).

In a systematic review of ten quasi-experimental studies of juvenile curfews, Adams (2003) found that overall the weight of the scientific evidence fails to support the argument that curfews reduce crime and criminal victimization. Adams (2003) acknowledged that while it was possible to draw on a single study or several studies to show that curfews work, a more comprehensive review of the research indicates that "curfews generally do not produce statistically significant changes in crime and that when such changes are observed, they are almost equally likely to be increases in crime as opposed to decreases in crime" (Adams, 2003, p. 144).

Beyond this lack of empirical evidence supporting the effectiveness of curfews as a strategy of



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crime control, curfew policies have also been criticised as a superficial ‘quick fix’ response to juvenile offending that inappropriately infringes on important civil rights and liberties and further, can be subject to discriminatory enforcement (Adams, 2003; Simpson & Simpson, 1993).

A superficial response?

The Young People in Northbridge Policy has been labelled by opponents as a policy “devoid of any substance” (Mac Arthur, 2007, p. 3), representing a superficial governmental response to anti-social behaviour in Northbridge generally, and among juveniles more specifically. In supporting such claims of superficiality, there are four major arguments:

Firstly, while the Northbridge curfew targets young people under the age of 18, statistics from the Crime Research Centre at the University of Western Australia, published in the *Northbridge: Shaping the future* report, indicates that 71 percent of serious and common assaults in Northbridge are perpetrated by adults in the age group of 18 to 34 years (DPC, 2002, p. 28). These statistics are mirrored by research conducted by Mission Australia that identifies 70 percent of crime in the curfew area as being perpetrated by adults not juveniles. Furthermore, according to Mission Australia, there had been no documented upsurge of crime by young people in Northbridge. In fact, in the 12 months prior to the commencement of the Northbridge curfew, youth incidents resulting in arrest were on the decline (Mission Australia

(2002), cited in Koch, 2003) .

Secondly, curfew opponents have highlighted that police already had access to, and utilised Section 1388 of the *Child Welfare Act 1947*, on a needs basis (MacArthur, 2007; Rayner, 2003; VAC, 2003). While Section 1388 of the *Child Welfare Act 1947* has since been repealed and replaced with Section 41 of the *Children and Community Services Act 2004 (WA)*, both Acts similarly provide police with powers to detain unsupervised children where there is a belief that their wellbeing is in danger. With the pre-existing availability of these powers, it has been suggested that the implementation of the Northbridge curfew was nothing more than an aggressive and targeted application of the Act, driven by the Government’s political agenda as champion of law and order (Koch, 2003; Mac Arthur, 2007; Rayner, 2003; VAC, 2003) . As a senior official with the WA Police Service media department commented:

(The curfew) was a highly politicised decision where the government of the day wanted to be seen to be doing something about anti-social behaviour in Northbridge, whereas the police in summary took the view that, look, we’ve always apprehended people under the *Child Welfare Act* anyway, so call it a curfew, call it whatever you like, but we’re just going to keep doing what we’ve always done.... Really it was business as usual for the police. (Mac Arthur, 2007, p. 3) ¹

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A third argument for the superficiality of the Northbridge curfew lies with the issue of displacement. Basically, as a situational crime prevention method², it is argued that curfews may merely move or displace crime to a time and/or place where the curfew is not in effect, thereby severely limiting the net reduction in crime achieved (Adams, 2003; Hesselning, 1994; Town, 2001). While investigations into the displacement effects of curfews are limited, the available research suggests that there is merit to these claims. Such research reveals that juveniles may alter their patterns of offending behaviour to accommodate a curfew, with evidence of both geographic and temporal displacement (Adams, 2003; Hesselning, 1994).

Finally, and most importantly, it has been argued that the Northbridge curfew policy criminalises welfare issues while fatefully ignoring the underlying causal factors of juvenile crime (Mac Arthur, 2007; VAC, 2003). The Gallop Government denied such arguments by stating that “the curfew is not a ‘stand alone’ policy but part of a broader, more comprehensive strategy to make Northbridge safer for all users” (Gallop, 2003, June 26). Accordingly, in 2004 the Gallop Government announced various parent support programs among other initiatives and funding allocations aimed at helping and protecting children involved in risky and anti-social behaviour³. Nevertheless, it is apparent that the curfew policy itself has more of an immediate interest in coercion and control,

with its primary purpose being to simply eliminate the presence of young people on the streets in Northbridge.

In relation to these welfare arguments, curfews have also been critiqued on the basis that they are implicitly founded in naive assumptions, particularly that parents or caretakers are responsible providers, and that the home is a safe and secure place for young people (Adams, 2003; Simpson & Simpson, 1993). However, such assumptions may not always be realistic. It has been argued that the home can be a dangerous place for some young people, for example, in terms of family violence, or where parents themselves engage in a cycle of offending. Importantly, it is most often children subject to these circumstances who are at high risk for delinquency (Adams, 2003). Furthermore, it has been asked: “What role does the enforcement of a curfew play regarding homeless youth?” (Simpson & Simpson, 1993, p. 198).

These issues highlight the fact that the presence of young people on Northbridge streets at night cannot be viewed without raising issues of youth homelessness and disadvantage. As Simpson and Simpson (1993, p. 198) declared in their analysis of curfews as a method of juvenile crime-control in Australia: “those most in need of social support will be those most likely to be subjected to a curfew and those most likely to fail its conditions”. Given this, it is evident that a greater concentration on

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the structural factors which lie behind juvenile crime is necessary.

In summary, the superficiality of the Northbridge curfew is evident in: 1) its apparent disregard for actual crime statistics, 2) its appearance as a politically 'dressed-up' policy lacking substance due to the pre-existence of its parameters, 3) its limitations in preventing the mere geographic and temporal displacement of the crime which it has intended to reduce or prevent, and 4) its failure to address underlying social welfare issues that may lead young people to be on the streets in the first place. In light of these arguments, it seems that overall, curfew policies serve no purpose other than to perpetuate the negative stereotyping of all young people regardless of their behaviour (Mac Arthur, 2007; VAC, 2003). In this way, it is argued that curfews 'demonize' young people, "paint[ing] [them] in the public domain as a threat or at best potentially threatening and unwelcome in their own city" (VAC, 2003, p. 3).

Civil rights and liberties

As a means of curbing juvenile crime, curfews overtly exert control over juvenile behaviour in its entirety by prohibiting their presence in public spaces (Walsh, 2002). For this reason, the validity of curfews has been questioned on the basis

that they conflict with the fundamental rights and liberties upon which democratic societies such as Australia are based (Brown, 2000; Simpson & Simpson, 1993; Walsh, 2002). Further, by imposing on young people's freedom of movement, along with their freedom of privacy, association, assembly and travel, juvenile curfews can be seen to ignore various international human rights instruments to which Australia is a party (Simpson & Simpson, 1993).

However, the issue of juvenile rights is a complex matter. While it is recognised that the rights and liberties afforded to juveniles do not (and should not) equal those extended to adults⁴, juveniles nevertheless indisputably have rights worthy of protection (Brown, 2000). According to Brown (2000, p. 671), the issue, then, is "not whether juveniles have rights to be protected, but how these rights compare to those of adults and how much power the state can wield over juveniles". In response, it is suggested that the state exercises greater power over juveniles since their well-being is a subject within the state's power to regulate (Brown, 2000). Regardless, the imposition of a juvenile curfew is clearly in breach of Australia's obligations under the UN Convention on the Rights of the Child, ratified by the Australian government in 1990, which seeks to protect children from arbitrary arrest or detention by

¹ A personal communication quoted by Mac Arthur (2007) who's research emphasised the superficial nature of the Northbridge curfew policy.

² Situational crime prevention (of which curfews are an example) refers to strategies that aim to reduce the opportunity for crime by changing the environment or setting that criminals operate within, so that crime requires more effort, more risk and produces lower rewards. Such strategies have been open to criticism as they do not seek to alter the root causes of crime, that is, the individuals' motivations or desire to commit offences (Town, 2001).

³ See for example: Gallop, 2004, July 2; Gallop & McHale, 2004, March 7; Gallop, 2004, November 29

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compelling the principle of detention as a 'last resort' (Rayner, 2003).

As well as infringing on the rights of juveniles, it is also argued that juvenile curfews infringe on the rights of parents to raise their children without undue state interference (Brown, 2000; Simpson & Simpson, 1993). In doing so, curfews go beyond a means of controlling juvenile behaviour by also becoming a mechanism whereby families can be regulated through the manner in which they reinforce a particular view of appropriate family behaviour, particularly regarding the role of the family with respect to the care of children (Simpson & Simpson, 1993; Walsh, 2002). By instilling a particular definition of 'correct' family conduct it is suggested that curfews deny the rights of parents to direct the upbringing of their children and in this way they may violate family autonomy (Simpson & Simpson, 1993).

Overall, it seems that despite their reliance on legislation designed for the care and protection of children, curfews such as the Young People in Northbridge Policy, appear to have more of an immediate interest in coercion and control, to the extent that they can be seen to infringe on the rights and liberties of the subject population that they are meant to protect (Cunneen, 2007; Sercombe, 1999; Simpson & Simpson, 1993).

Discriminatory enforcement

In addition to difficulties regarding civil rights and liberties, curfews have also been criticised for their susceptibility to racial discrimination. It is argued that while curfews are expressed to target all juveniles equally, in practice this is not always the case (Rayner, 2003). In the Western Australian experience it is clear that Aboriginal youth have borne the brunt of the Young People in Northbridge Policy. Statistics cited by Koch (2003) report that from the curfew's inception on 23 June 2003 to 14 September 2003, 285 Aboriginal youth were detained, compared to only 39 non-Indigenous youth.

Similarly, statistics from Mission Australia reveal that 75-85 percent of those apprehended under the Northbridge curfew policy are Aboriginal (Mac Arthur, 2007). Further, the majority of these are Aboriginal females aged between 13 and 15 (Carpenter, 2006; Mac Arthur, 2007).

It has been suggested that such statistics may be a mere representation of the proportions of Aboriginal and non-Aboriginal young people on Northbridge streets (Rayner, 2003). Yet even if this is the case, it is argued that curfews are still 'indirectly' discriminatory in the manner that they have a disproportionately adverse impact on one particular racial group. However, there have also been indications of direct discrimination through discriminatory enforcement. It has been argued

⁴ For example, the 'right' to vote, drive, or engage in any number of activities unsuitable or dangerous for young people (Brown, 2000).

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by various Aboriginal and youth groups that, due to “systematic racism within our society” (Koch, 2003, p. 7), Aboriginal youth are often subjected to increased monitoring and surveillance by police, along with the general public (Koch, 2003; Mac Arthur, 2007; Rayner, 2003). Subsequently, Aboriginal youth often do not go unnoticed on Northbridge streets, and as a research fellow at the University of Western Australia Crime Research Centre was quoted: “You’re bound to find more if you look more” (Mac Arthur, 2007, p.3).

Nevertheless, the Western Australian State Government has denied the racially discriminatory nature of the Young People in Northbridge Policy stating that it was not discriminatory to ‘crack down’ on offenders. “In this case, they were children who might be in need of care and protection, even if they happened to be overwhelmingly Aboriginal children” (Rayner, 2003, p.9).

Outcare’s position

Outcare agrees that the Northbridge entertainment precinct is not an appropriate environment for unsupervised children during the late night and early morning hours, especially given its nature as a ‘crime hotspot’. However, Outcare takes the position that the presence of unsupervised children in Northbridge presents an issue of social welfare, rather than one of crime control. From this perspective, it is crucial that initiatives are directed

towards the care and protection of these children. While the Young People in Northbridge Policy has been presented by the State Government as an initiative towards these means, it is obvious that simply banning children from a public space, even one which presents an inappropriate and possibly dangerous environment, is not enough. Not only is there evidence that such a limited response may be ineffective as a method of crime control, it also fails to acknowledge the structural factors which reduce the quality of life for many young people and contribute to the incidence of juvenile offending.

As such, Outcare places emphasis on the social welfare aspects that should accompany juvenile curfews. It is these developmental accompaniments, rather than the coercive aspects of curfews, that contribute to the success of such policies (Cunneen, 2007). It is important to note here that Outcare is strongly against the unnecessary criminalisation of children and further, highly regards the principle of inclusion, values that seem to be disregarded by juvenile curfew policies. Further, given the pre-existence of the *Child Welfare Act 1947* and the current provisions under the *Children and Community Services Act 2004*, Outcare takes the view that there is no rational need for the Northbridge curfew.

However, beyond the curfew debate, the discussions presented here have outlined the

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importance of responding to the welfare needs of juveniles. In doing so it seems that curfews may present an opportunity to identify children and families who can benefit from social services. The identification of these individuals, in a manner that necessarily emphasises welfare needs, with the expansion of the range and availability of local social welfare services, and increased liaison initiatives between enforcement and welfare agencies, may be a first step to providing some substance to the Young People in Northbridge Policy and improving responses to juvenile crime.

Conclusion

This discussion paper has demonstrated that juvenile curfew policies may be attractive as an instrument of both crime control and social policy, with promises to reduce juvenile crime and victimisation, while possibly encouraging parental responsibility and family cohesiveness. Nevertheless, the use of curfews remains to be fraught with difficulties. **They offend basic civil rights, are open to discriminatory enforcement, and their effectiveness is questionable. Further, independently, curfews fail to address the broader social issues of juvenile crime.**

As stated by the Western Australian Government's Office of Crime Prevention, "Our children and young people are the future of our State. They require nurturing, support and protection to ensure that they achieve personal success and

make a valuable contribution to society" (OCP, 2009). While this is true, it is apparent that the imposition of a curfew will not achieve this purpose. **In fact, given the evidence, a curfew, on its own, may simply act to perpetuate the negative stereotyping of children along with the seemingly over-exaggerated fear of young people.** Consequently, it is fundamentally important that curfew policies go beyond coercive and controlling methods. A multi faceted approach is necessary; not only reducing the opportunity for crime, but also offering developmental support that can adequately address the multiple social disadvantages that young people may experience. A simple curfew without more is likely to fail.

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References

- Adams, K. (2003). The effectiveness of juvenile curfews at crime prevention. *The ANNALS of the American Academy of Political and Social Science*, 587(1), 136-159.
- Australian Institute of Criminology (AIC). (2009). *Australian crime: Facts and figures 2008*. ISSN 1836- 2249. Available at: <http://www.aic.gov.au/publications/facts/2008/>
- Brown, B.K. (2000) . Scrutinizing juvenile curfews: Constitutional standards and the fundamental rights of juveniles and parents. *Vanderbilt Law Review*, 53(2), 653- 684.
- Carpenter, A. (2006, December 10). *Ministerial media statements: Northbridge curfew achieves reduction in juvenile anti-social behaviour*. Available at Government Media Office: <http://www.mediastatements.wa.gov.au/Pages/Results.aspx?ItemID=127561>
- Cunneen, C. (2007). *Juvenile justice: Youth and crime in Australia* (3'd ed.). South Melbourne: Oxford University Press.
- Department of the Premier and Cabinet, Government of Western Australia (DPC). (2002). *Northbridge: Shaping the future*. Available at: <http://www.northbridge.history.wa.gov.au/index.cfm?event=publications>
- Gallop, G. (2003, June 26) . *Ministerial media statements: Premier unveils Northbridge curfew policy*. Available at Government Media Office: <http://www.mediastatements.wa.gov.au/Pages/Results.aspx?ItemID=121127>
- Gallop, G. (2004, July 2). *Ministerial media statements: One Year On: Northbridge curfew delivering results*. Available at Government Media Office: <http://www.mediastatements.wa.gov.au/Pages/Results.aspx?ItemID=120528>
- Gallop, G. & McHale, S. {2004, March 7) . *Ministerial media statements: Hot-spot metropolitan youth and their families to be aided by innovative new program*. Available at Government Media Office: <http://www.mediastatements.wa.gov.au/Pages/Results.aspx?ItemID=114505>
- Gallop, G. (2004, November 29) . *Ministerial media statements: Parents to be made more responsible for anti-social and offending behaviour of children*. Available at Government Media Office: <http://www.mediastatements.wa.gov.au/Pages/Results.aspx?ItemID=120615>
- Hesseling, R.B.P. (1994). *Displacement: A review of the empirical literature*. Research and Documentation Centre, Ministry of Justice, The Netherlands.

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- Koch, T. (2003). Curfews: Aboriginal Legal Service of Western Australia. *Indigenous Law Bulletin*, 54 .
- Mac Arthur, C. (2007). *The 'emperor's new clothes': The role of the Western Australian press and state government in selling the story of the Northbridge curfew*. Doctoral dissertation, Murdoch University, Perth, Western Australia.
- Office of Crime Prevention, Government of Western Australia (OCP) . (2009). *Northbridge Policy*. Available at: <http://www.crimeprevention.wa.gov.au/content.php?page=Northbridge%20Policy>
- Rayner, M. (2003). Northbridge Curfew. *Indigenous Law Bulletin*, 56.
- Reynolds, K.M., Seydlitz, R. & Jenkins, P. (2000). Do juvenile curfew laws work? A time-series analysis of the New Orleans Law. *Justice Quarterly*, 17(1), 205-231.
- Right Track (Transperth Project, Government of Western Australia) . (2009). *News-The Northbridge curfew*. Available at: [http://www.righttrack.wa.gov.au/News/NorthbridgeCurfew/ta bid/140/Default.aspx](http://www.righttrack.wa.gov.au/News/NorthbridgeCurfew/ta%20bid/140/Default.aspx)
- Sercombe, H. (1999) . *Media representations, policing interventions: How language and discourse shape the policing of young people in public space*. Paper presented at the Youth in the Plural City Conference, Rome. Edith Cowan University, Perth.
- Simpson, B. & Simpson, C. (1993) . Use of curfews to control juvenile offending in Australia: Managing crime or wasting time? *Current Issues in Criminal Justice*, 5(2), 184-199.
- Town, S. (2001). Crime displacement: The perception, problems, evidence and supporting theory. Available at Home Office: <http://www.crimereduction.homeoffice.gov.uk/skills/skills10.htm>
- Walsh, C. (2002). Curfews: No more hanging around. *Youth Justice*, 2{2), 70-81.
- Youth Affairs Council of Western Australia (YAC) . (2003). The public fight for young people to be in the city. *Indigenous Law Bulletin*, 55.

