



Part 2:

Evaluation of the impact of existing legislation, policy and practice

Chapter 3: Youth Justice Court

Chapter 4: Department of Children and Families

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PART 2: EVALUATION OF THE IMPACT OF EXISTING LEGISLATION, POLICY AND PRACTICE

Introduction

Government departments across Australia underpin the majority of services and responses provided in the youth justice system. This is through direct service delivery such as policing and indirect service delivery such as a non government organisation that delivers services on behalf of government. This is also the case for the delivery of the continuum of services to the youth justice system in the Northern Territory.

This Review is titled the 'Youth Justice System Review, the 'system' encompasses a 'continuum of services and responses from preventative, policing, pre court, correctional services and post release'.¹

The key departments, and therefore ministerial portfolios, that currently support (and have traditionally supported) the youth justice system in the Territory are the departments of:

- Children and Families (DCF)
- Northern Territory Police (NTP)
- Justice (DoJ)
- Education and Training (DET)
- Health (DoH).

The services provided by the above departments, either directly or indirectly, include:

- policy advice on preventative and early intervention measures
- administration of program and initiative provision
- front line services
- pre court services, such as diversion
- support services and a legislative framework for Territory courts
- correctional services
- post release services.

¹ DoJ and DCF, *Review of the Northern Territory Youth Justice System: Terms of Reference* (29 March 2011) Northern Territory Government, Darwin.

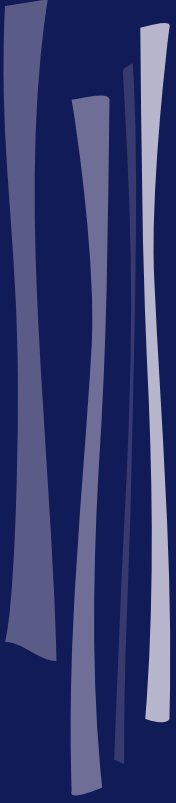
PART 2: EVALUATION OF THE IMPACT OF EXISTING LEGISLATION, POLICY AND PRACTICE

The following priorities were established by the Review to best respond to the terms of reference within the allocated timeframe and, most importantly, to identify opportunities to reduce youth offending and re-offending and to contribute to the creation of safer communities:

- provide a narrative of each department's relevant functions
- identify and examine existing legislative, policy and practices and their application to each department
- evaluate whether, and to what extent, each department was meeting its stated aims and functions within the legislative, policy and practice framework
- recognise, understand and evaluate the challenges faced by the youth justice workforce so as to identify options to develop and enhance the government sector
- consider ways in which the ability of departments can be enhanced to assist in the continuum of services, to be included in Part 3.

In response to the terms of reference, the Review has examined and evaluated current service provision, associated relevant legislation, how services are delivered and the workforce that underpins the youth justice system. Greater detail is provided in relation to each department in the following chapters.

The Territory is not unique in facing the challenges of its youth justice system. However, it does have a unique geographical and demographic profile and finite resources, and this has been considered throughout the development of the Review's recommendations.



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CHAPTER 3: YOUTH JUSTICE COURT

Introduction

The Review received detailed and thoughtful submissions regarding the operation of the *Youth Justice Act* (YJA) and the Youth Justice Court.

A number of recommendations made in the submissions were not directly relevant to the terms of reference, although they are relevant to many aspects of the youth justice system. They will be a useful resource for government in its ongoing efforts to improve the youth justice system.

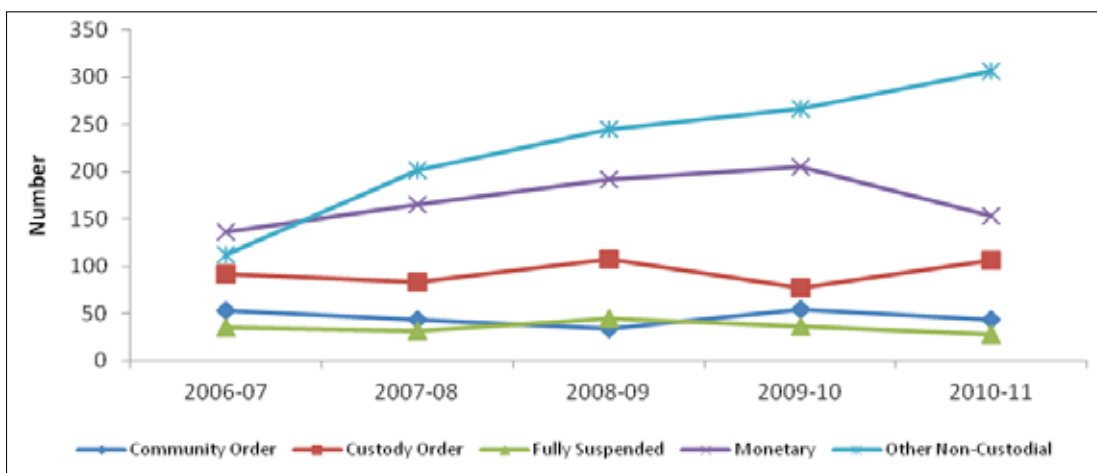
The Review has limited its response to the terms of reference and to matters about which it could comment based on available research and trends.

Court orders

The types of orders made by courts for juveniles are shown in figure 3.1. The Australian Institute of Criminology (AIC) found that the use of fines increased steadily from 2006–07 to 2009–10 but dropped in 2010–11. The number of juveniles receiving custodial sentences remained largely stable.¹

In 2009–10, the proportion of juvenile defendants in the Territory receiving a custodial order (18%) was the highest in Australia, ahead of Tasmania (16%) and New South Wales (15%), while the lowest proportion (5%) was in Queensland.²

Figure 3.1 Orders made by criminal courts, juvenile defendants found guilty, 2006–07 to 2010–11



Source: NT Department of Justice

¹ AIC, *Review of the Northern Territory Youth Justice System: Overview of the Data* (2011) Canberra.

² ABS, *Criminal courts, Australia, 4513.0* (2011) Canberra.

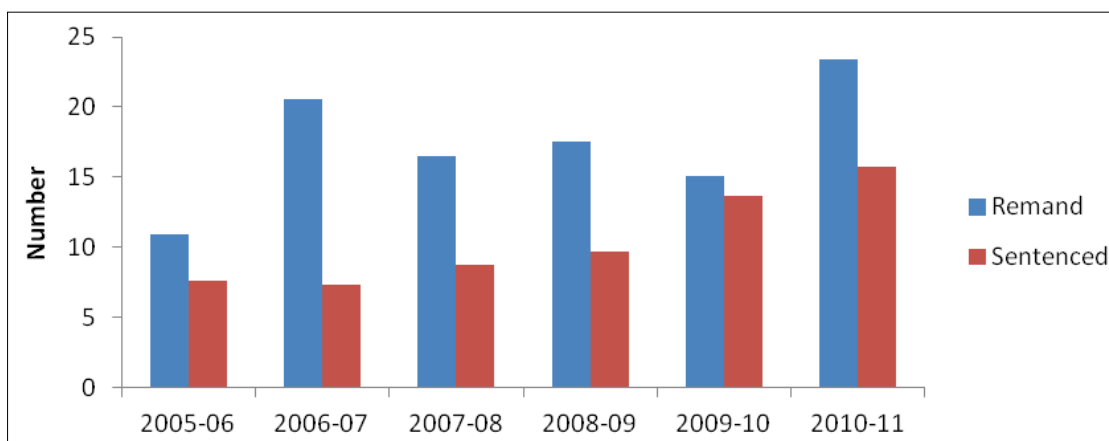
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Remand and sentencing

The YJA sets out how police, lawyers, magistrates, detention centre and community corrections staff conduct proceedings in relation to young offenders. It also states that young offenders ‘should only be kept in custody for an offence (whether on arrest, in remand or under sentence) as a last resort and for the shortest appropriate period of time.’³

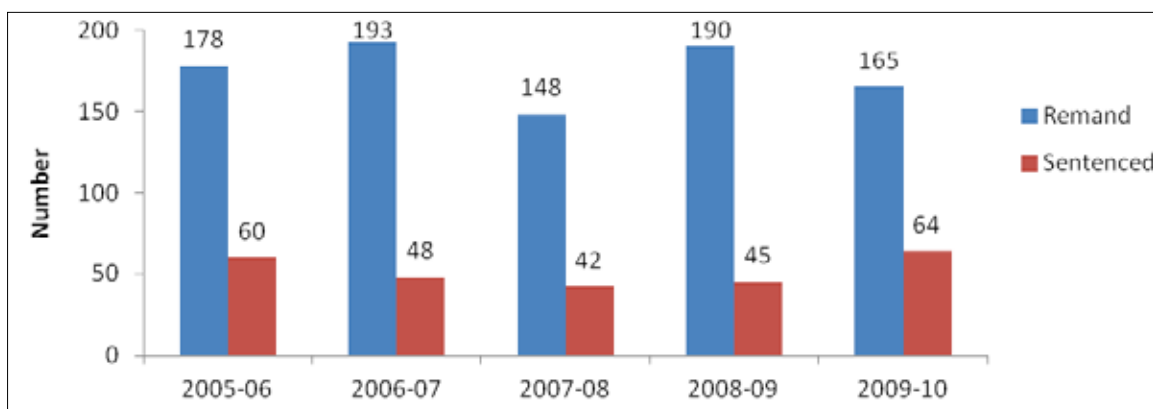
Data assessed by the AIC shows that the number of juveniles in detention on remand in the Territory is consistently higher than the number of juveniles serving a sentence, as shown in figures 3.2 and 3.3 below.⁴ There are many reasons for this, including an inability to meet bail conditions, which is a significant factor.

Figure 3.2 Juveniles in detention, 1 July 2005 to 30 June 2011, daily average number by legal status



Source: NT Department of Justice

Figure 3.3 Juvenile detention receptions, 2005–06 to 2009–10, by legal status



Source: NT Department of Justice

³ *Youth Justice Act*, section 4(c).

⁴ AIC, above n 1.

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The recently released *Doing Time—Time for Doing* report notes:

One of the biggest growth rates in relation to detention for Indigenous juveniles is in remand. These are not children who have actually been convicted of anything but, because they are unable to meet bail conditions, often because they do not have functional homes to go to, they either breach their bail or do not get bail in the first place.⁵

And ‘the single biggest factor in being unable to comply with bail conditions is the lack of appropriate accommodation available to young offenders whilst they are awaiting sentencing.’⁶

These comments were made in relation to NSW; however, they are equally applicable to the Territory.⁷

The Youth Magistrate advised that often she could not be satisfied there were sufficient supports and programs available for young offenders and, as a result, they would be refused bail.

Lack of suitable accommodation, inadequate parental or adult supervision, an inability to locate a responsible adult⁸, lack of access to appropriate education and training opportunities, drug and alcohol dependence, and health concerns were among the reasons cited for young offenders being refused bail and held in detention facilities.

The Department of Children and Families (DCF) in its submission to this Review states that:

‘in some cases, involvement in both systems [child protection and the Youth Justice Court] results in clients being referred from one system to another, and for detention to be considered as a temporary ‘safe place’.⁹

This makes sense, as many of these children are the subject of orders because their home environment is unsuitable. It is also consistent with experiences in other jurisdictions.¹⁰

As stated in the joint submission from the Aboriginal Legal Services and Torres Strait Islander Legal Services to the Standing Committee’s *Doing Time—Time for Doing* report:

5 Standing Committee on Aboriginal and Torres Strait Islander Affairs, House of Representatives, The Parliament of the Commonwealth of Australia, *Doing Time—Time for Doing: Indigenous Youth in the Criminal Justice System* (2011) Canberra, 222.

6 Ibid.

7 See CAALAS, *submission 17*, 18.

8 NAAJA, *submission 2*, 46.

9 DCF, *submission 5*, 14.

10 See, for example: New South Wales, *Parliamentary Debates*, Committee Hansard, 28 January 2011, 10 (Joan Baptie, Magistrate, Children’s Court of New South Wales), cited in Standing Committee on Aboriginal and Torres Strait Islander Affairs, House of Representatives, above n 5, 224.

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detention is a criminal sanction: not a 'placement' for children in need of care ... It is clear and predictable that young people at risk of entry to the criminal justice system will come from homes where it is unsafe for them to be. The need to provide accommodation, other than police cells or detention centres, is chronic.¹¹

The Review was advised that while there are a range of sentencing options in the YJA, many of them were difficult, and at times impossible, to implement because of the lack of availability, particularly in remote settings. This particularly applies in respect of treatment and rehabilitation options.¹²

The lack of treatment and rehabilitation programs for young people is discussed further in chapter 8.

No data was available to the Review detailing how many young offenders are refused bail, or how many of those refused bail are first time offenders. However, concerns were raised during the consultations and in a number of submissions that young offenders are refused bail for what are described as welfare related concerns, rather than criminogenic concerns, such as seriousness of offending or community safety.

This is significant and means that, unless solutions are found to the 'welfare' related issues such as suitable accommodation, and until there are more treatment and rehabilitation options available, it is likely that young people will continue to be remanded. In turn, and based on the available research, this means that young offenders are likely to return to and remain in the youth justice system for longer.

A research paper recently published by the AIC examining the effects of custodial sentences on young people can be extrapolated and applied to remandees. It found that:

- Indigenous offenders are more likely to re-offend than non-Indigenous offenders after serving a custodial sentence.
- The younger the age of incarceration, the more likely it is that an offender will re-offend and enter the cycle of recidivism.¹³

A report commissioned into the New South Wales juvenile justice system in 2010 stated:

Research has found that time spent in remand is the most significant factor in increasing the likelihood of recidivism ... Given the lack of evidence that detention acts as a deterrent, and its potential negative effects ... custodial penalties ought to be used very sparingly with juvenile offenders.¹⁴

11 Aboriginal Legal Services (NSW/ACT), NAAJA (NT), Queensland Aboriginal and Torres Strait Islander Legal Service submission to the Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Joint Submission: Inquiry into the high levels of involvement of Indigenous Juveniles and Young Adults in the Criminal Justice System* (January 2010), 17–18, cited in Standing Committee on Aboriginal and Torres Strait Islander Affairs, above n 5, 226.

12 *Youth Justice Act*, section 83(d).

13 Jacqueline Joudo, *Responding to Substance Abuse and Offending in Indigenous Communities: Review of Diversion Programs, Research and Public Policy Series No 88* (2008) Australian Institute of Criminology, cited in Law Council of Australia, *Submission to the House of Representatives: Standing Committee on Aboriginal and Torres Strait and Islander Affairs* (27 January 2010) 5.

14 Noetic Solutions, *A Strategic Review of the New South Wales Juvenile Justice System: Report for the Minister of Juvenile Justice* (2010), 69. See also: Barry Holman and Jason Ziedenberg, 'The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities' (2007) *A Justice Policy Institute Report*.

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The cost of keeping a young person in custody is \$592 per day.¹⁵ Given this significant cost, and evidence that suggests that being kept in detention tends to increase the likelihood of further interaction with the youth justice system, it is in the interests of government and the public to find alternatives and solutions that will reduce offending and re-offending, and effectively deal with young offenders.¹⁶

Some young offenders are sentenced to periods of detention because their crimes require it and others are refused bail because they pose a risk to the community. However, based on consultations and submissions, many young offenders are put into juvenile detention centres on remand because nowhere else is safe for them, which, having regard to the available evidence, can increase their likelihood of remaining in the youth justice system. It also reduces their ability to avail themselves of the limited treatment and rehabilitation options that exist.

Some solutions

It is not within the remit of this Review to propose solutions to the myriad of issues that account for the well known problems such as poverty, homelessness and violence that confront many Indigenous children. The Review does, however, propose some solutions aimed at reducing the rate of offending among young people and limit their exposure to detention centres, where appropriate. Few solutions are easily achieved, let alone measurable, in the short to medium term. The interconnectedness of health, education and legal issues adds to the complexity of the challenges.

Preventive, early intervention and post-release programs

A range of programs (including bail and post release accommodation) is discussed throughout this report. For the reasons discussed, evaluations need to be undertaken of existing programs and additional resources are required in order to increase the capacity for others.

Alternative detention orders

The YJA provides that 'alternative detention orders' can be made by the court.¹⁷

Alternative detention orders (commonly referred to as home detention orders) are orders where a youth must 'reside or remain' at a particular premises or place.¹⁸ The court must be satisfied suitable arrangements are available to reside at the nominated premises, that the premises is suitable and that the making of the order is not likely to inconvenience or put at risk others at the premises.¹⁹

¹⁵ The average daily cost of keeping a young person in a Territory detention facility in 2009–10 was \$592: email from NTCS to the Youth Justice System Review, 15 August 2011.

¹⁶ Noetic Solutions, above n 14, 115; see also NAAJA, *submission 2*, 46 and CAALAS *submission 17*, 19.

¹⁷ *Youth Justice Act*, section 83(1)(j) and Part 6, Divisions 8 and 9.

¹⁸ *Youth Justice Act*, section 100.

¹⁹ *Youth Justice Act*, section 101(1).

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The court can order conditions such as the offender is 'not to leave the premises or place' except for reasons and at times prescribed by regulation or permitted by the Director of Correctional Services.²⁰ The court can also order that the offender 'wear or have attached a monitoring device in accordance with the directions of the Director.'²¹

Northern Territory Correctional Services (NTCS) advises that only four home detention orders for young offenders have been made since July 2009,²² and no monitoring devices are currently available.²³

The Youth Magistrate and the North Australian Aboriginal Justice Agency (NAAJA) advised that home detention was extremely difficult because the homes of many young offenders are inappropriate:

Most of our clients come from dysfunctional families, so much so it would be disastrous to compel them to home detention surrounded by that company ... Youth cannot access residential treatment options due to their age and/or lack of responsible adults.²⁴

The need for more creative options was noted in the recently released federal report *Doing Time—Time for Doing*: 'the Committee strongly urges the Northern Territory Government to extend its alternative sentencing model to make it fully available to young Indigenous people in centres with high offending and incarceration rates.'²⁵

One solution is for young offenders to be sentenced or remanded to alternative detention centres, such as youth camps. Unless more youth rehabilitation camps or facilities are established (where young offenders could be held in detention) it is difficult to see how the numbers of young people in detention centres can be reduced in the short to medium term.

Locking up young people because there are no other options is profoundly sad. Unfortunately, many of the reasons for this, such as family violence and dysfunction, poverty and overcrowding in houses, are incapable of resolution in the short and medium term. That is why it is necessary for additional alternative facilities to be established. There are three youth rehabilitation camps in the Territory, and a recommendation is made in part 3 to increase them.

Supervised bail program

In its submission, NAAJA referred to a supervised bail program in Western Australia that:

reduces the number of young people exposed to custody by providing specialist workers to young people, so that they need not be unnecessarily remanded in custody because responsible adults cannot be immediately found.²⁶

20 *Youth Justice Act*, section 102(1)(a).

21 *Youth Justice Act*, section 102(1)(b).

22 Email from NTCS to the Youth Justice Review, 30 August 2011.

23 *Ibid.* The contract to provide the devices has recently gone out to tender.

24 Email from NAAJA to the Youth Justice System Review, 30 August 2011.

25 Standing Committee on Aboriginal and Torres Strait Islander Affairs, above n 5, 244

26 NAAJA, *submission* 2, 46.

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Specialist workers are employed to help locate a responsible person to sign a bail undertaking, and can act as the responsible adult when no one else can be found.

This initiative could be trialled in the Territory and could be combined with the creation of court support workers, as discussed later in this report.

Approved programs

The YJA provides that the court may make an order for a young offender to participate in 'a program approved by the minister'²⁷; however, there is no definition of what an 'approved program' might be. Ideally such programs would enable the young person to acquire skills, appropriate rehabilitation and treatment, education and personal development support.

The magistrates commented that:

It is not difficult to imagine the types of programs that could be approved under this section directed at addressing the youth's criminogenic needs or making a contribution to the community. However, no programs to date have been approved.²⁸

The YJA should be amended to define 'approved program', with particular focus on meaningful skills based experiences that would enable a young offender to acquire skills, appropriate rehabilitation and treatment, education and personal development support.

Community work orders

The YJA provides that the court may make a community work order in 'an approved project' for up to 480 hours.²⁹

Community work orders (CWOs) are a form of community based order. CWOs are a sentencing option imposed by the court and are a way for a person who commits an offence to make amends to the community by performing work for organisations that is of benefit to the community.

Data analysed by the AIC³⁰ on types of community based orders issued from 2005 to 2009 (see figure 3.4) shows the number of young people on CWOs has generally declined over the past five years.

27 *Youth Justice Act* section 83(e). The Minister responsible is the Minister for Children and Families.

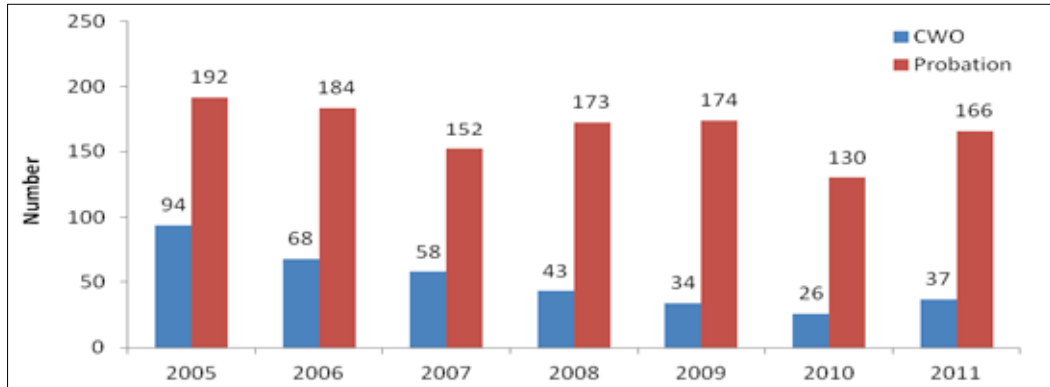
28 The magistrates, *submission 16*, 14.

29 *Youth Justice Act*, section 83(1)(h).

30 AIC, above n 1.

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Figure 3.4 Juveniles on community based orders at 30 June, 2005 to 2011, by order type



Source: NT Department of Justice

NTCS advises that there are presently very few approved community work programs available for young offenders. There is widespread criticism that there are few available and that they do not positively engage the young offenders.

The magistrates state that:

Virtually no projects have been approved for community work orders for youths outside major metropolitan areas and those which have been approved appears [sic] to be unimaginative (such as cutting cloth to produce rags) and do not take advantage of the potential for youth's [sic] to contribute to the community or to become engaged in the idea of work as a positive experience.³¹

The court is able to order restitution up to \$5000 or an order that an offender perform 'service as compensation for an offence'.³² Monetary orders seem rarely to be made, presumably because of the lack of ability of many young offenders, or their families to pay. However, as a monetary value is attached to the performance of service (work) more 'work orders' could be made if programs existed.

A number of remote community based stakeholders observed the need for particular services in their local areas, such as motor mechanics. Tailoring CWO programs to the needs of individual communities would be beneficial.

The Youth Justice Advisory Council advised that some young offenders have been able to become employed because of the successful completion of a CWO, and the skills gained while completing the order.³³

31 The magistrates, *submission 16*, 14.

32 *Youth Justice Act*, section 89.

33 Youth Justice Advisory Council, *submission 15*, 2.

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The Review is unaware of evidence that supports a direct link between CWOs and reductions in offending and re-offending. However, during the consultations, particularly those in remote areas, stakeholders were confident that CWOs were positive options that were underutilised, and a greater variety of work programs would assist young offenders and the communities in which they live.

The ongoing introduction of Local Implementation Plans in Territory Growth Towns should be broadened to consider CWO opportunities and more must be established.

Pre sentencing conference

When determining the appropriate sentence, the court can adjourn a matter so that a pre sentence conference occurs.³⁴ A pre sentencing conference 'may be with any of the victims of the offence the youth is charged with, community representatives, members of the youth's family or any other persons as the court considers appropriate'.³⁵

The Youth Magistrate advised the Review that pre sentencing conferences had the potential to be a useful tool and could assist the court and other interested parties to address the criminogenic needs of young offenders. It would also increase the likelihood of case plans being developed with the young person, the young person's family and other support agencies.

The YJA is silent on what the aims and possible outcomes of such a conference might be.³⁶

However, the Review was advised that there have only ever been three pre sentence conferences.³⁷ Part of the reason for this is understood to be because there is:

no practice direction or legislative guidance in relation to who should request and organise these conferences, and how they should be conducted. It's possible that this lack of clear direction has contributed to the under-use of conferencing.³⁸

The three pre sentencing conferences that have taken place were convened by the Community Justice Centre (CJC). The CJC is established under the *Community Justice Centre Act* to 'provide mediation services'³⁹—there is no provision for pre sentence conferences.

The magistrates comment that:

- It was not appropriate to conduct a pre sentence conference as a 'mediation'.
- The court has no input into the conference.

34 *Youth Justice Act*, section 84(1).

35 *Youth Justice Act*, section 84(2).

36 The magistrates, *submission 16*, 6.

37 *Ibid.*

38 NTLAC, *submission 13*, 25.

39 *Community Justice Centre Act*, section 8.

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- The nature of a mediation means that the proceedings are confidential; this is completely unacceptable for a sentencing court trying to determine the most appropriate outcome for a youth who has been found guilty of criminal behaviour.⁴⁰

The Review agrees with the magistrates that there is a need to provide further legislative direction in respect of pre sentencing conferences, so that their anticipated potential can be realised. The YJA must set out the ‘purpose of the pre-sentencing conference, the purpose of the reporting mechanism and the consequences of participation in a conference’.⁴¹

Furthermore, while the court may direct that a conference be convened and appoint a person who is ‘appropriately qualified’,⁴² the Youth Magistrate advised that there was a lack of ‘appropriately qualified’ people who could conduct the conference. Further consideration of this problem is required in order for a solution to be found. It may be possible, for instance, to prescribe that a legal practitioner of five years post admission practice be an ‘appropriate person’.

Increased diversion options for driving offences

The majority of those with whom the Review consulted and from whom written submissions were received from the legal and non government organisation sectors were supportive of most provisions in the YJA. However, there was a degree of criticism that diversion can only be offered for certain types of offences.

Many offences are eligible for diversion, except for ‘serious offences’,⁴³ some of which can include drink and drug driving offences, dangerous driving, driving while disqualified, driving unregistered and driving unlicensed.⁴⁴ Traffic and motor vehicle offences are commonly committed by young offenders.

The AIC notes that traffic and vehicle offences account for a substantial proportion (15.4%) of total offences committed by youth in the Territory, which is consistent with youth offending trends across Australia. Data analysed by the AIC also shows that non Indigenous youth in the Territory are more likely than Indigenous youth to commit traffic and motor vehicle offences, as are females more likely than males (see figures 3.5, 3.6 and 3.7 below).⁴⁵

Driving and traffic related matters have comprised approximately 30% of NAAJA’s youth client base since 2007.⁴⁶

40 The magistrates, submission 16, 6.

41 Ibid.

42 *Youth Justice Act*, section 84(3).

43 *Youth Justice Act*, Part 3; contained in the *Youth Justice Regulations*, regulation 3.

44 *Youth Justice Act*, section 38(b) states that Part 5 (drink and drug driving) and Part 6 offences under the *Traffic Act* may not be diverted.

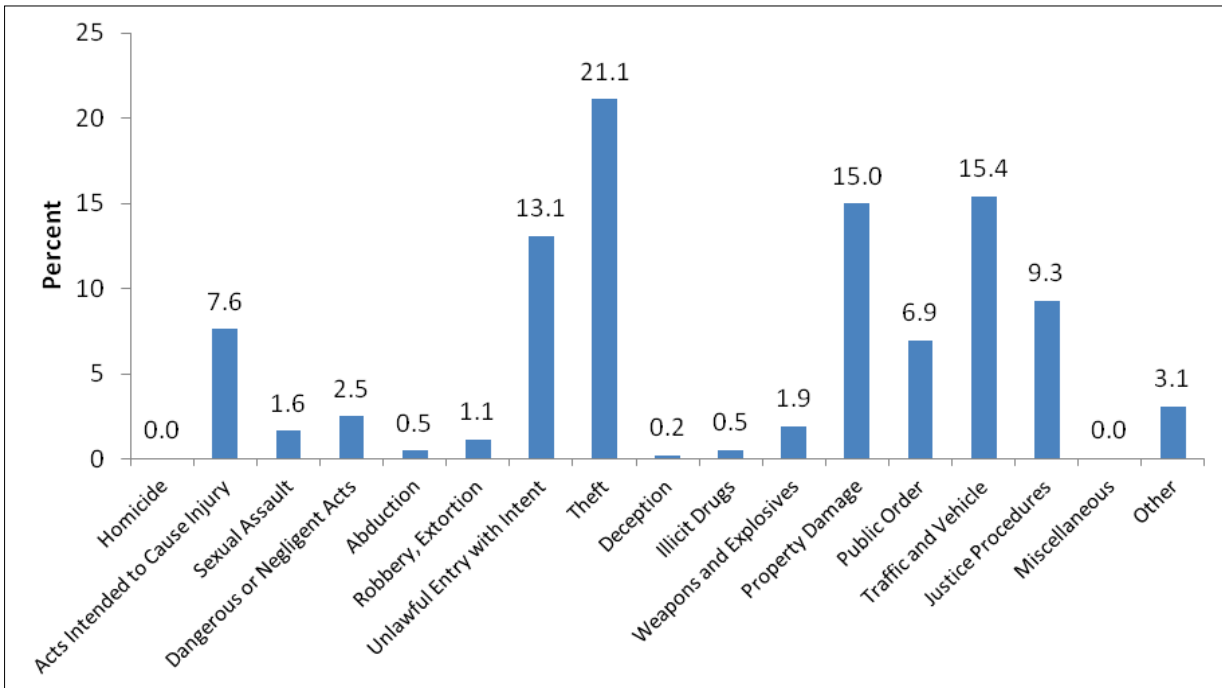
45 AIC, above n 1.

46 NAAJA, *submission 2*, 1.

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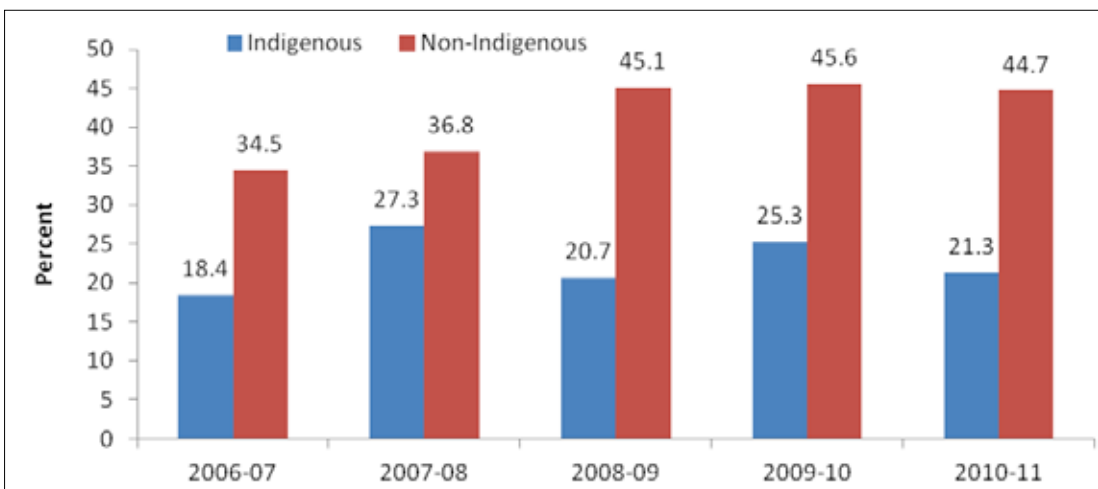
NAAJA has advised the Review that offences such as dangerous driving or driving at a dangerous speed are common first offences for young offenders, usually young men. However the inability to divert these offences often sees these males ‘springboard’ to future like offending,⁴⁷ such as drive disqualified and drink driving.

Figure 3.5 Youth offences by category, 2006–07 to 2010–11



Source: NT Department of Justice

Figure 3.6 Traffic and motor vehicle regulatory offences as a proportion of convictions, juvenile defendants found guilty, criminal courts 2006–07 to 2010–11, by Indigenous status

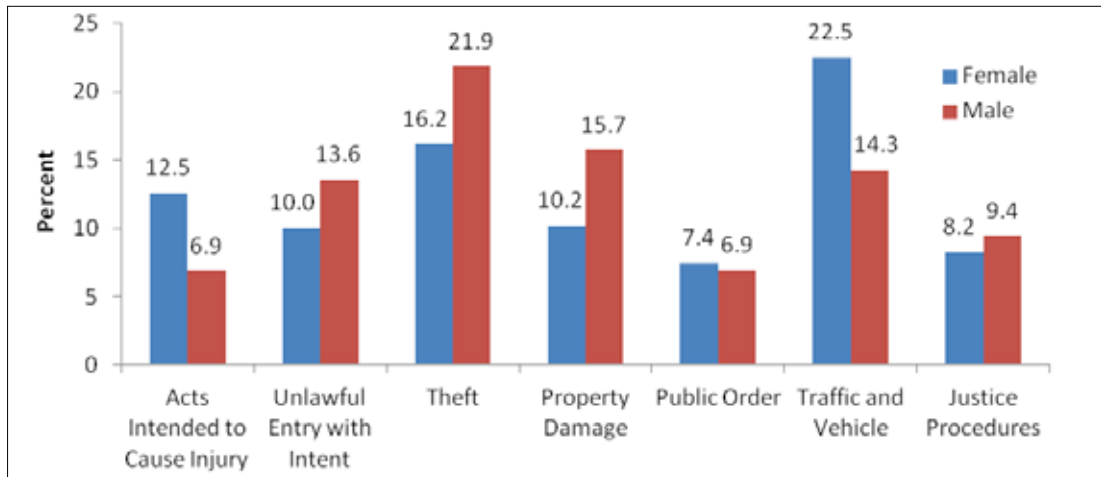


Source: NT Department of Justice

⁴⁷ Ibid.

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Figure 3.7 Offence categories, selected offences (proportion of total offences), 2006–07 to 2010–11, by gender



Source: NT Department of Justice

Northern Territory Police (NTP) advises that prior to the commencement of the YJA in 2006, 423 youth, of whom 80% were Indigenous, were diverted for the offence of driving unlicensed. Part of the diversion program included participation in a driver training and licensing program. NTP advises that:

If offenders were to again be eligible to be diverted, a driving program could include a drink driving focus, an additional positive outcome.⁴⁸

Northern Territory Legal Aid Commission (NTLAC) encouraged the Review to recommend changes so that young people who committed some *first* time offences would be eligible to be diverted, as it ‘could provide a critical intervention in terms of stopping them from returning to court. The key is providing a diversion opportunity that directly addresses their offending behaviour.’⁴⁹

Some jurisdictions offer rehabilitative diversion programs specifically aimed at young offenders apprehended by police for driving offences. The benefits of such programs are that they target offences commonly committed by young offenders and provide a therapeutic response.

The magistrates state:

There are no diversion traffic offender programs or programs directed at assisting youth found guilty of traffic offences. Programs of this nature would be useful not only to ensure that young persons become properly licensed for example, but also to address public safety by providing education about use and driving. Not all youth have the advantage of parents who can assist them on the process to becoming a fully licensed driver.⁵⁰

48 NTP, *submission 33*, 2.

49 NTLAC, *submission 13*, 23.

50 The magistrates, *submission 16*, 11.

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Mission Australia operates a diversionary program in Tasmania called U-Turn. It is 'underpinned by restorative justice principles, designed for young people aged 15-29 years with a history of motor theft or at risk of becoming involved in motor theft'.⁵¹

Young offenders repair vehicles that are then either returned or gifted to victims of youth crimes.⁵² No details were provided to the Review regarding outcomes; however, these types of programs are worthy of further consideration, particularly for young offenders in remote communities.

Currently, there are no driving programs funded as part of police diversion. The Review believes this situation should change in order to educate young people with the aim to reduce future offending.

There are obvious difficulties in delivering courses in many remote areas, such as lack of infrastructure and service providers. The opportunity exists, however, to incorporate motor vehicle and traffic education or diversionary programs in regional and remote parts of the Territory as part of *Working Future*. Such programs could be delivered through the coordinated service delivery model, to be carried out by Government Business Centres as part of Local Implementation Plans in the Territory Growth Towns.

Court options and issues

Keeping young offenders separate from adult offenders

As far as practicable, young people who appear before the court must be 'kept apart' from adult offenders,⁵³ yet the arrangements in Darwin and Alice Springs (where the Youth Justice Courts hear most youth matters), are unsatisfactory.

In Darwin,⁵⁴ there is no separate access for the court used for youth justice matters. The Review is advised that a submission is being prepared to have the project included in the capital works program; however, no timeframe for the work to be completed has been provided. The Review encourages government to fast track the work.

In Alice Springs,⁵⁵ a separate area with a separate entrance to the courthouse building exists and is used to hear youth justice matters;⁵⁶ however, there is no cell access to the court room in this area, so young remandees must be walked past adult prisoners to gain access to interview rooms and the court.

51 Mission Australia, *submission 6*, 22.

52 Ms Oliver SM, Youth Magistrate, consultation, Darwin, 31 May 2011.

53 *Youth Justice Act*, section 26. This is consistent with practices in other Australian jurisdictions, academic literature and the *United Nations Convention on the Rights of the Child*.

54 The Youth Justice Court sits two days a week in Darwin and otherwise as required.

55 The Youth Justice Court sits one day a week in Alice Springs and as otherwise as required.

56 It also hears domestic violence matters.

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The Review has been advised that in Alice Springs, the Youth Justice Court will be relocated to the Alcohol and Other Drugs Tribunal away from the existing courthouse. However, this precinct is not youth specific, so similar problems may be experienced. It would be prudent to evaluate the operation of the Youth Justice Court at the new precinct after 12 months.

In regional towns and 'bush courts' separation of young offenders is not practicable and, at best, occurs when youth matters are listed at a particular time, followed or preceded by adult matters. Separation is only achievable by listing youth matters at a separate time and day, which is not always possible.

All remanded prisoners are housed in the police cells. The capacity to separate young offenders from the adult prisoner population depends entirely on the layout of the particular police station. Youth charged with more serious offences are likely to have their matters transferred to either Darwin or Alice Springs, as this is where the detention centres are located.

There is little that can be done by government to improve the situation in bush courts without a significant injection of expenditure. Given other needs in the youth justice system, infrastructure improvements in bush courts cannot be justified for this specific purpose. Nevertheless, the Review urges magistrates, court staff, police, and legal practitioners to do all they can to limit the exposure of young offenders to adult offenders.

Should the Youth Justice Court be a less formal court?

NAAJA and the Central Australian Legal Aid Service (CAALAS) in their submissions wrote about the effect a formal courtroom can have on some of their Indigenous clients.

In the Central Australian Youth Justice Court, young people continue to be referred to as Master or Miss, rather than by their first name. The Magistrate and all practitioners continue to use a higher register of language than can be easily understood and followed by the young people, and police prosecutors attend court dressed in their uniforms, as they would in the Court of Summary Jurisdiction. Young people are tried as mini-adults, rather than as a distinct and vulnerable group of people.⁵⁷

Some youth justice courts in other jurisdictions dispense with a number of the formalities. Young offenders are referred to directly by name, the courtroom is set up in a less formal fashion (for example, all parties sit around one table rather than behind benches), and family or community elders are strongly encouraged to sit at the table and participate in proceedings.

The Review is not aware of any published studies that argue that less formal courts will reduce offending and re-offending. However, if young people have a greater chance of understanding the legal proceeding in which they are involved, they may have a greater chance of understanding their offending, its consequences and the consequences for

⁵⁷ CAALAS, *submission 17*, 26.

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them. Government should investigate courts in other jurisdictions and, in consultation with the magistrates, develop ways in which proceedings in the Youth Justice Courts can become less formal.

Community courts

Some submissions received referred to the benefits community courts may have for young offenders. These courts have limited operation in the Territory, and are currently being reviewed for the Federal and Northern Territory governments. Accordingly, it is unnecessary for this Review to comment other than to encourage both governments to work with legal aid providers if and when the courts are to be expanded.

Court support workers

CAALAS is funded to provide the Community Youth Justice Support Program,⁵⁸ which is based on a Victorian model. The project 'works to reduce incarceration and recidivism rates amongst young offenders in Central Australia through support, advocacy and appropriate referral'.⁵⁹

CAALAS, in its submission, goes further and states that prompt and supported referral to a range of services 'would greatly be improved if there was space for service representatives within a Children's Court complex'.⁶⁰

Mission Australia referred to its Youth Court Support Program, which was a case management service that:

accompanied young people to court, assisted with their understanding of the process and helped them to understand the consequences of their actions. The service also supported individuals after their court appearance to help them change their behaviours and/or lifestyles in order to reintegrate back into the community after a period of remand or detention.⁶¹

Although the Review was not provided with details, Mission Australia stated that the program was effective at:

reducing the number of young people who failed to appear at court; increasing compliance with court orders; increasing visitation by family members while the young person was in detention; decreasing recidivism by increasing compliance with conditions imposed on release.⁶²

The program closed in 2009 due to lack of funding.

Anecdotal reports linking court support workers with reductions in offending or re-offending are encouraging and could provide an opportunity to include the proposed bail supervision program if it were implemented. It could also assist with the transition of young offenders back into the community upon release from detention.

58 This is a federally funded program.

59 CAALAS, *submission 17*, 24.

60 *Ibid.*

61 Mission Australia, *submission 6*, 6.

62 *Ibid.*

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Under the Intergovernmental Agreement on the Provision of Legal Services, the Northern Territory Government is required to hold a forum where various legal aid providers, together with the Northern Territory and Federal governments, discuss overall provision of legal assistance. The issue of court support workers should be discussed at the next forum, to be held later this year.

Closed courts and publication of proceedings

Proceedings in the Youth Justice Court are held in open court unless the magistrate orders that it be closed.⁶³ This is the opposite from other jurisdictions, where youth courts are closed, unless the magistrate orders otherwise.

The effects of the court being open are that publication of the names and offences committed by young offenders is permitted. This has been criticised over the years:

The Northern Territory which rather than prohibiting publication in fact allows publication of proceedings involving the Youth Court but with a power for the Court to order that the name of a young person not be published if there are grounds for so doing, the complete converse of the situation applying in the rest of the country and, not surprisingly, out of accord totally with the human rights principles.⁶⁴

Several submissions called for Youth Justice Courts to be closed⁶⁵ on the basis that the closed court environment is more therapeutic, enables positive interaction between the court and the individual youth, and enables the court to deal with the youth in a manner 'consistent with his or her age and maturity'.⁶⁶ It was also suggested that the court is able to inform itself about all aspects of a child's life, including family circumstances, drug and alcohol abuse, whether the child is also a victim of crime and other welfare related matters when the court is closed.

There is no evidence to demonstrate that publicly naming children who offend assists in their rehabilitation.

Child protection matters are dealt with in a closed court. Many issues magistrates hear in those proceedings are similar to those heard in the Youth Justice Court. Indeed, some young offenders are the subject of statutory protection orders.

63 *Youth Justice Act*, section 49.

64 Robyn Lincoln and Duncan Chappell, 'The Aftermath of Sentencing: Naming and Shaming of Indigenous Youth in the Northern Territory' (Paper presented at the Sentencing Conference, Canberra, 6–7 February 2010) 3. See also the *UN Convention on the Rights of the Child*, which provides that children's privacy should be respected at all stages of criminal proceedings (articles 37 and 40), and the *UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)*, article 8, provides that no information that could be likely to lead to the identification of a young offender should be published.

65 NAAJA, *submission 2*, 49; CAALAS, *submission 17*, 27; see also T Crofts T and N Witzleb, "Naming and Shaming" in Western Australia: Prohibited Behaviour Orders, Publicity and the Decline of Youth Anonymity' (2011) 35 *Criminal Law Journal* 34.

66 The magistrates, *submission 16*, 19. See also: Standing Committee on Law and Justice, Legislative Council, NSW Parliament, *Inquiry into the Prohibition on the Publication of Names of Children Involved in Criminal Proceedings Report* (2008) New South Wales Government.

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The Review believes that children who appear in both courts should be protected from media headlines and, importantly, should have every opportunity to have their matter heard in an environment that best promotes their rehabilitation. However, this should be done in an age appropriate way.

The magistrates argue that:

In the case of youth 15 years or under, the court should be closed consistent with the principle set out in section 4(d) [of the YJA] that a youth must be dealt with in the criminal law system in a manner consistent with his or her age and maturity.⁶⁷

The Review agrees, but notes that magistrates can close the court under section 49(2) of the YJA if it appears that 'justice will be best served by closing the court'. Thus, magistrates have the ability to close the court, and the Review encourages them to do so.

SMART Court

The *Alcohol Reform (Substance Misuse Assessment and Referral into Treatment) Act* commenced operation on 1 July 2011. It establishes a referral process from either the Court of Summary Jurisdiction (for adults) or the Youth Justice Court in relation to offenders whose criminal behaviour is linked to misuse of drug or alcohol or both.

The SMART legislation creates a statutory regime to address the underlying causes of criminal offending caused by drug and alcohol abuse. The SMART Court can make orders that focus on rehabilitation and treatment for substance misuse. The SMART Court program is expected to be highly intensive, requiring regular court appearances by participants, random drug testing, counselling and other interventions prescribed by the court clinicians.

If accepted into the program, participants will have their sentences either suspended or deferred for the time it takes them to complete the SMART program. The program is expected to take a minimum of six months, and participants have a maximum of 12 months in which to complete the program. If participants fail to complete the program, the initial sentence imposed may be restored.

When the SMART Court hears a matter involving a youth participant, the court must be closed unless there are special reasons to justify conducting the proceedings in open court.⁶⁸

⁶⁷ The magistrates, *submission 16*, 19.

⁶⁸ *Alcohol Reform (Substance Misuse Assessment and Referral to Treatment Court) Act 2011*, section 11.

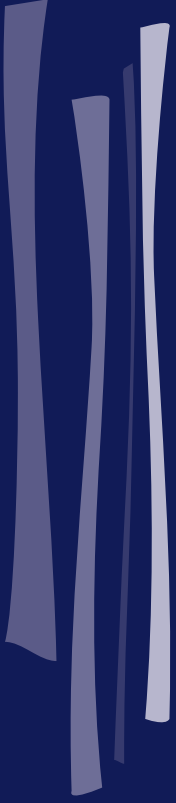
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Some drug court programs similar in nature to that anticipated for the SMART Court program have been evaluated and found to be generally effective in reducing re-offending rates for a range of crimes, including those commonly committed by young offenders, such as property and motor vehicle crimes.⁶⁹ The Review notes the recent establishment of the SMART Court as a positive development, and encourages government to monitor outcomes for young offenders in the court.

The Youth Justice Court plays an integral role in the youth justice system. However, the court is limited by the lack of services available to young offenders. The court will continue to have little choice other than to remand young offenders or sentence them to juvenile detention centres unless alternatives such as youth rehabilitation camps are established. It is therefore essential that government moves as quickly as possible to provide the services required.

⁶⁹ The AIC has published a number of evaluations. The review considered: Caitlin Hughes and Alison Ritter, *A Summary of Diversion Programs for Drug and Drug Related Offenders in Australia*, Monograph No 16 (2008) DPMP Monograph Series, National Drug and Alcohol Research Centre; Tony Eardley, Justin McNab, Karen

Fisher and Simon Kozlina, *Evaluation of the New South Wales Youth Drug Court Pilot Program: Final Report for the NSW Attorney-General's Department* (2004) SPRC Report 8/04, University of New South Wales Evaluation Consortium, Sydney.



Chapter 4: Department of Children and Families

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Introduction

On 18 October 2010, the Board of Inquiry into the Child Protection System in the Northern Territory 2010 (BOI) presented its report¹ to the Northern Territory Government.

In response, government announced a major reform and restructure to the provision of child protection services,² which included the establishment of the Department of Children and Families (DCF) as a separate agency on 1 January 2011.

DCF established a four year strategic framework, *Safe Children, Bright Futures*, to respond to the BOI and its 147 recommendations, with child safety and wellbeing at the core of its service delivery.

In addition to statutory child protection responsibilities, DCF:

develops and implements policy, service and programs development as well as direct service delivery in the areas of children and families, youth, homelessness, family violence and sexual assault services across the continuum of prevention to tertiary interventions.³

The Minister for Children and Families has administrative responsibility for many parts of the *Youth Justice Act* (YJA). DCF has responsibility for the Family Responsibility Program (FRP) and the Youth Justice Advisory Committee (YJAC). DCF is also responsible for administering the *Care and Protection of Children Act* (CPCA).

The Review focussed on DCF's responsibilities across a broad spectrum of child and family wellbeing services that support young people in the youth justice system.

In its submission, DCF declares that it supports an approach to youth justice that:

- is more heavily weighted to diversion from the criminal justice system
- has greater accountability to the community and victims of crime through restorative justice approaches
- has a closer engagement with the non government organisation (NGO) sector and utilisation of existing evidence in best practice for youth engagement strategies
- is characterised by alternatives to detention
- is based on accessible education, support programs and services.⁴

The Review endorses this approach.

1 M Bamblett, H Bath and R Roseby, *Growing them Strong, Together: Promoting the Safety and Wellbeing of the Northern Territory's Children: Report of the Board of Inquiry into the Child Protection System in the Northern Territory 2010* (2010) Northern Territory Government, Darwin.

2 Kon Vatskalis, 'Action Continues on Growing them Strong, Together' (Media Release, 17 November 2010).

3 DCF, *submission 5*, 8.

4 DCF, *submission 5*, 5.

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Legislative and administrative framework

Amendments were made to the YJA in 2008⁵ to include Part 6A, which falls within the portfolio control of DCF.⁶

DCF has direct administrative responsibility for program implementation and accountability for:

- program development and monitoring and reporting of the Family Responsibility Agreements (FRAs) and Family Responsibility Orders (FROs) under Part 6A of the YJA
- providing intensive case management services for families on FRAs and orders under the Family Responsibility Program through the Alice Springs and Darwin Family Support Centres
- program development for the youth camps program and service level negotiations and monitoring of each of the three organisations delivering youth rehabilitation camps
- program and service development with up to 15 individual NGO providers delivering community based youth diversion programs under Part 3 of the YJA
- administration, policy and other functions to support the Youth Justice Advocacy Committee under Part 13 of the YJA
- establishing the Register of Appropriate Persons (Part 2, Division 1 of the YJA).⁷

The parts of the YJA for which DCF and its minister do *not* have responsibility are:⁸

- youth diversion, which is the administrative responsibility of the Minister for Police, Fire and Emergency Services and Northern Territory Police, Fire and Emergency Services (Part 3)
- the Youth Justice Court, which is the administrative responsibility of the Minister for Justice and Attorney-General and the Department of Justice (DoJ) (Part 4 and Parts 5, 6, 7)
- juvenile detention centres and juvenile justice matters, which are the administrative responsibility of the Minister for Correctional Services and DoJ (Part 8 and Parts 10 and 11).

⁵ Prior to the amendments, DoJ had administrative responsibility for the *Youth Justice Act*. The amendments were followed by a transfer of responsibility for youth justice matters to the then Department of Health and Families. DCF was established as its own department on 1 January 2011.

⁶ Pursuant to the Administrative Arrangement Order in force 1 July 2011.

⁷ DCF, *submission 5*, 4.

⁸ Pursuant to the Administrative Arrangements Order in force 1 July 2011.

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DCF submitted to the Review that there should be:

a single entity entirely responsible for youth justice policy, program development, services and outcomes supported by a single Ministerial portfolio to ensure public accountability and transparency for youth justice initiatives and outcomes.⁹

The Review agrees. There is unquestionably a need for administrative responsibilities to be streamlined, and a recommendation to that effect is made in part 3 of this report.

The objects of the CPCA are to:

- promote the wellbeing of children
- protect children from harm and exploitation
- maximise the opportunities for children to realise their full potential
- assist families achieve the above objectives.¹⁰

The administrative responsibility for the CPCA rests with the Minister for Children and Families. The Chief Executive Officer and her department have wide-ranging obligations and responsibilities for the protection of Territory children.¹¹

Government agencies, including DCF, and non government stakeholders agreed that the YJA is a progressive piece of legislation that worked reasonably well, but that various parts were underutilised and some suggestions were made as to improvements that could be implemented.

The magistrates' submission states that some provisions of the YJA:

demonstrate inconsistent internal policy approaches and others, whilst, sound in terms of providing an appropriate 'tool' for dealing with youth offending, lack the detail or completeness to make them workable. Additionally, there are a number of provisions of the Act that cannot be given effect because the programs and/or services necessary for their implementation do not exist.¹²

The Review agrees.

An issue that arose during the Review was the placement of Part 6A of the YJA. The objects of the YJA (with the exception of Parts 6A and 13), centre on 'the administration of justice in respect of youth'.¹³ The objects detail how young offenders or alleged offenders are to be dealt within the youth criminal justice system.

9 DCF, *submission 5*, 1.

10 *Care and Protection of Children Act*, section 4.

11 *Care and Protection of Children Act*, Chapter 2.

12 The magistrates, *submission 16*, 1.

13 *Youth Justice Act*, section 3(b)

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Part 6A of the YJA deals with FRAs and orders. The part was included in the YJA two years after its introduction, and appears to have a different policy base from the rest of the YJA.

The objects of the CPCA include promoting the wellbeing of children, protecting them from harm and exploitation, and maximising their opportunities. A more natural fit for Part 6A would be in the CPCA, which could easily be achieved by legislative amendment, although its current placement does not appear to create any practical difficulties.

Young people in the child protection and youth justice systems

Some of DCF's clients are often, though not always, involved in two systems: the youth justice system (under the YJA) and the child protection system (under the CPCA).

The evidence of complex causal associations between social disadvantage and dysfunction and offending behaviours is widely accepted, and there are strong links between children who have been subjected to abuse and neglect, (particularly physical abuse and exposure to family violence) and criminal behaviour.¹⁴

These children and their families often require urgent, ongoing and coordinated assistance from the child protection, social welfare, and justice systems. This is not uncommon, nor is it restricted to the Territory.¹⁵ Understanding this association is the basis for contemporary approaches to supporting vulnerable young people and models of youth justice.

The magistrates state in their submission that:

Virtually all youths who come before the Youth Justice Court have some risks to their wellbeing for often complex reasons including homelessness, substance misuse, having been the victim of abuse or having mental or physical health problems.¹⁶

DCF advises the Review that as at 18 July 2011, 33 young people who were the subject of statutory protection orders were, at the same time, 'formally involved in the youth justice system'.¹⁷ This represents 4.4% of all children formally in the child protection system.

While the numbers are relatively small, these young people and their families represent the

14 R Gilbert, C Spatz-Widom, K Browne, D Fergusson, E Webb and J Janson, 'Burden and Consequences of Child Maltreatment in High-Income Countries' 373 *The Lancet* 68; C Maas, T Herrenkohl and C Sousa, 'Review of Research on Child Maltreatment and Violence in Youth' 9 *Trauma, Violence & Abuse* 56.

15 See, for example: Ray Corrado, Lauren Freedman and Catherine Blatier, 'The Over-representation of Children in Care in the Youth Criminal Justice System in British Columbia: Theory and Policy Issues' (2011) 1 & 2 *International Journal of Child, Youth and Family Studies* 99, 109.

16 The magistrates, *submission* 16, 5.

17 Written response from DCF to the Youth Justice System Review, 2 September 2011.

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highest level of work and expense across the youth justice and human services systems, and present the following challenges:

- They require intensive case management, which includes high levels of expertise.
- Engagement with the young person's family is an essential component of therapeutic interventions and is resource intensive.
- Young people often have little or no family support and, without high level intervention, will remain at risk for long periods and are likely to become entrenched in the youth justice system.

An additional challenge for agencies, particularly DCF, is that there are limited options for placement, treatment and care. For example, DCF advises that there is evidence that for some young people:

Involvement in both systems results in [them] being referred from one system to another, and for detention to be considered as a temporary 'safe place'. The issue was canvassed as a concern in the BOI.¹⁸

This is consistent with anecdotal reports received by the Review that, due to the unavailability of alternative placements, some young people who are the subject of statutory protection orders have remained in detention for longer than may otherwise be warranted.

In addition to existing challenges, it is difficult to estimate how many young people are at risk of entering either system who have not yet been identified. What is clear, however, is that it is critical to identify them as early as possible so that appropriate responses can be delivered.

Information systems and processes

Given the overlap of the child protection and youth justice systems, it is imperative that attention is given to improve essential information systems, sharing and collaboration across government and non government agencies.

This has been identified in earlier reviews and inquiries, the most recent of which is the BOI.¹⁹ Agencies, however, continue to operate with inadequate information systems that impact on their ability to provide coordinated service delivery to some young people.

The numbers of children who were involved in the justice system were obtained by questioning DCF work unit managers. The CEO advised the Review:

As you are aware, the Department's primary focus is the care and protection of children and young people. There is no readily accessible information regarding their interaction with the justice systems.

¹⁸ DCF, *submission 5*, 16.

¹⁹ See recommendations 11.3, 11.4 and 11.6 in Bamblett et al, above n 1, 41.

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Officers from my Department have also been in contact with their counterparts in the Department of Justice and it is understood that a similar issue exists in extracting information in those justice systems.²⁰

These difficulties jeopardise coordinated and coherent delivery of youth support services.

Preventive services provided under the YJA²¹

Family Responsibility Program

The FRP:

was developed as a statutory program under the Youth Justice Strategy, to address youth behaviour problems (including offending behaviours) where family circumstances are considered to be causing or contributing to those behaviours,²²

Further, it is:

an important adjunct in a suite of youth justice programs and is aimed at improving positive family relationships and functioning to reduce behaviours such as anti-social behaviour, truancy and crime. The Family Responsibility Program is also notable for its cross agency approach to families, with information sharing and case collaboration across five nominated agencies (known as Appropriate Agencies) under the *Youth Justice Act*.²³

DCF is responsible for the policy development, reporting and accountability for the FRP.²⁴ It was developed in 2008, with an allocation of \$1.35 million in 2011–12.

The FRP provides intensive case management and family support services aimed at improving family relationships and functioning to reduce behaviours such as antisocial behaviour, truancy and youth crime. The approach is not punitive and emphasises working cooperatively with the family. The statutory framework allows for more serious compliance measures if required.²⁵

The FRP's operation is limited to Darwin, Alice Springs and nine remote areas in Central Australia,²⁶ which is 'directly related to the availability and capacity of [the] Family Support Centres and other community based services for families.'²⁷ This impedes its ability to

20 Letter from the CEO, DCF to the Youth Justice System Review, 25 July 2011.

21 Preventive services and programs are aimed at preventing and addressing the risk factors for youth offending. They tend to be delivered on a population or broad group level and operate at a distance from the formal youth justice system.

22 DCF, *submission 5*, Attachment C, 1.

23 *Ibid*, 12

24 Pursuant to the *Youth Justice Act*, Part 6A.

25 *Youth Justice Act*, section 140G.

26 Limited by the *Youth Justice Regulations*, regulation 28A.

27 DCF, *submission 5*, 12.

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work with more families and makes it possible for families to exit from a FRA by leaving the geographic area.

However, while this could easily be changed by regulation, it would require a service system, such as Family Support Centres and some community based family support services to be funded in regional centres other than Darwin and Alice Springs. It is also subject to funding and staffing limitations.

An evaluation framework has been developed for the FRP and includes indicators such as improvement in school attendance and reduction in offending. DCF reports positive outcomes to date, and accepts that some outcomes are difficult to measure, which is why it has been important to develop the evaluation framework. The framework has been finalised, with staged implementation of some of the indicators that are difficult to measure.

The provision of support to children and families under the FRP takes a number of forms:

Family Support Centres (FSC)

Presently there are two FSCs—one located in Darwin and one located at the Youth Hub in Alice Springs. Staff at the FSCs are employed by DCF and are trained across a broad spectrum of social needs and have a particular interest in working with families whose children are exhibiting behaviours that require early intervention and the implementation of crime prevention strategies.

Families are referred to a FSC if they are experiencing difficulties with their child, parenting skills or other family issues. The FSCs work with families through a FRA and provide information about other support services available to young people and their families. The FSCs do not have resident psychologists.

Family Responsibility Agreements

An ‘appropriate agency’²⁸ is able to enter into a FRA with parents of a youth who has demonstrated behavioural problems.²⁹ The agreement may involve a parent or parents undertaking counselling, therapy or attendance at a course or program of personal developments aimed at addressing certain destructive or damaging behaviour.³⁰ An agreement may also require a parent to ‘exercise proper care and supervision of the youth’ to ensure, for example, that he or she attends school, or keeps away from certain people or places, or other things agreed between the parties.³¹

In 2009–10, there were 23 active FRAs, involving 61 people. In 2010–11, there were 81 active FRAs (67 new and 14 carried forward from the previous year), involving 197 people.³²

28 *Youth Justice Act*, section 140D.

29 *Youth Justice Act*, section 140D (behavioural problems include: criminal behaviour, persistent truancy, or anti-social behaviour).

30 *Youth Justice Act*, section 140E(1)(a) and (1)(b).

31 *Youth Justice Act*, section 140E(1)(c) and (1)(d).

32 Email from DCF to the Youth Justice System Review, 2 September 2011.

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Family Responsibility Orders

The Youth Justice Court can, upon application, inquire into a young person's 'circumstances' where their parent or parents have entered into a FRA when the young person has continued to exhibit behavioural problems; when his or her parents have refused to enter into a FRA or have not complied with one; or where the young person has breached a bail condition.³³

If the court decides that a FRO is 'likely to improve the youth's family situation, [it] may make such an order'.³⁴ Orders may require a parent or parents to attend counselling, therapy or a course or program of personal developments aimed at addressing certain destructive or damaging behaviour.³⁵

If a FRO is breached the parent or parents may be fined³⁶ and fines can be enforced by a community work order or 'by execution against goods that are not necessary for the maintenance of a modest lifestyle or for earning a livelihood'.³⁷ This included the much publicised possibility of removing plasma televisions.³⁸ This punitive aspect of this part of the YJA attracted some criticism during the Review, and it was suggested by several stakeholders that FROs should be removed from it.

The reasons criticisms were made were that voluntary engagement with the program yields better, more sustainable outcomes and that the punitive nature of the orders is contrary to the objectives of the FRPs and the therapeutic philosophy underpinning working with families and troubled youth.

No FROs have ever been made.³⁹ A number of stakeholders advise, and the Review accepts, that this is in fact a measure of success and illustrates that by making agreements with families and children and working to address various issues, FRAs work well.

The Review does not accept that FROs need to be removed from the YJA. While FROs are punitive in nature, their existence does provide a level of incentive for families to make agreements to work towards resolving issues that are adversely impacting on their children.

A number of government and non government stakeholders identified the need for improved, targeted, intensive case management for high risk young people. The capacity of key agencies to provide these services is limited.

33 *Youth Justice Act*, section 140G(1).

34 *Youth Justice Act*, section 140J (1).

35 *Youth Justice Act*, section 140J (3).

36 *Youth Justice Act*, section 140M.

37 *Youth Justice Act*, section 140N.

38 Dr Chris Burns, 'Parents need to take Responsibility' (Media Release, 17 January 2008).

39 Email from DCF to the Youth Justice System Review, 2 September 2011.

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It is difficult for the Review to thoroughly evaluate the success of the FRP, and measure its effectiveness in terms of direct links to reducing offending and re-offending rates. However, DCF and other stakeholders report positive outcomes to date and significant potential for young people and their families. The Review accepts this advice and notes the importance of the independent evaluation to be undertaken later this year.

The nature of the work provided by the FSCs and that provided under FRAs is extremely valuable, particularly noting the links between young people in the child protection system and the youth justice system.

A through-care model

A through-care model is:

one that is capable of intervening to support a young person at one of five key points where they are coming into contact with the youth justice continuum. It has specific objectives to promote access to therapeutic, educational, and support needs of the young persons, with the large goal to minimise contact with the criminal justice system and reduce the number of youth detainees overall.⁴⁰

DCF refers to an internal discussion paper produced by the former Department of Health and Families in 2010 titled 'Reducing Juvenile Detainee Numbers and Recidivism' and lists what that department, now DCF, considers to be the juvenile justice continuum of service. It lists five key points, which largely include the description of the youth justice system described in the terms of reference for this Review. It lists prevention, pre-court, two court options (pre-detention and detention) and post court as the relevant points of the youth justice system.

In relation to these five 'intervention points' DCF submits that there are 'a number of possible actions that, if sufficiently resourced and managed, can reduce a young person's contact with the formal youth justice system and potentially their risk of re-offending'.⁴¹

The Review agrees that a through-care model encompasses services and responses that relate to the five intervention points but, in order for services to be provided, it requires a 'particular and highly trained professional workforce and specifically skilled and allocated to working with young people'.⁴²

Workforce issues are discussed in chapter 9 of this Report, and represent a significant challenge to the provision of service and response delivery.

40 DCF, *submission 5*, 9.

41 *Ibid.*

42 *Ibid.*, 10.

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The Review endorses the suggestion outlined by DCF in its submission that a 'youth justice team' be developed, comprised of professional case managers and youth workers who would be responsible for the delivery of a through-care model. The team would 'access programs in the community that offer diversion, youth camps, education, counselling, alcohol and other drugs and mental health services and short term and secure accommodation'.⁴³

The Review supports the comments made by DCF in its submission that:

To ensure consistent care of young people in contact with the youth justice system, there needs to be a shared range of practice standards and understandings and commitment to end to end care coordination. Where there is inconsistent practice in the care of a young person, this does not create a climate that promotes rehabilitation.⁴⁴

Recommendations are made in this report that aim to improve coordination and maximise rehabilitation for young offenders.

Youth camps

Many stakeholders, in submissions and during the consultations, proposed youth rehabilitation camps as one solution to many of the problems encountered by young people in or at risk of entering the youth justice system, on the basis that they could provide the range of therapeutic options required.

A significant proportion of young offenders are remanded in juvenile detention facilities because of a lack of accommodation options, discussed in chapter 3.

An expansion of youth rehabilitation camps or similar facilities would, if properly resourced, alleviate the need for young offenders to be detained at the rate they currently are, and for the reasons often provided: there is nowhere else for them to go.

Three youth camps operate in the Territory under service agreements with the Northern Territory Government: Brahminy, Tangentyere and Balunu. The Review consulted with representatives from each, and has also considered the evaluation report by Connected Self in January 2011.⁴⁵

The evaluation provides:

strong support that individual youth camps have the capacity to engage youth-at-risk (including Aboriginal young people) who are at high risk of future offending or at risk behaviour, within a therapeutically conducive environment that has the potential to translate to both attitudinal and behavioural outcomes, at least within the short term.⁴⁶

43 Ibid.

44 Ibid.

45 Ivan Raymond and Sean Lappin, *Northern Territory Youth Camp Intervention Strategy* (2011) Connected Self, Darwin.

46 Ibid, vii.

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The North Australian Aboriginal Justice Agency (NAAJA) submission supports ‘the increased use of youth camps as a sentencing and bail option’,⁴⁷ and referred to the success of youth camps included in the review of the NSW juvenile justice system in 2010, which:

referred to the positive results achieved for program participants and noted that the Maori Community Initiatives for Youth at Risk Offenders (MCIYRO) included ‘a range of therapeutic activities such as outdoor experiences, mentoring, building self-esteem, education, life skills and *tikanga* (culture, customs and traditions), personal development and *whanau* (family support). In addition, *rangatahi* (teenagers) are removed from opportunities for using alcohol, cigarettes and other drugs as well as from other risk situations and opportunities to commit offences.’⁴⁸

The Central Australian Aboriginal Legal Aid Service (CAALAS) was also supportive of youth camps, and noted its support for the Mount Theo outstation in Central Australia as a ‘rehabilitation and diversionary avenue for young people to achieve behavioural change through connection with culture and participation in education’.⁴⁹

CAALAS also noted the Ilpurla outstation as a ‘youth specific intensive residential rehabilitation facility which has a strong focus on addressing volatile substance abuse as well as drug and alcohol abuse’.⁵⁰

Mount Theo and Ilpurla are not funded through the Youth Camp Program, so were not included in the Connected Self report.

The evaluation by Connected Self reported that while youth camps offer:

intuitive appeal and preliminary supporting evidence, there is a paucity of research to guide their understanding and application, notably for complex client groups. On this basis, ‘youth camps’ (per se) do not represent an evidence-based intervention for youth at risk’.⁵¹

Connected Self did, however, report that:

The evaluation provides strong support that individual youth camps have the capacity to engage youth-at-risk (including Aboriginal young people) who are at high risk of future offending or at-risk behaviour, within a therapeutically conducive environment that has the potential to translate to both attitudinal and behavioural outcomes, at least within the short term.⁵²

47 NAAJA, *submission 2*, 79.

48 Noetic Solutions, *A Strategic Review of the New South Wales Juvenile Justice System: Report for the Minister of Juvenile Justice* (2010) 64, cited in NAAJA, *submission 2*, 79.

49 CAALAS, *submission 17*, 39.

50 *Ibid*, 40.

51 Raymond and Lappin, above n 45, vii.

52 *Ibid*.

CHAPTER 4: DEPARTMENT OF CHILDREN AND FAMILIES

The Review widely researched the benefits of youth camps, also referred to as ‘boot camps’.⁵³ More military style boot camps can be damaging to young people and have no impact on their offending or rehabilitation. Youth rehabilitation camps must include education and vocational training, and they need to be of sufficient length so that change can occur, such as learning a range of life skills that can enable young offenders to re-enter the community. Support and monitoring also needs to be provided after the young person leaves. There must be ‘robust longitudinal evaluation’.⁵⁴

The Review agrees with DCF that, based on the information available, youth rehabilitation camps can:

provide a culturally secure and therapeutic based alternative to detention. They can also operate as step down programs following a period of detention to assist people reconnect with family and the community and to consolidate skills and personal insights developed in a detention program.⁵⁵

The Connected Self evaluation identified two models:

- a short term therapeutic camp program of 8 to 10 days duration and in a wilderness environment targeted between 8 and 10 young people who have demonstrated offending and antisocial behaviours and likely to re-offend based on the assessment of evidence-informed risk factors.⁵⁶
- a longer term therapeutic residential model program which is a longer and more intensive program ‘in terms of resources and approach’.⁵⁷ The length of stay would be between 6 and 18 weeks and offers an alternative to detention for young people with ‘complex needs that place them at high risk of having a long association with justice systems without intensive intervention’.⁵⁸

Connected Self provided considerable information to government with its evaluation, including costings, components of each model and principles to guide their establishment. The Review does not need to repeat all those matters contained in a report that government already has in its possession.

53 See, for example: DCF, *submission 5*, Attachment B, 15; D Wells, ‘Boot Camps: Mixed Results’ (2003) 65 *Corrections Today* 142; J Tyler, ‘Juvenile Boot Camps: A Descriptive Analysis of Program Diversity and Effectiveness’ (2001) 38 *The Social Science Journal* 445; D Kilgore and S Meade, ‘Look What Boot Camp’s Done For Me: Teaching and Learning at Lakeview Academy’ (2004) 55 *Journal of Correctional Education* 170; G Styve, L Doris, A Gover and O Mitchell, ‘Perceived Conditions of Confinement: A National Evaluation of Juvenile Boot Camps and Traditional Facilities’ (2000) 24 *Law and Human Behaviour* 297; J Brooker and L Walker, ‘Juvenile Boot Camp and the Reclamation of Our Youth: Some Food for Thought’ (2000) 51 *Juvenile and Family Court Journal* 21.

54 Raymond and Lappin, above n 45, vii.

55 DCF, *submission 5*, 14.

56 Raymond and Lappin, above n 45, 268.

57 *Ibid*, 271.

58 *Ibid*.

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This Review supports the models proposed by Connected Self, and a recommendation is made accordingly. The Review also strongly endorses a comment made by the authors in their evaluation:

At the highest level, the key imperative is ensuring that the camps are integrated within the broad service continuum. In the first instance, this should be focussed on the youth justice service system, however, consideration should also be given to integrating the youth camps with other relevant services systems, (eg: health, mental health, education and housing).⁵⁹

The cost of establishing additional youth camps is significant. However, the cost of detaining young people is also significant, and meaningful therapeutic programs by appropriately qualified staff, delivered at facilities that are properly managed and resourced and regulated is likely to provide a greater prospect of rehabilitation, and reduced offending, than serving time in juvenile detention facilities.

Therapeutic interventions

There is a great deal of national and international research on a range of therapeutic interventions that can be provided to young offenders. Intensive supervision programs, such as multi-systemic therapy (MST) and family functional therapy have been shown to reduce youth offending.

A study published in the Washington State Institute for Public Policy in 2011 detailed the results of a pilot program in 2007 to provide evidence based mental health services to children. The target population:

included children with significant behavioural and mental health challenges who were involved in multiple systems (eg, child welfare mental health, and juvenile justice). The first evidence-based practice selected for the pilot was Multi Systemic Therapy (MST), an intensive family and community-based intervention for chronic juvenile offenders and youth with serious emotional disorders, 12 to 17 years of age.⁶⁰

The results were impressive and supported existing research⁶¹ showing that reductions in offending of between 25% and 65% were achievable.

These interventions are being used more widely in NSW and the Review was advised that the results are also positive.⁶²

59 Ibid, 286.

60 Jim Mayfield, *Multisystemic Therapy Outcomes in an Evidence-Based Practice* (2011) Washington State Institute for Public Policy.

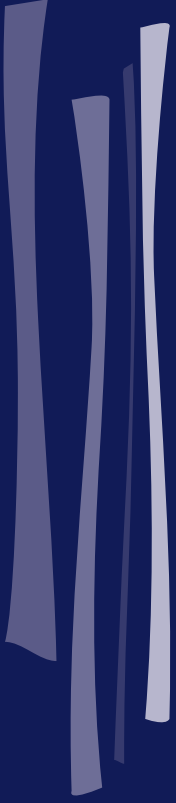
61 See also: Jo Sallybanks, *What Works in Reducing Young People's Involvement in Crime: Review of Current Literature on Youth Crime Prevention* (2002) Australian Institute of Criminology, Canberra.

62 Manager Intensive Supervision Program (ISP), Juvenile Justice, NSW Department of Human Services, consultation, Sydney, 6 July 2011.

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It is not within this Review's terms of reference to analyse the types of therapies and interventions to be provided to young offenders. However, given the direct link to reductions in offending noted in the available research, there is an obvious incentive for government to invest in a workforce that can provide such therapeutic programs. Practitioners may be able to undertake this work at the youth rehabilitation camps outlined in this chapter, or at the FSCs. It is not currently being offered at the FSCs, which is a result of insufficient workforce capacity.

DCF faces a range of challenges in its work with young people and their families, and plays an important role in program development and delivery of services. Its ability to assist young offenders would be enhanced if there was improved information sharing with other agencies (beyond that which occurs in the Family Responsibility Program), additional youth rehabilitation camps, and increased capacity in the FSCs. Recommendations are made to this effect in part 3.



Chapter 5: Northern Territory Police

Introduction

Snapshot of police involvement with young Territorians

Crime prevention and early intervention programs

Police diversion

Community based diversion program

Community Youth Development Units

Conclusion

CHAPTER 5: NORTHERN TERRITORY POLICE

Introduction

Keeping the community safe is a core function of the Northern Territory Police (NTP), and police officers are the first point of contact for young people who commit an offence. The services provided by police officers, the range of crime prevention activities available and the relatively small size of the young offender population mean that NTP plays an important role in preventing young people from entering the justice system, as well as dealing with young offenders when they are in the system.

Many of the functions performed by NTP are not directly relevant to this Review. Given the terms of reference, the Review sought to examine existing crime prevention and early intervention and programs provided by NTP that would assist in the reduction of youth offending and re-offending.

The Review notes that there is no reference to a youth crime reduction strategy in the NT Police, Fire and Emergency Services (NTPFES) 2009–2010 Annual Report, nor is the existence of a strategy referred to in the range of strategic issues listed by NTP in the relevant 2011–12 Budget Papers.¹

In 2010, all Australian Police Ministers agreed to reduce, prevent and respond to youth violence and antisocial behaviour through a National Youth Policing Model.² The model was developed to support and enhance effective programs already in place through six high priority strategies for youth policing³ and jurisdictions have the flexibility to adapt responses to youth policing issues to suit local environments.

The need for a new comprehensive youth justice strategy is discussed in chapter 9 which, if properly designed, should achieve crime reduction targets, and complement the National Youth Policing Model.

1 Northern Territory Government, *Budget 2011–12: Budget Paper No. 3 The Budget* (2011) 45.

2 The model supports the National Strategy for Young Australians, which identified youth violence and antisocial behaviour as key issues of concern for young people.

3 The six strategies are targeted policing; strong responses to alcohol and drug abuse; strong enforcement of road rules; early intervention and diversion strategies; collaboration and information sharing between jurisdictions and with other sectors; and education and awareness about safety and legal rights and responsibilities.

CHAPTER 5: NORTHERN TERRITORY POLICE

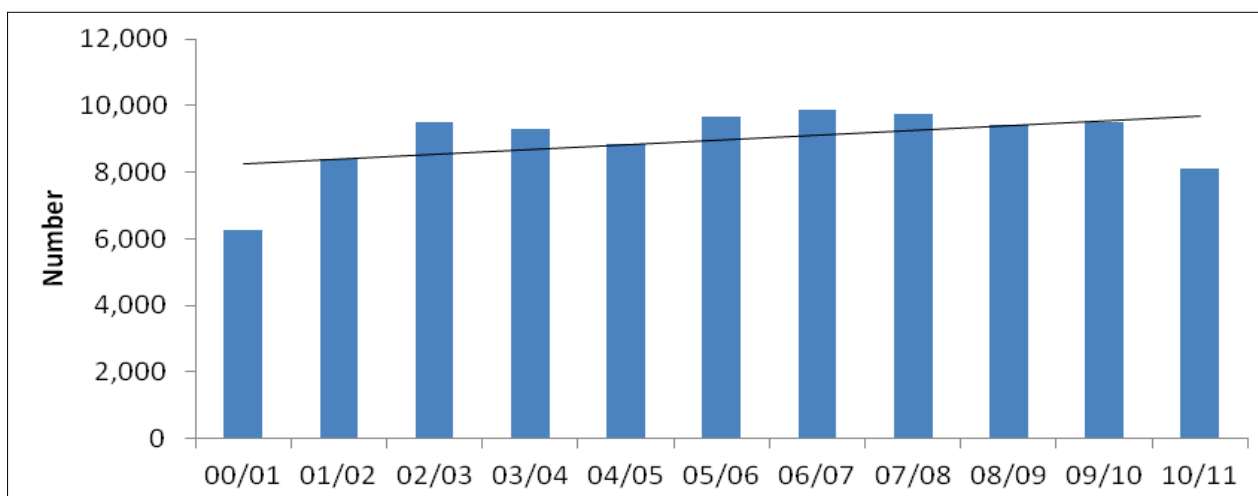
Snapshot of police involvement with young Territorians

A selection of policing data analysed by the Australian Institute of Criminology (AIC) for the Review⁴ is provided below.

Police involvement with young people has proven to be relatively stable from 2001–02, as demonstrated by figure 5.1.⁵ ‘Police involvement’ includes any type of police activity that results in young people having some contact with police as the victim, offender, suspect or person of interest.

There has been a moderate increasing trend for young people involved with police over the last 10 years; however, this trend is consistent with the overall increasing growth of the Territory population and does not necessarily reflect an increasing rate of juvenile police involvement.

Figure 5.1 Juvenile police involvements, 2000–01 to 2010–11, discrete individuals



Source: NT Police

The number of young people apprehended between 2006–07 and 2010–11 is shown in figure 5.2.

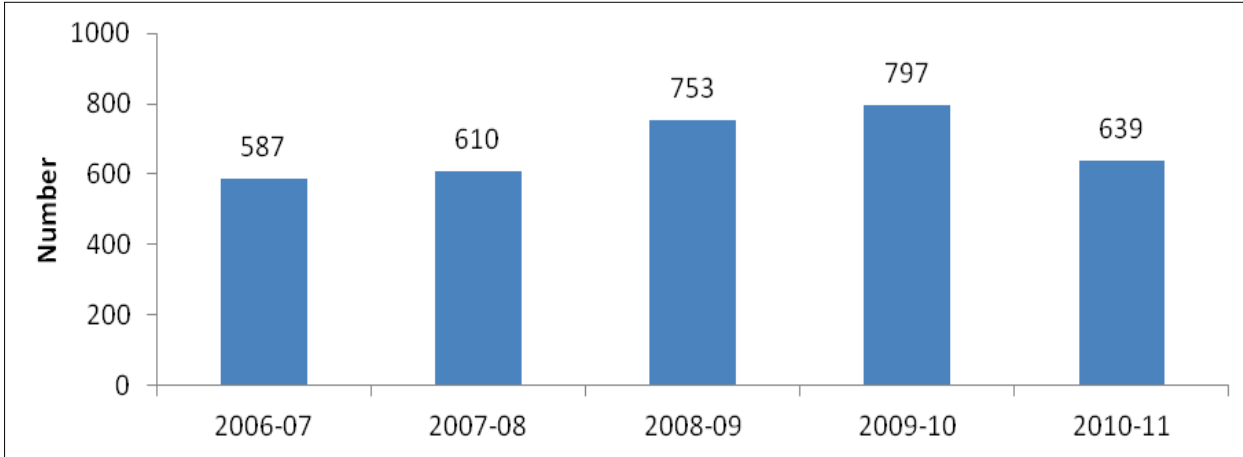
A total of 3386 young people were apprehended over this five year period. There was a marked 23% increase in youth apprehension from 2007–08 to 2008–09, followed by a smaller increase of 6% from 2008–09 to 2009–10. The decrease observed over the past year most likely reflects incomplete datasets rather than actual reductions.

⁴ AIC, *Review of the Northern Territory Youth Justice System: Overview of the Data* (2011) Canberra.

⁵ The decrease observed for 2010–11 is likely to reflect incomplete data for this year rather than a genuine decrease in juvenile offending behaviours.

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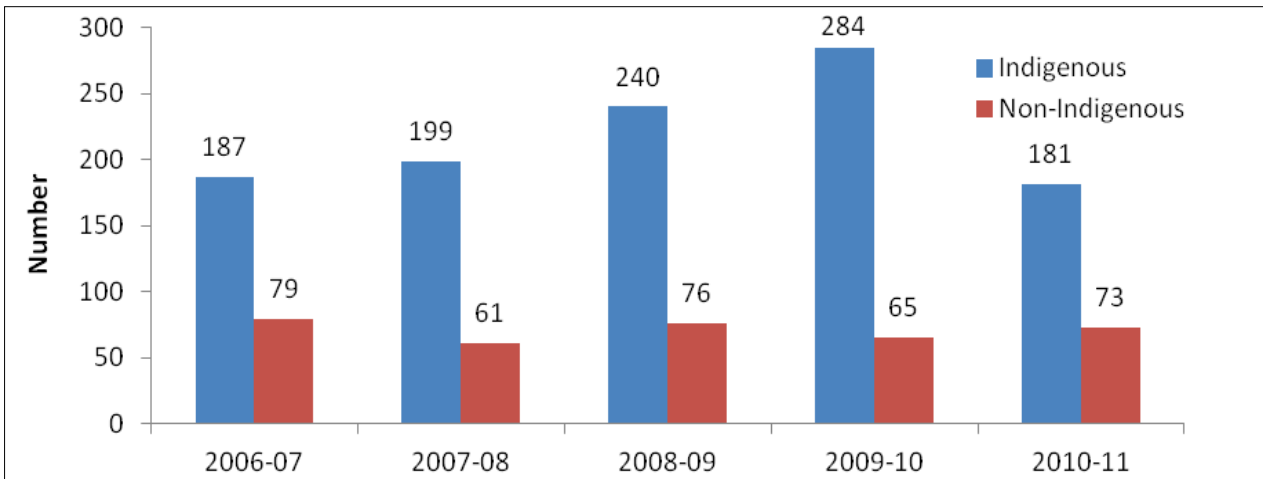
Figure 5.2 Distinct youths apprehended by police, 2006–07 to 2010–11



Source: NT Police

The majority of young people apprehended over the past five years (76% or 2582 people) have been Indigenous (see below).

Figure 5.3 Distinct youths apprehended by police, 2006–07 to 2010–11, by Indigenous status



Source: NT Police

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Crime prevention and early intervention

Youth Engagement Police Officers (YEPOs)

In mid 2010 NTP changed the name and role of school based constables. YEPOs now have a broader function, and are no longer solely based at schools. Currently, there are 22 YEPOs located in key urban and regional centres of the Territory.

NTP advises that the role of YEPOs is to:

work closely with the Department of Education and Training (DET) and provide a range of support to the school system. This includes, where possible in remote communities, support for Drug and Personal Safety Awareness Programs delivered by DET ... YEPOs also liaise with schools to raise awareness of issues surrounding the increase in cyber bullying and cyber offences.⁶

Some police officers and others consulted for the Review indicated there was concern that the changing role of YEPOs meant that officers would spend less time in schools and, from time to time, would be used for other general duties. In particular, there was concern that spending less time in schools would not provide YEPOs with the 'on the ground' contact required to assist young people at risk of offending. Indeed, there was concern from some stakeholders that, as a result of the changes, NTP is becoming less proactive and more reactive.

Individual YEPOs advised the Review that there were many examples where their direct involvement with a school aged person had prevented that person entering the youth justice system, or had assisted them with general, supportive advice. The Review accepts that developing positive relationships with police and direct interventions are often impossible to measure. However, while the benefits of these relationships are difficult to quantify, their importance is acknowledged.

Although the change in role for YEPOs is relatively new, and positive outcomes may yet be achieved, government is encouraged to monitor this change, and consider establishing an independent evaluation of its success or otherwise in 12 to 18 months. This could be done as simply as appointing an independent person or body to interview YEPOs to ascertain whether they consider their expanded role is beneficial to young people, and particularly those at risk of offending. Young people, teachers and parents should also be consulted.

⁶ NTP, *submission 33*, 6–7.

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Community Engagement Police Officers (CEPOs)

In 2010 the Federal Government announced \$3.4 million to fund eight CEPOs to be deployed in remote communities.⁷ The aim of the program is to ‘focus on community engagement to build trust and confidence in the justice system in order to strengthen local safety and security’.⁸

The CEPOs’ primary role is to promote community engagement through the active establishment and promotion of community involvement, ownership and leadership of community based activities.

CEPOs are located at Wadeye, Lajamanu, Alyangula, Ali Curung, Yuendumu, Ntaria, Papunya and Maningrida.

NTP advises that the CEPO role is focused on relevant areas of concern to the Review and includes intervention strategies dealing with:

- community violence, including
 - support for victims
 - integrated case management approaches for both victims and offenders
 - co-location of services
 - information sharing
- youth diversion, with services to ensure
 - provision of linkages to enable individual counseling
 - developing interpersonal skills and behavioural treatment
 - family counseling and home based therapy
 - intensive case management involving multiple services
 - community residential programs.

It is expected that the CEPOs will have a role to play in crime prevention strategies outside the criminal justice system, for example, non coercive early intervention strategies that focus on:

- parenting programs including early childhood interventions such as home visits, parental management training, preschool programs and school and community based programs
- inappropriateness of violence as a means of resolving disputes
- school attendance and performance initiatives through incentives for attendance

⁷ Federal funding as part of the government’s ‘Closing the Gap’ strategy on reducing Indigenous disadvantage and built on the work of the Australian Crime Commission’s National Indigenous Violence and Child Abuse Intelligence Taskforce. Initial funding is for two years to 2013.

⁸ Attorney-General for Australia, ‘Community Constables for Indigenous Communities Across the NT’ (Media Release, 28 June 2011).

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- diversionary programs including education programs developed by the NT Early Intervention Pilot Program and the Drug and Personal Safety Awareness Program, both of which target underage drinkers and binge drinking
- intensive interventions for serious, repeat and persistent offenders
- conferencing and restorative programs that involve local people.⁹

As these positions are new, it has not been possible for the Review to provide an evaluation.

The initiative will also assist to resolve a number of challenges for police officers who work in remote areas, some of whom reported to the Review that it was difficult to foster positive relationships with local people while at the same time fulfilling their roles as general duties officers.

As the program is implemented over two years, the role of CEPOs must be evaluated. If it is shown to benefit people in remote areas, and young people in particular, the Review encourages the Federal Government to provide ongoing funding, and consider expanding the program.

Given the high proportion of Indigenous young offenders in the youth justice system, the importance of NTP and Indigenous people working well together cannot be overstated. This is supported by the North Australian Aboriginal Justice Agency's (NAAJA) submission and recommendation that 'NT Police need to develop strong and constructive community engagement projects with Aboriginal young people and local Aboriginal communities'.¹⁰

NT Early Intervention Pilot Program (NTEIPP)

Funding for this initiative was obtained from the Federal Government's National Binge Drinking Strategy in 2009 and ends in 2012. The NTEIPP has Youth Outreach Officers based in Darwin, Katherine, and one in Alice Springs, and provides training and practical resources for young people, aimed at reducing binge drinking. It focuses on harm reduction and supports a range of activities for young people. The NTEIPP works with YEPOs, CEPOs, and the Youth Diversion Scheme (YDS) to improve diversionary options for young offenders, with a focus on counselling and support services and early engagement.

This pilot commenced in May 2010, and its outcomes are being assessed with the assistance of the Menzies School of Health Research.¹¹ An analysis of data, focus groups and case studies is currently being conducted. The pilot is considered a good practice case study by NTP.¹²

9 NTP, *submission 33*, 6–7.

10 NAAJA, *submission 2*, 43.

11 NTP, *NT Early Intervention Pilot Program: Overview*, provided to the Youth Justice System Review.

12 NTP, *submission 33*, 11–12.

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Blue Light Discos

NTP has operated Blue Light Discos in the Territory for many years which target primary and middle school aged children in urban and remote areas. They are viewed by officers and other stakeholders as a valuable community engagement tool. The Blue Light Disco is operated by the Blue Light Disco Council, an incorporated body. There is no direct funding from NTP except for the position of co coordinator, which is filled by a NTP member.¹³

While the Blue Light Disco program has not been formally evaluated, anecdotal reports from police officers and community members indicate that the events are both popular and successful, in terms of attendance and enthusiasm. It is impossible to measure the program's impact on offending and re-offending rates; however, it has proven to provide a positive early interaction between officers and young people and is a good example of how NTP engages in proactive and non punitive initiatives.

Police Community Youth Club (PCYC)

The PCYC provides opportunities for young people in Darwin to participate in sporting and recreational activities. The Wongabilla Equestrian Centre is attached to the PCYC. It was established in the 1960s and allows young Territorians to participate in equestrian activities. It provides horse riding programs, mainly for disadvantaged youth as well as, at times, programs for young offenders as a result of police diversion. As with the Blue Light Discos, the PCYC, including Wongabilla, is another example of positive and early interaction between police officers and youth.

Junior Police Rangers

The Junior Police Rangers scheme:

develops the leadership skills of young people by providing activities not generally available at schools. It is designed to boost a range of practical skills (from public speaking to orienteering) and self esteem among the participants, enabling them to pass these skills on to their peers.¹⁴

The scheme is aimed at children who are at the end of Year 6, and extends for approximately three years. Some of the activities offered include abseiling, camping, community service, first aid skills, life saving and navigation. The scheme also assists young people to develop self-esteem and leadership qualities.

¹³ NTP, *Blue Light Disco* <<http://www.pfes.nt.gov.au/Police/Young-people/Blue-light.aspx>> at 11 August 2011.

¹⁴ NTP, *Junior police rangers* <<http://www.pfes.nt.gov.au/Police/Young-people/Junior-police-rangers.aspx>> at 11 August 2011.

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Evaluation and training

NTP provides a range of crime prevention and early intervention programs and activities, all of which appear positive. However, while some may improve relationships between young people and police officers, their impact on offending rates is unknown. The Review is concerned that, although these programs that have been in existence for some time, none have been independently evaluated.

An absence of evaluations is not peculiar to the Territory. As a recent study by the AIC of Queensland-based young offenders reported:

The high rates of Indigenous contact [with the justice system] highlight the needs for early intervention programs to prevent Indigenous people having initial contact with the system. While no published studies could be located evaluating the effectiveness of early intervention programs at reducing offending by Indigenous young people, when targeted in the general population, such programs have proven to be a cost-effective method of preventing offending.¹⁵

The Review accepts that some programs are extremely difficult to evaluate, and that measures such as ‘success’ or ‘failure’ may be unfair. These programs have a role to play in the youth justice system, which, as the terms of reference state, encompasses a continuum of services and responses from preventative, policing, pre court and correctional to post release.

To a major extent, the success or otherwise of the programs depends on the efforts and ability of police officers involved. The Review was advised that no specific youth focused training is provided to police trainees at the Northern Territory Police, Fire and Emergency Services College. Given the myriad of problems some young offenders experience, it would be beneficial to provide specific youth training so that new officers can be better equipped to deal more effectively with young offenders and those at risk of offending. This could be done in conjunction with youth networks such as the Darwin and Rural Work With Youth Network, or the NT Youth Affairs Network.

Police diversion

The introduction of the *Youth Justice Act* (YJA) in 2006 included an expanded diversion scheme and an explicit presumption in favour of diversion. Juvenile diversion is the referral of a youth offender to an alternative process other than the justice system.¹⁶ Diversion operates under a restorative justice framework where young offenders are encouraged to accept responsibility for their behaviour, so that an acknowledgment of involvement is a requirement for eligibility.

15 Troy Allard, Anna Stewart, April Chrzanowski, James Ogilvie, Dan Birks and Simon Little, *Police Diversion of Young Offenders and Indigenous Over-Representation*, Trends & Issues in Crime and Criminal Justice No 390 (2010) Australian Institute of Criminology.

16 John Heslop, ‘Diverting Young Offenders from the Formal Justice System’ in Julia Vernon and Sandra McKillop (eds) *Preventing Juvenile Crime* (1991) 90.

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When an offender is identified and a prosecution file is completed, police officers determine whether he or she is eligible for diversion. If so, Youth Diversion Units (YDUs) in Darwin and Alice Springs, working with NGO case management service providers, assess the type of program that would suit the offender. A parent or guardian and the youth must consent to a young person being diverted and a young person cannot be diverted more than twice following a youth justice conference. Responsibility for youth diversion sits within Police Prosecutions.

NAAJA notes in its submission to the Review that diversion:

recognises the reality that most young people 'grow out of crime' when exposed to positive interventions. Diversion offers young people a path out of crime without exposing them to the stigma and alienating impacts of the criminal justice system.¹⁷

Types of diversion

There are four types of diversion currently available:¹⁸

- verbal warning
- written warning
- youth justice conference
- referral to a diversion program.

Verbal and written warnings are generally given for minor offences. In the case of a written warning, a police officer serves the warning on the offender and in the presence of a parent or guardian. NTP believes the involvement of parents is important as it provides a message to the parents that more responsibility and supervision is required on their part.

Youth justice conferences include conferences between the victim and offender, and family conferences.¹⁹

Family conferencing involves a conference with the offender and members of his or her family. Important people in the young person's life may also be present, such as a community elder, teacher or coach. The conference is designed to discuss the behaviour and what can be done to improve it. It is generally facilitated by a YDU police officer or, in remote areas, police officers in charge.

A victim–offender conference involves an offender meeting the victim of his or her offence, and is facilitated by a police officer whose involvement also provides protection for the parties. It is often emotional and difficult for the participants, with the offender having to face the victim to explain, and usually apologise for, his or her actions.

¹⁷ NAAJA, *submission 2*, 34.

¹⁸ *Youth Justice Act*, section 39.

¹⁹ *Youth Justice Act*, section 39(7).

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Victim–offender conferences can have a number of outcomes, and include the imposition of conditions, such as a verbal or written apology, restitution, or restoration of damage, which are monitored by the YDU. Another outcome may be that the offender attends a program that suits his or her needs. This may include the imposition of conditions, such as not associating with certain individuals, attending school, or attending a program formally registered with the YDU.²⁰

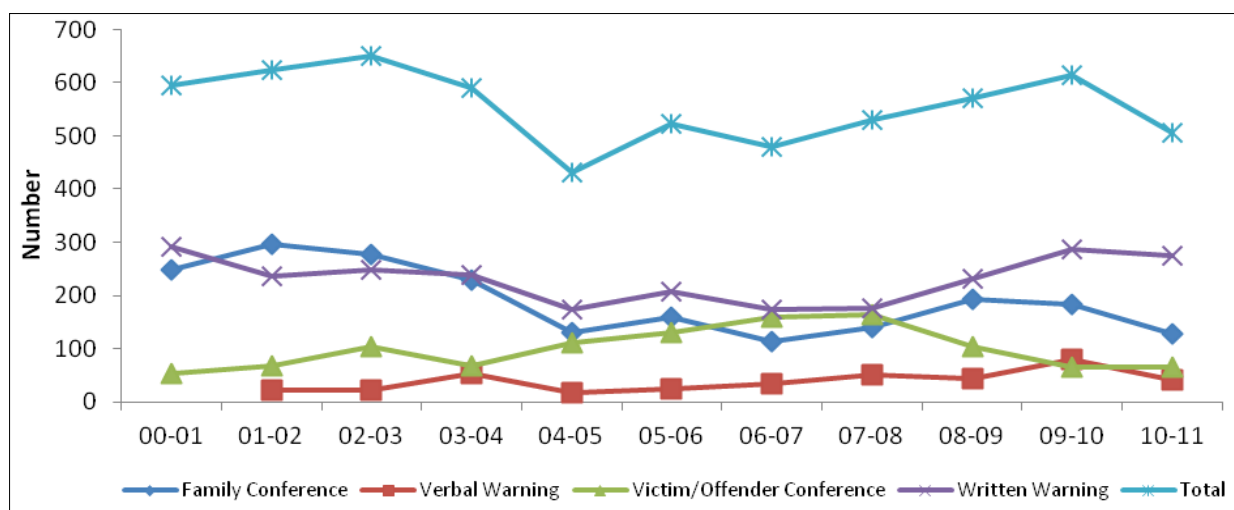
Diversion trends

The AIC examined the number of juvenile diversion programs provided by NTP, including family conferences, victim–offender conferences and warnings issued to offenders during the period 2000–01 to 2010–11.

This information is summarised in figure 5.4, which shows:

- There was a large overall decrease in the use of family conferences from 2001–02 to 2006–07.
- The number of family conferences, as well as the use of verbal warnings, increased from 2007–08 to 2008–09 before decreasing again in 2009–10 and 2010–11.
- The total number of juvenile diversion processes followed a similar pattern, decreasing from 2002–03 to 2004–05 and then increasing.
- Conversely, the opposite pattern was observed for victim–offender conferences, which rose up to 2007–08 then fell slightly before stabilising in 2010–11.²¹

Figure 5.4 Juvenile diversion processes 2000–01 to 2010–11



Source: NT Police

20 Graham Waite, 'A Holistic Approach to Juvenile Offending' (Paper presented at the National Crime Prevention conference, Sydney, 12–13 September 2002) 8–10.

21 The marked reduction in the total number of conferences and warnings in 2010–11 may be due to limitations in the dataset for this year.

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NTP advises the Review there were 820 Youth Justice Conferences carried out between 2005 and 2010, compared to 1021 warnings issued.²²

Community based diversion programs

The Department of Children and Families (DCF) provides youth diversion case management support to community based diversion programs operated by non government organisation (NGO) services. There is no overarching policy that provides direction for services, nor has there been an evaluation of programs, although DCF advises that one is planned in 2012. The funding is approximately \$2 million per year. A list of diversion programs currently funded is at appendix 5.

Evaluating community based diversion programs is essential and the planned evaluation should commence no later than 2012.

The Review spoke with a number of representatives from organisations that operate community based diversion programs. These representatives spoke of the positive effects and benefits of the diversion programs they operated. Several written submissions were also received.

For instance, the Department of Health (DoH) notes that, along with other factors, youth diversion activities have assisted communities to effectively manage their volatile substance abuse.²³

Are diversion programs successful in reducing youth offending and re-offending?

For some time in the Territory, the various forms of diversion have been regarded as successful in reducing youth offending and re-offending. Referring to an earlier federal evaluation of diversion schemes, the then Northern Territory Attorney-General lauded diversion when he introduced the Youth Justice Bill in 2005:

The outcomes, in terms of recidivism, are also extremely positive. The vast majority of young people who completed diversion were not re-apprehended within a year of their initial arrest. Furthermore, the rate of recidivism for young people who have completed a diversion program was lower than that for young people who continued through the court process. Other benefits of diversion included the positive impact on the lives of young people; a high level of victim satisfaction; consistency in the application of diversionary measures; and an enhanced perception of the NT Police Force.²⁴

22 Written advice from NTP to the Youth Justice System Review, 16 September 2011.

23 DoH, *submission 14(c)*, 2.

24 Second Reading Speech, Youth Justice Bill (No 2) 2005 (NT), Legislative Assembly, 30 June 2005 (Dr Toyne, Minister for Justice and Attorney-General).

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The AIC analysed police diversion in the Territory over five years from August 2000 to August 2005. Initial findings were positive:²⁵

Findings showed that the great majority of juveniles (76%) did not re-offend within the first year after their initial diversion or court appearance. However, there were significant differences between juveniles who attended court and those who were diverted, both in terms of risk of re-offending and time to re-offending. Those who were diverted re-offended less than those who attended court and those who went to court re-offended more quickly.²⁶

Preliminary analysis of the second five years' operation of the YDS by the NTP has identified that 71% of young offenders who participated in youth justice conferences did not go on to re-offend. This compares with 56% not re-offending who attended court, and 72% not re-offending who were given a warning.²⁷

The analysis by NTP on youth diversion data from 2005 to 2010 further suggests:

- two thirds of all youth offenders aged 10 to 17 years did not re-offend
- the majority of all offenders are male (74%), Indigenous (67%) and aged 14 years or older (74%)
- Indigenous persons made up one third of all re-offenders compared with one quarter non-Indigenous re-offending
- male offenders made up one third of those who re-offended compared to one quarter of all females
- the majority of youths referred for youth diversion committed property offences
- those who attend court have higher re-offending risks than those diverted from court proceedings. Nearly half the youths referred to court re-offended compared with just over one quarter referred to diversion.²⁸

The Review notes the NTP will shortly commence a more detailed analysis of the statistical data for the second five years of its YDS, which will assist with baseline data for any future youth justice initiatives considered by government.

In NT Police, Fire and Emergency Services' 2009–10 Annual Report, NTP states that:

the rate of repeat offending diminishes considerably when youth are diverted through a formal Youth Diversion Scheme in contrast to youth who are dealt with through the formal judicial court system. This demonstrates that early intervention with youth who are committing less serious offences results in better outcomes for youth and provides a safer community.²⁹

25 Teresa Cunningham, *Pre-Court Diversion in the Northern Territory: Impact on Juvenile Re-offending*, Trends & Issues in Crime and Criminal Justice No 339 (2007) Australian Institute of Criminology.

26 Ibid, 1 per Toni Makkai.

27 Email from NTP to the Youth Justice System Review, 16 September 2011. The lower success rates for re-offending compared to the first five years' evaluation of the Youth Diversion program may reflect changes to exclude certain matters such as all Traffic Offences from being referred for diversion.

28 Ibid.

29 Northern Territory Police, Fire and Emergency Services, *2010 Annual Report* (2010) Northern Territory Government, Darwin, 46.

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The available relevant evidence suggests that diversion, as a non custodial option for young offenders, is successful in terms of reducing re-offending. It can also lead to longer term positive outcomes, some of which are difficult to measure. For instance, for some young people, diversion had *slowed* their re-offending.³⁰

A Recommendation is made to increase resources to diversion. Combined with accurate data collection (which is another Recommendation of this Review) over time, the results are likely to be more easily identified and measured.

Throughout the Review, some stakeholders questioned whether diversion programs should continue to be provided by NTP. On balance, the Review believes NTP should continue to do so, particularly noting its operational capacity 'on the ground' in remote areas.

How diversion can be improved

A number of individuals and organisations consulted raised a variety of issues about diversion that require comment by the Review.

- i. Police officers have the sole discretion to refer an offender to a diversion. Although the court has the ability to refer a youth to be re-assessed for inclusion in a diversion, the consent of the prosecution and the young offender is required.³¹ NAAJA views the requirement of consent of the prosecution as, effectively, a 'veto power over the Magistrate's decision to refer a young person to diversion'.³²

The magistrates argue that 'suitability for diversion should [also] not be a matter solely determined by Police discretion, especially when a Court is of the view that 'diversion' is appropriate'.³³

It is difficult to see how NTP and the Youth Justice Court can 'share' the responsibility of deciding which offenders are eligible for diversion, and how this might be achieved was not outlined in any submissions. Moreover, the magistrates' suggestion that the court should decide who is eligible for diversion somewhat defeats the purpose of diversion which aims to divert young people away from the court system. To provide this power to the court would pose a number of administrative and other difficulties, and the Review finds no compelling reason for it to change.

- ii. A disproportionately high number of Indigenous young people are involved in the Territory's youth justice system, and NAAJA stated in its submission that they are less likely to be diverted than non Indigenous young offenders. As noted in chapter 2, the number of young Indigenous people in detention reflects the seriousness of their offences and their prior offending history. This may explain why they are less likely to be diverted, although there does not appear to be any current Territory-based evidence to this effect.

30 Senior Constable Paul Dixon, consultation, Alice Springs, 23 June 2011.

31 *Youth Justice Act*, section 64.

32 NAAJA, *submission 2*, 35.

33 The magistrates, *submission 16*, 10.

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The lack of family support has a significant effect on these offenders. The magistrates submit:

There is potential for a youth to be denied the opportunity for diversion simply because 'the responsible adult' is disinterested, unavailable and/or not acting in the youth's best interests. The only action for a Police Officer to take in those circumstances is to give a verbal warning as a diversion or charge the youth and bring him or her before the Court.³⁴

The absence of a responsible, supportive adult in a young offender's life can be the reason for the young offender not being diverted and, as a result, he or she is deprived of the benefits of participating in a diversion program. A bail support program such as that discussed in chapter 3 may improve diversion prospects.

- iii. A number of criticisms were made regarding the types of offences that qualified for diversion, and have been discussed in chapter 3.
- iv. Lack of available or meaningful diversion programs was identified as a problem across the Territory but particularly in remote areas. In some cases, this is because of workforce issues and lack of capacity. DCF advises that 'no evaluation to benchmark best practice in these diversion programs has been completed, although there is a commitment to assessing the efficiency and the responsiveness of these programs'.³⁵ As stated previously, it is essential that the evaluation be undertaken and the Review encourages DCF to do so, in order to assess existing programs and consider new possibilities, particularly in remote areas.
- v. There was widespread criticism of the time taken to assess and arrange a program for a young person who was eligible for diversion. NTP and others advise that, in some cases, up to six months elapsed from the date the offence was committed to undergoing the diversionary activity. The main reasons for this appear to be a lack of resources.
- vi. Inadequate staffing levels in NTP were raised at various times during the consultations. Staffing numbers for police diversion have reduced since the initial well funded and well staffed scheme was introduced in 2000. It no longer has its own statistician, nor does it have a superintendent or senior sergeant leading the unit. NTP advises that often positions are unfilled and that 'in the past three years there has been difficulty attracting staff to the youth diversion area as it is not seen as a core policing function'.³⁶ This may explain why diversion outcomes such as youth justice conferences (victim-offender conferences and family conferences) have reduced in recent years. Conference facilitator training courses for police officers have also been limited. Reduced staffing levels limit the ability of the YDUs to support police diversion in Tennant Creek and Katherine.³⁷

³⁴ Ibid, 11.

³⁵ DCF, *submission 5*, Attachment D.

³⁶ NTP, *submission 33*, 5.

³⁷ Ibid.

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- vii. YDUs exist in Darwin and Alice Springs, and some stakeholders recommended to the Review that, with adequate resourcing, YDUs could also be established at police stations in Katherine and Tennant Creek. The advantages would mean that assessments would be coordinated with NGO services. In Katherine, local police are, in essence, operating their own YDU, but it should be formalised and resources allocated accordingly.
- viii. The role of the police officers ends once diversion is complete and no through care or pathways are guaranteed. If the youth is not in statutory care, DCF has no statutory obligations, and the Department of Education and Training (DET) may not necessarily have a role to play either. Additionally, and depending on the young person's history, NGOs may or may not have a role. This means that there is little or no follow up by any agency that monitors the young person and whether he or she has benefited from participation in a diversion program. Solutions are proposed to deal with this issue in part 3.

Community Youth Development Units (CYDUs)

NTP has had some success working with the remote CYDUs, which provide case management support to young offenders through delivering programs and services such as sport and recreational activities, life skills, mentoring and community service. These are 'community driven' initiatives that aim to promote positive self image for young people and reduce offending. Police work closely with the CYDUs.

NTP considers community driven initiatives essential to the success of CYDUs and there has been frustration over the years that, due to the high level of dysfunction in some communities, progress has been slow. However, there is a recognition that matters have improved in recent years with the assistance of the Federal Government and the programs, services and other resources that flowed from the Northern Territory Emergency Response.

The bulk of the casework CYDUs undertake does not involve formal diversion. It consists of youth development work and 'risk abatement' type work.³⁸ The CYDU on the Tiwi Islands is considered by police officers and others to be successful because, since its establishment in 2003, it has managed many hundreds of family interventions, involving young people and their families.

The Tiwi Islands' CYDU is located in Nguiu and was recently the subject of a case study in Indigenous dispute resolution and conflict management in a federally funded project aimed at supporting 'the development of more effective approaches to managing conflict involving Indigenous Australians'.³⁹ The study found that, while the Tiwi Islands' CYDU initially only

38 Waite, above n 20, 10.

39 Rhian Williams, 'Case Study: "No Stick No Stone"—The Work of the Tiwi Youth Diversion and Development Unit in Managing Family and Community Conflicts' in *Solid Work You Mob Are Doing: Case Studies in Indigenous Dispute Resolution & Conflict Management in Australia* (2009) 49, xiii.

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provided a traditional diversion alternative for young offenders (i.e. those already in the youth justice system), it has since developed the range of programs offered, and also provides services directed at addressing and managing (using skin groups) family and community disputes. For example, there are programs aimed at encouraging attendance and good behaviour at school by school aged children, meetings with the four skin groups, and an intervention program that involves a whole of community approach.

NTP advises that CYDUs have also been effective in Groote Eylandt, Tennant Creek, Borroloola, and Galiwin'ku. NTP also advises that programs similar to those in the Tiwi Islands and Groote Eylandt operate in the southern region of the Territory in partnership with a number of other Northern Territory and Federal government programs.⁴⁰

Challenges for CYDUs

The costs of providing services in remote communities are high. Staff accommodation is also an ongoing problem, however, the Federal and Territory governments are working to resolve this issue. Staff recruitment and retention are problematic, and innovative ways need to be found to attract and retain staff. Generous terms and conditions are an obvious way to address this but training local Indigenous people is the ideal solution. To a large extent, local capacity building will depend on the relative functionality of each community. The Review notes that this issue is the subject of consideration under *Working Future*, and also through the Northern Territory Public Sector Remote Workforce Development Strategy.

The Review travelled to relatively few remote communities: Wadeye, Alyangula, Umbakumba, Borroloola, Lajamanu, Maningrida, Elliot and Hermannsburg. With the exception of Maningrida and Tennant Creek, the Review was advised by community members, police officers and government workers in those areas that youth crime was not considered to be a significant problem and, in fact, in some areas, it was considered to have reduced. It is tempting to attribute this view to the success of the CYDUs or other Territory and/or Federal government initiatives; however, there needs to be more evaluation and changes to the way crime data is collected and published, as discussed in chapter 2.

The Review was able to collect some data on court matters heard in regional and remote courts and is aware of baseline data being collected to evaluate a range of indicators in identified as Remote Service Delivery (RSD) sites. However, the Review notes that the number of matters dealing with young people in the courts is relatively small, making it difficult to identify statistical trends and then to attribute these trends to local programs. In the time available, the Review did not identify current mechanisms to measure the success or otherwise of CYDUs in communities other than those areas referred to in the selected case studies.

⁴⁰ At Papunya for example, and regionally in partnership with other programs such as NT Integrated Youth Strategy in the four southern regions of Docker River, Mutitjulu, Imampa and Aputula.

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Accordingly, the Review considers it may be appropriate for NTP to consider mechanisms to evaluate the CYDU program as a whole and, where relevant, opportunities to coordinate this objective with the baseline indicators being developed by the Federal Government in identified Territory RSD sites. The Review also acknowledges that, given the difficulties in measuring statistical trends in remote communities due to the low numbers involved, indicators of success will likely need to be measured using both qualitative and quantitative methods.

Conclusion

NTP plays an important role in the youth justice system. Early intervention programs and initiatives, though difficult to evaluate, provide opportunities for young people, some of whom will enter the youth justice system, to develop positive relationships with individual police officers and form a positive view of the NTP.

Diverting young offenders away from the justice system appears to work well; however, more programs need to be developed across the Territory and existing programs need to be evaluated in order to more accurately determine outcomes and identify where improvements can be made.

YDUs need to be better resourced so that assessments and youth justice conferences can be undertaken and completed more quickly. While diversion can work well for young people, more follow up services are required for young offenders, some of whom will go on to re-offend unless they receive support after the diversion process has ended. Coordination of service delivery is vital and is discussed in part 3 of this report.



Chapter 6: Department of Justice

Introduction

Court support and independent offices

Policy coordination

Correctional services

Conclusion

CHAPTER 6: DEPARTMENT OF JUSTICE

Introduction

The Department of Justice (DoJ):

Coordinates all elements of the Territory's justice system, with the exception of policing, to provide the services, frameworks and infrastructure required to build a fairer and safer community. The agency also undertakes licensing and regulation within a range of industries.¹

DoJ comprises seven divisions. Those that are relevant to this Review are:

- Court Support and Independent Offices
- Policy Coordination (Legal Policy, Community and Justice Policy (CJP) Research and Statistics)
- Licensing, Regulation and Alcohol Strategy (LRAS)
- Northern Territory Correctional Services (NTCS).

There are four ministerial portfolios that cover the work done by DoJ. The first three are Justice and Attorney-General; Racing, Gaming and Licensing; and Alcohol Policy. These are held by the Minister for Justice and Attorney-General.

The fourth portfolio is Correctional Services, held by the Minister for Correctional Services.

Prior to examining the relevant divisions of DoJ, it is useful to briefly summarise the legislative changes that have brought about the limited role for DoJ in the youth justice system.

DoJ had departmental responsibility for the *Youth Justice Act* (YJA) following its introduction in 2006, with the exception of Part 3, police diversion. In 2008, government announced its Youth Justice Strategy, which included significant amendments to the YJA. A new Part 6A of the YJA was introduced that built on the key planks of government's strategy and included the:

- introduction of Family Responsibility Agreements and Orders
- creation of Family Support Centres in Darwin and Alice Springs
- commitment to improve information sharing between government departments
- establishment of Youth Rehabilitation Camps
- creation of the Youth Justice Advisory Committee
- establishment of a 'youth hub' in Alice Springs.

As a result of these changes, the former Department of Health and Families² was given responsibility for program and financial administration of Part 6A of the YJA, including funding for diversion programs, although assessment and referral procedures remain

1 Northern Territory Government, Budget 2011-12: *Budget Paper No. 3 The Budget* (2011) 77.

2 The Department of Health and Families was restructured in 2010 and the Department of Children and Families (DCF) was created on 1 January 2011.

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within the Youth Diversion Unit of Northern Territory Police (NTP).³ The strategy is currently managed by the Department of Children and Families (DCF).

The current Administrative Arrangements Order⁴ provides that DoJ has limited responsibility for administering aspects of the youth justice system, as it is responsible only for Part 4 of the YJA (i.e. the Youth Justice Court) as well as juvenile detention matters.

The way responsibility for youth justice has been divided in the Administrative Arrangements Orders has had unintended consequences, delivering a mismatch of ministerial portfolios with the services and operations within DoJ and DCF. This has caused uncertainty and confusion at a bureaucratic level, as well as for service providers, which was the subject of considerable comment during the Review. A recommendation is made to overcome this in part 3.

Divisions

The divisions of DoJ that are relevant for the purposes of this Review are:

Court Support and Independent Offices

This division 'provides administrative and other support services to courts and tribunals administering justice for the community',⁵ and works with the Chief Justice and the Chief Magistrate to assist in the smooth operation of the Territory's courts and tribunals. Matters such as infrastructure are also part of this division's responsibility.

Although the Children's Commissioner continues to report to the Minister for Child Protection, administrative responsibility for the Office of the Children's Commissioner was transferred from DCF to DoJ in April 2011 and, as a result of legislative amendments, commenced operation on 1 July 2011.⁶

The Commissioner's powers were also extended to include monitoring of children who have been arrested or are on bail or 'in relation to whom an Order is made under the *Youth Justice Act*',⁷ and the definition of a 'vulnerable child' was extended to include these children.

3 Until December 2010, administration for the *Youth Justice Act* remained largely vested in DoJ, particularly with respect to the administration of youth community corrections. In December 2010 the Administrative Arrangement Orders were amended, more fully transferring the administrative responsibility for the *Youth Justice Act* from DoJ to DCF.

4 In force as at 1 July 2011.

5 Northern Territory Government, *Budget 2011–12: Budget Paper No. 3 The Budget* (2011) 95.

6 *Care and Protection of Children (Children's Commissioner) Amendment Act 2011*.

7 *Care and Protection of Children (Children's Commissioner) Amendment Act 2011*, section 58(2)(b)

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The Children's Commissioner advises the Review that, since the commencement of his expanded responsibilities, he has:

noted that in some circumstances there is an unclear case management framework for children and young people who have been placed on a non-custodial order containing certain directions provided by the court such as attendance at an NGO facility treatment/therapeutic facility.

I am concerned that the compliance of orders relating to these young people and their progress in dealing with issues may not be sufficiently monitored, reviewed and reported back to the courts in an informed and timely manner.

In terms of my complaints (and 'own initiative') functions, I have already encountered difficulties in establishing just which NT government agency is responsible for the placement of certain young people where a non-custodial order has been made.⁸

The difficulties to which the Commissioner refers appear to be mainly due to the confused nature and effects of the Administrative Arrangements.

Policy Coordination

The relevant parts of this division for the purposes of this Review are:

Legal Policy

Legal Policy 'develops, reviews and implements legislative change, and advises the Attorney-General and the Government on law and justice measures'.⁹ It has a relatively small staffing allocation¹⁰ and serves the whole department. It is comprised of generalist lawyers who focus on government issues and priorities, and has particular expertise in the development of legislative advice and reforms. Advice is also provided to support ministers who attend intergovernment meetings, such as the Council of Australian Governments and the Standing Committee of Attorneys-General.

Apart from developing the legislation to give effect to government policy, such as drafting instructions for the YJA and other legislation, Legal Policy does not have any specific youth focus.

Community Justice Policy (CJP)

CJP was established in the Policy Coordination division in 2009. It replaced the Office of Crime Prevention, Community Harmony and the Office of Alcohol Policy and Coordination (since moved to Licensing, Regulation and Alcohol Strategy), which comprised the *Building Safer Communities* framework for crime prevention and community safety between 2004 and 2009.

⁸ The Children's Commissioner, *submission 35*, 2

⁹ Northern Territory Government, Department of Justice, *Information Statement* (2010) 9.

¹⁰ Total FTEs are 13.66 as per email from DoJ to the Youth Justice System Review, 22 August 2011.

¹¹ Northern Territory Government, Budget 2011–12: *Budget Paper No. 3 The Budget* (2011) 89.

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The stated function of the CJP is to 'provide[s] strategic policy and program analysis on community justice issues';¹¹ however, it mostly administers a range of community safety and other programs, such as the Cross Border Justice Scheme, the Official Visitors Programs to Territory prisons and detention centres, and the Community Benefit Fund. It has a relatively small staff¹² and does not have any youth focus. It currently appears to have limited ability to provide analysis on community justice issues, although its capacity is expanding.

Research and Statistics

The Research and Statistics unit is responsible for 'meeting the crime and justice research and statistical reporting needs of the department and produces quarterly, annual and ad-hoc publications on the broad range of crime and justice matters'.¹³

The sources from which the unit obtains relevant information are the Integrated Justice Information System (IJIS), the database used by NTP, courts and NTCS to track movements of all persons, including youth, through the criminal justice system; the Police Real-time Online Management Information System (PROMIS) which contains information pertaining to incidents recorded by NTP; and the Integrated Offender Management System (IOMS), which is the database operated by NTCS.

The division has endured increased demand with limited resources over recent years. As discussed in chapter 2, the Review experienced various difficulties obtaining relevant statistical information from the division, and a recommendation is made accordingly.

Licensing, Regulation and Alcohol Strategy (LRAS)

LRAS promotes 'community wellbeing and safety through effective and efficient regulatory operations, education and strategic policy leadership and coordination of the Alcohol Reform Program across the Northern Territory Government'.¹⁴

LRAS has provided government with significant assistance in 2011 with the delivery of a range of legislative changes that comprise the Alcohol Reform Program.

The most significant recent relevant reform for the purposes of this Review is the *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act*, which establishes a new SMART Court that can make orders for adults and young people who have been convicted of an alcohol or drug related offence.

12 Total FTEs are 20.6 as per email from DoJ to the Youth Justice System Review, 22 August 2011.

13 Department of Justice, *Research and Statistics Unit* (2011) Northern Territory Government <<http://www.nt.gov.au/justice/policycoord/researchstats/index.shtml>> at 17 August 2011.

14 Northern Territory Government, *Budget 2011–12: Budget Paper No. 3 The Budget* (2011) 89.

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When the Bill was introduced in March 2011, the Attorney-General said the principles of the SMART Court:

include that offenders eligible for referral should be identified as early as possible; the process of the court is to be collaborative and non-adversarial; and there should be significant and ongoing monitoring of the progress of offenders who are subject to SMART orders. The system must be one that contains both rewards and sanctions. Part 2 of the SMART Court bill establishes the SMART Court and provides the defined jurisdiction in which the SMART Court can exercise power as a court of therapeutic justice.¹⁵

The magistrates and some lawyers indicated (publicly and to the Review) their concern that youth who have committed violent offences are excluded from the SMART Court. The magistrates have asked the Review to recommend that this be changed.

Alcohol fuelled violence is one of the most serious issues in the Territory, particularly violence against girls and women, which is entrenched and at shamefully high levels. The Review does not believe that crimes of violence, committed by youth or adults, should be dealt with in a court which is 'collaborative and non adversarial'.

The SMART Court is in its infancy and cannot therefore be evaluated; however, the Review notes that government is closely monitoring the reforms.

Correctional Services

NTCS became a part of DoJ in 2001.¹⁶ It operates as one of seven divisions of the department although it has its own minister. Its executive director reports directly to the chief executive of DoJ who, in turn, reports directly to the Minister for Correctional Services.¹⁷

NTCS comprises:

- Custodial Services, which comprises two adult correctional facilities: one in the Top End and the other in Central Australia
- Juvenile Detention, which comprises two juvenile detention centres: one in the Top End and the other in Central Australia
- Community Corrections, which monitors and supervises community-based adults and juveniles in accordance with community based orders made by the courts and as directed by the Parole Board.

In February 2009, government announced its New Era in Corrections, a policy initiative including the construction of a new 800 bed adult correctional facility to replace the prison

¹⁵ Second Reading Speech, Alcohol Reform (Substance Misuse Assessment and Referral Treatment Court) Bill 2011 (NT), Legislative Assembly, 30 March 2011 (Ms Lawrie, Minister for Justice and Attorney-General).

¹⁶ NTCS was a separate department from 1984 to 2001; it assumed control of Juvenile Justice in January 1986.

¹⁷ Under the Administrative Arrangements Order, 1 July 2011, the Minister for Correctional Services has responsibility for 'juvenile detention' and 'juvenile justice'

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at Berrimah that would 'adopt best practice in design and construction.'¹⁸ Construction began in 2011 and is expected to be completed in 2014.

The New Era initiative includes enhanced monitoring and surveillance capacity in the community; increased community based reintegration methods; new community custody and community based orders in urban and remote areas; and the construction of prisoner work camp in the Barkly region of the Territory. The goals of the work camp include:

community reparation and rehabilitation, linking prisoners to education and vocational training. It is about getting prisoners job ready, getting them into work and repaying the community, and reducing the risk of re-offending.¹⁹

NTCS advises that the development of a prison farm in the Katherine region is also part of the New Era initiative. New Era does not include any initiatives specifically for young offenders.

For the purposes of this Review, it is unnecessary to consider adult custodial services in any detail. The operations of the two relevant divisions of NTCS that involve young offenders, namely juvenile detention centres and Community Corrections, are examined.

Juvenile Detention Centres

NTCS operates two juvenile detention centres: one at Berrimah, 15km outside of Darwin, the Don Dale Juvenile Detention Centre (DDJDC); the other 25km outside of Alice Springs, the Alice Springs Juvenile Detention Centre (ASJDC).²⁰

The AIC has analysed information on detainees received into the two centres between 2005–06 and 2009–10 (see figure 6.1).²¹ This information shows little overall change in reception numbers across the period, although annual variations do occur.

18 Paul Henderson, 'New Era for Territory Corrections' (Media Release, 12 February 2009).

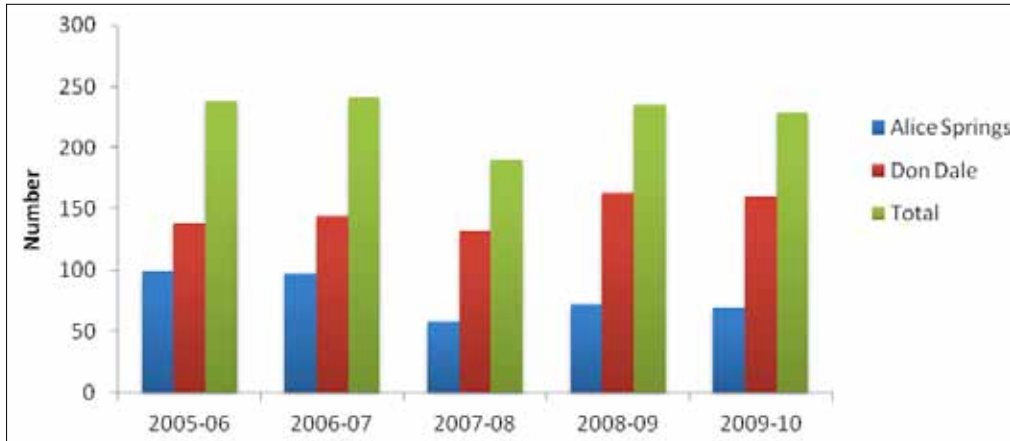
19 Northern Territory, *Parliamentary Debates*, Legislative Assembly, 30 November 2010, Ministerial Statement: A New Era in Corrections (Mr McCarthy, Minister for Correctional Services).

20 A juvenile detention centre must comply with the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (the *Beijing Rules*) for juveniles deprived of their liberty.

21 It should be noted that the detainee numbers in this chart do not necessarily reflect the actual number of distinct individuals received into detention as detainees may first be received into the Alice Springs centre then transferred to the Don Dale centre, and some individuals will have been received into either or both centres more than once.

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Figure 6.1 Juvenile detention receptions, 2005–06 to 2009–10, by detention centre and total



Source: NT Department of Justice

Don Dale Juvenile Detention Centre (DDJDC)

DDJDC is close to the Darwin Correctional Centre. It relies on this facility for the provision of meals for detainees, laundry facilities and emergency response should an event require support from NTCS staff. There is no plan under New Era to relocate DDJDC to the new adult prison precinct.

DDJDC is a medium to high security facility with a capacity of 38 detainees, catering for male and females. It offers behavioural case management and offender rehabilitation, including a staged classification system that involves the accumulation of privileges and housing depending on behaviour.

DDJDC offers a 'full DET managed education program'.²² The Don Dale Education Unit operates 50 weeks per year and provides academic, manual, recreational and life skills education. Accredited vocational education and training courses are available and detainees may participate in courses that provide formal qualification during their incarceration. The unit also provides schooling through the Northern Territory Open Education Centre for students in years 8 to 11. Since 2008, the Don Dale Education Unit has operated a music program in conjunction with the Australian Children's School of Music.²³

Young men are housed in dormitory style accommodation, usually four or five people per cell, and those in medium security share with one other person in an area close to the exercise field. Young women are housed two to a cell. DDJDC includes a basketball court, swimming pool, barbecue area and grassed exercise field. The facility is old and NTCS indicated that a new one would need to be built in the next few years based on current trends.²⁴

²² NTCS, *submission 18*, 4

²³ *Ibid*, 5.

²⁴ DDJDC, consultation, Darwin, 19 May 2011.

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Given the terms of reference, the Review was not required to examine a range of other issues relating to DDJDC. In terms of dealing effectively with young offenders, it is clear that the facility does as well as it can in difficult circumstances. The most challenging aspect of the operations at DDJDC is the lengthy remand periods and short sentences, which are often back-dated, that hamper the development and successful implementation of case management programs. Staff at DDJDC advised the Review that most detainees live in an atmosphere of imminent release²⁵ because of the extremely high remand rates. This makes implementing meaningful case management very difficult.

Alice Springs Juvenile Detention Centre (ASJDC)

The ASJDC was opened in March 2011 in response to public concern about law and order issues in Alice Springs. It opened as a 16 bed facility by converting one of the low security 'cottages' located outside of the perimeter of the Alice Springs Correctional Centre. It is intended as a short to medium term option for young offenders in Central Australia.

The centre replaced the Alice Springs Juvenile Holding Centre, which was designed for short stays of less than one week, and which provided no educational facilities or case management.

The ASJDC operates with one case worker who reports to the case management unit at DDJDC. The Owen Springs Education Unit is operated by DET. Classes focus on literacy and numeracy, with the rest of school time providing vocational training programs, manual training skills, computer skills, science and health.

The ASJDC houses only young men; young women continue to be relocated to Don Dale. Accommodation is also dormitory style, with some detainees housed four to a room and others two to a room. As it is a new facility, the ASJDC does not yet have an established sporting field; however, there is an outdoor area suitable for exercise.

The ASJDC is supported by the Alice Springs Correctional Centre for laundry and additional food service provision. Should a decision be made to establish a more permanent juvenile detention centre away from the Alice Springs Correctional Centre, additional infrastructure will be required for these services.

Several submissions were received voicing concern about the proximity of the ASJDC to the adult prison facility in Alice Springs.²⁶ In particular, stakeholders were concerned that detainees could hear the loud speaker from the Alice Springs Correction Centre (ASCC) and could see and speak through the wire fence surrounding the outdoor area to prisoners housed in the ASCC cottages.

²⁵ Ibid.

²⁶ See, for example: CAALAS, *submission 17*, 34; CAYJ, *submission 20*, 16; NTCOSS, *submission 19*, 12.

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The Review is satisfied that the detainees at ASJDC are sufficiently separated from the ASCC and that there is compliance with the YJA.²⁷ The entrance to the ASJDC faces away from the entrance to the ASCC. A Colorbond fence has been erected blocking the view of prisoners and detainees from one another. This includes adult prisoners living in other cottages outside the perimeter fence at ASCC. While there is some prospect that adult prisoners might see youth detainees when exercising, moving to the front of the ASCC is not permitted and carries sanctions for adult prisoners.²⁸

Further concerns were that staff within the ASJDC were not appropriately trained youth workers and the case management model employed at DDJDC was not fully operational at ASJDC, resulting in inconsistent procedure and management techniques between centres.²⁹

Staff at the ASJDC are mostly youth workers who are answerable to the Juvenile Detention division of NTCS and must have completed a Juvenile Detention Induction Training Program.

As the ASJDC has only been operating for a relatively short period of time, it is impossible to evaluate. However, the Review encourages government to commission an independent evaluation by mid 2012. The evaluation should consider how young women can be accommodated; whether the centre at its current location is permanent; and the establishment of additional counselling educational and recreational programs.

Detainee trends and issues

Young people sentenced to periods of detention 'usually will have a more serious criminal history, have been convicted of a more serious offence and exhibit a far greater range of risk factors commonly associated with an increased likelihood of re-offending.'³⁰

Northern Territory juvenile detention data was analysed by the Australian Institute of Criminology (AIC) including daily average number of youths in detention, number in detention by Indigenous and non Indigenous status and gender, legal status of detention, and detention trends over time.³¹

27 *Youth Justice Act*, section 26 provides that youth in detention 'must, as far as practicable, be kept apart from other persons under detention who are not youths'.

28 Email from NTCS to the Youth Justice System Review, 18 August 2011.

29 NTCOSS, *submission 19*, 14.

30 Andrew McGrath, 'The Specific Deterrent Effect of Custodial Penalties on Juvenile Re-offending' (Paper presented at the Sentencing Conference, Canberra, 6 and 7 February 2010).

31 Data collected by the AIC included the daily average numbers of juveniles in detention in the NT for the financial years 2005–06 to 2009–10, together with the first three-quarters of the 2010–11 financial year (to 31 March 2011). A separate dataset showed daily averages for each month from 1 January 2005 to 30 September 2010, while another showed receptions into the two detention centres in the NT for the period 2005–06 to 2009–10.

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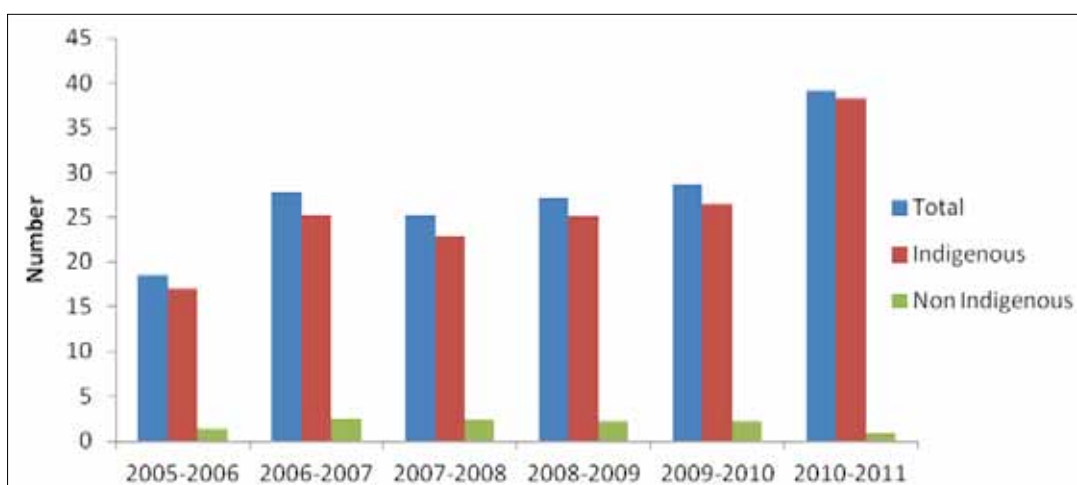
In general, and as demonstrated by Figure 6.2:

- A relatively small number of juveniles were detained across the data period with the average daily number in detention ranging from around 18 in 2005–06 to around 39 in 2010–11.
- The vast majority of juveniles in detention were Indigenous.

There is greater difference between Indigenous and non Indigenous youth in detention than seen from the data on youths apprehended by NTP (see chapter 2). This suggests young Indigenous Territorians may be more likely than non Indigenous Territorians to commit offences of a type and seriousness that lead to them being detained.

According to the AIC, it also suggests the possibility that Indigenous youths may tend to have a more extensive or more serious prior offending history than non Indigenous youths, increasing the likelihood of them being detained for subsequent offences. The Review has been unable to explore these issues further; however, the observations made by the AIC are consistent with those made by stakeholders during the course of the Review.

Figure 6.2 Juveniles in detention, 1 July 2005 to 31 March 2011, daily average number by Indigenous status

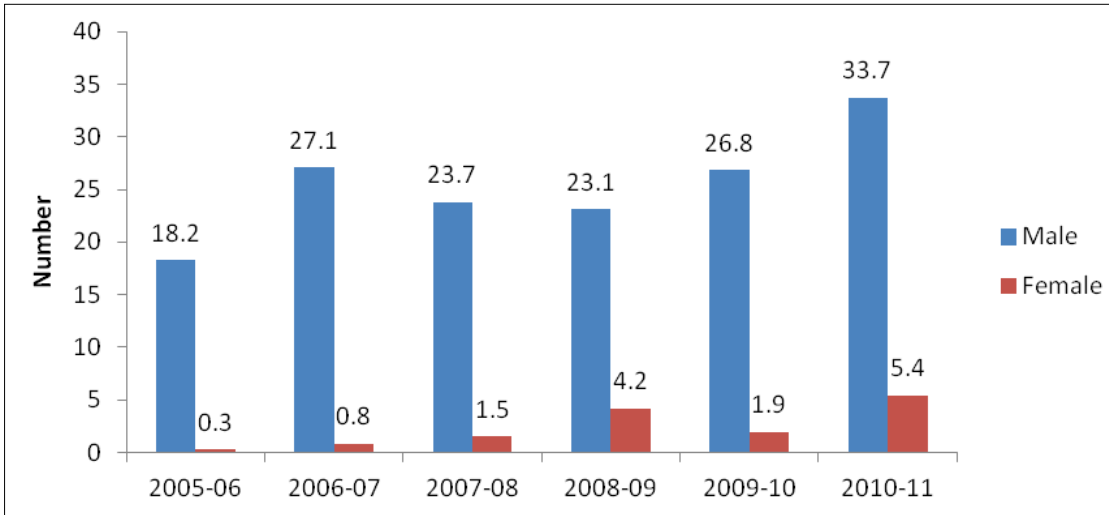


Source: NT Department of Justice

Analysis of the juvenile detention data by gender (see figure 6.3) demonstrates that there are a greater number of males than females in juvenile detention.

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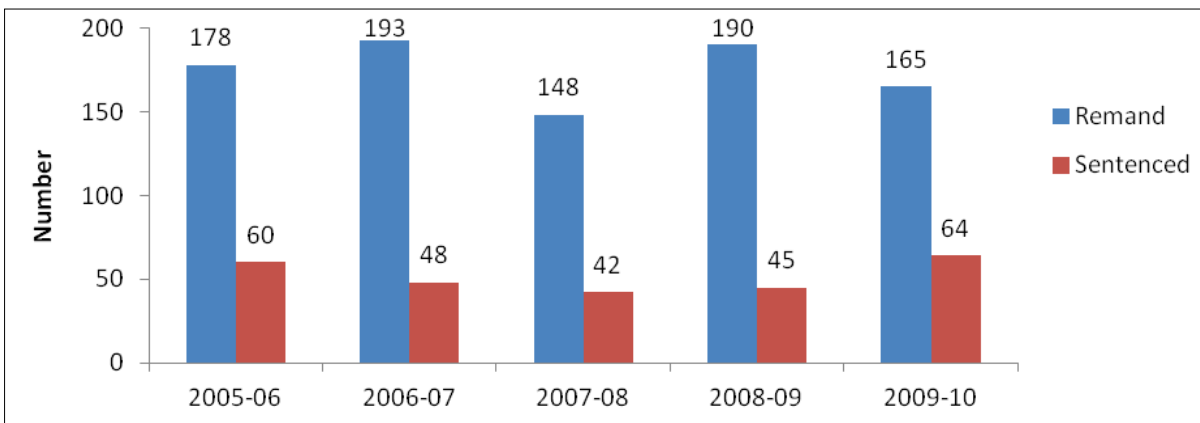
Figure 6.3 Juveniles in detention, 1 July 2005 to 30 June 2011, daily average number by gender



Source: NT Department of Justice

Over the reporting period, the number of juvenile detainees received into detention on remand was considerably higher than the number received under sentence (figure 6.4). The trend for higher numbers of juvenile detainees being received on remand and not under sentence is nationally consistent.³²

Figure 6.4 Juvenile detention receptions, 2005–06 to 2009–10, by legal status



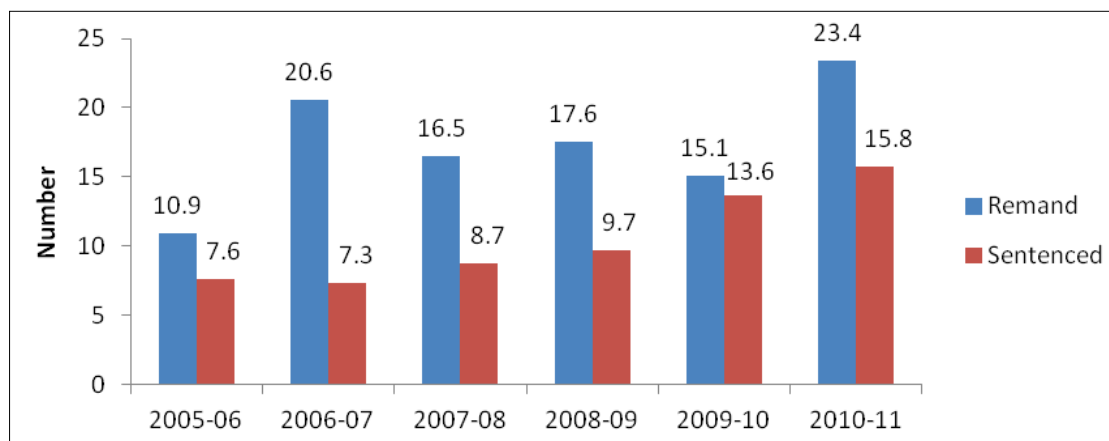
Source: NT Department of Justice

For each year from July 2005 to June 2011, there was also a greater daily average number of juveniles in detention on remand than juveniles who were sentenced (figure 6.5).

³² Kelly Richards, *Trends in Juvenile Detention in Australia*, Trends & Issues in Crime and Criminal Justice No 416 (2011) Australian Institute of Criminology.

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Figure 6.5 Juveniles in detention, 1 July 2005 to 30 June 2011, daily average number by legal status

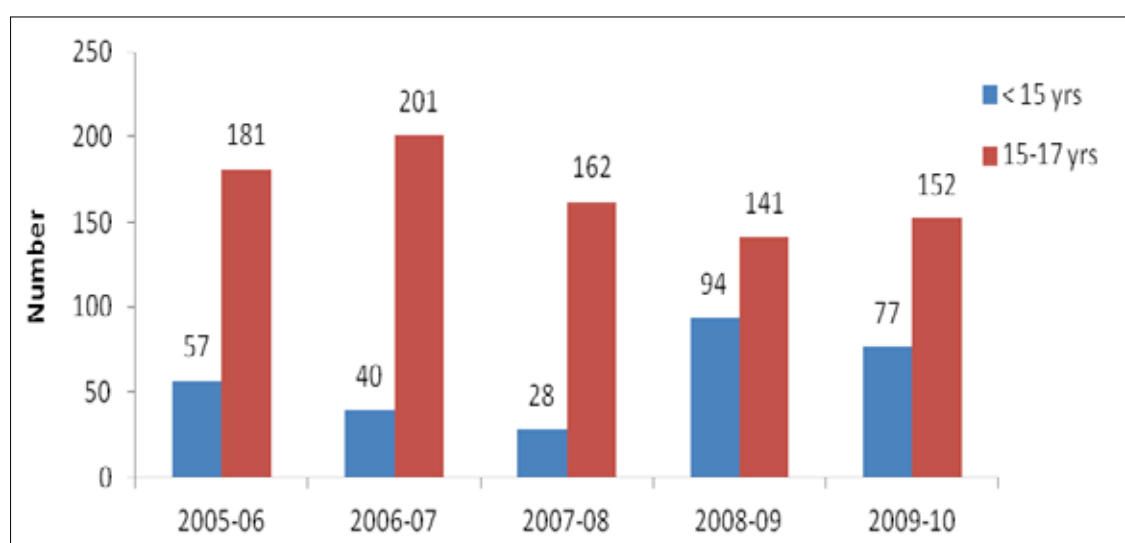


Source: NT Department of Justice

The age groups of juvenile detainees in the Territory are identified in figure 6.6, which shows the majority of juveniles received into detention were aged from 15 to 17 years, with smaller numbers aged less than 15 years.

While there is some annual variation in the proportion of different age groups for young people in juvenile detention, the numbers of younger people in the under 15 year old age group is increasing.

Figure 6.6 Juvenile detention receptions, 2005–06 to 2009–10, by age group

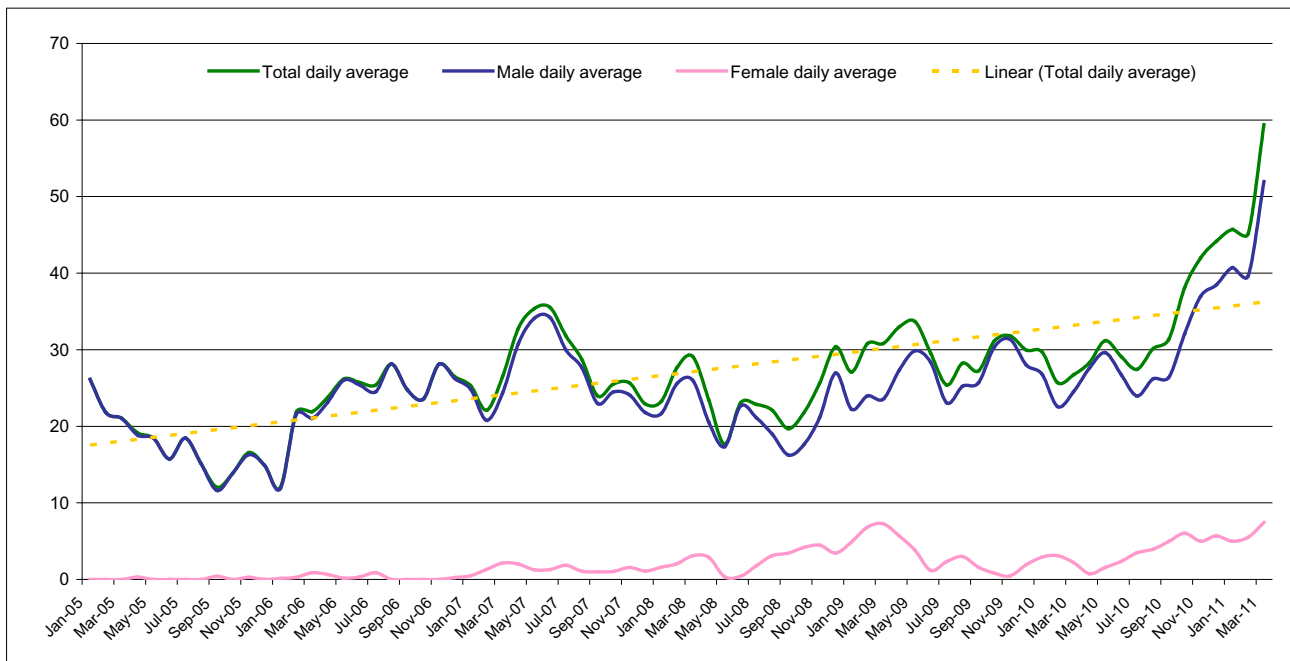


Source: NT Department of Justice

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NTCS also provided data to the Review that outlines the average numbers of juveniles detained in the Territory over the past five years (see figure 6.7). This data demonstrates the volatility of juvenile detainee numbers, although the numbers have been trending upwards since 2006 with ‘unprecedented’ growth in 2010–11.

Figure 6.7 Monthly daily average of juveniles in detention, January 2005 to March 2011

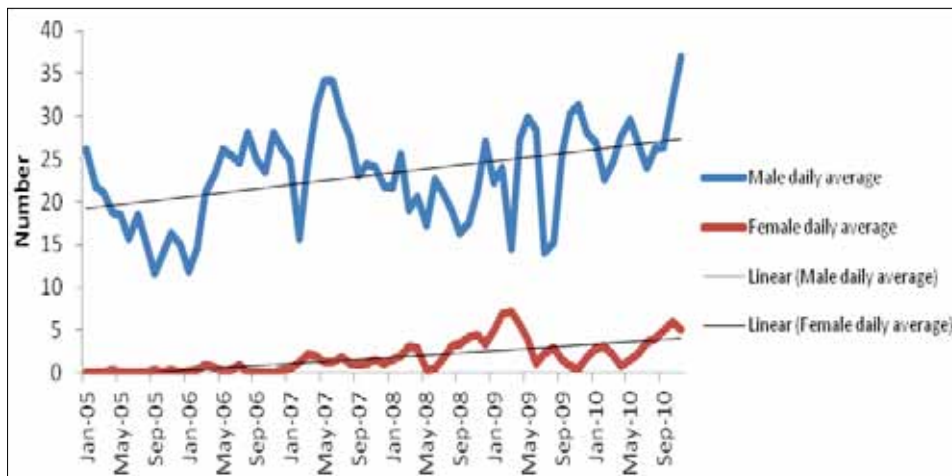


Source: NTCS Submission

The AIC notes that monthly fluctuations in the number of juveniles in detention are demonstrated more strongly when the numbers of male and female detainees are examined separately (figure 6.8). While both genders show a slightly upward trend, the degree of fluctuation is particularly pronounced in the male detainee population, although the numbers are small.

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Figure 6.8 Juveniles in detention, daily averages by month, 1 January 2005 to 30 September 2010, by gender



Source: NT Department of Justice

In its submission, NTCS reported that:³³

- There has been a doubling of daily averages in some months compared to the same period for the preceding year.
- There have been record peaks.
- As at 31 March 2011, the 2009–10 figure of 29 had increased by 38% to 40.
- There has been an increase in the number of offenders from Central Australia.
- The number of detainees who are young women has increased ‘sharply’, doubling from five to 10.
- The daily average of the number of detainees is expected to rise in 2010–11 from 30 to 70 in 2011–12.³⁴

NTCS also reports anecdotal evidence of the following trends in the composition of the detainee population:

- an increase in urban-based offenders and a related decrease in remote community offenders
- an increase in the seriousness of the nature of crime for which offenders are brought before the courts and subsequently incarcerated
- an increase in the number of young offenders aged 14 or under
- an increase in the display of overt inappropriate sexualised behaviours by detainees.³⁵

³³ NTCS, *submission 18*, 6.

³⁴ Northern Territory Government, *Budget 2011–12: Budget Paper No. 3 The Budget* (2011) 88.

³⁵ NTCS, *submission 18*, 7.

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Analysis by the AIC supports the general trends identified by NTCS; however, the AIC also notes that, given the small numbers of juveniles in detention, trends should be interpreted with caution and read in context of overall population increases and monthly volatility.

While the majority of detainees are aged from 15 to 17 years, the youngest detainee present when the Review attended the Alice Springs Juvenile Detention Centre was 13 years old. Staff reported having detained a child as young as 11 years of age.

Case management of detainees

Case management services are an integral part of youth detention. Youth justice case management is described as 'a collaborative process of assessment, intervention, planning, linking, facilitation, review and advocacy, to assist clients and families to improve their lives, and to provide opportunities that likely to assist in reducing the risk of re-offending.'³⁶

Currently, the Case Management Unit for youth detention comprises one senior case worker and two case workers located at DDJDC (one of whom must be a social worker or psychologist) and one case worker located at the ASJDC.³⁷

Detainee needs are assessed:

using a range of suitable tools during their first few weeks in detention. Assessments cover offence and related factors, drug and alcohol factors, family and community resources, mental and general health wellbeing.³⁸

All detainees participate in the case management program with the primary behaviour management tool being the classification system in the facility. Maximum security detainees have more limited privileges, whereas open classification detainees have less restrictive security and supervision.³⁹

DDJDC offers two treatment programs: Anger Management and Cognitive Skills. These run approximately four times per year with up to eight detainees attending a program. They have been developed with best practice models and are evidence-based.

NTCS advises that it has no data as to the success or otherwise of the programs, and that:

It is hard to answer if the current group programs at Don Dale are enough. We manage as best we can. However the caseworker's time is mostly taken up with the day to day case management of offenders and crisis interventions. This means that we simply do not have much time left to focus on organising and facilitating group programs. It would be better if we had a position at both centres (under the Senior Caseworker) which were dedicated to facilitating treatment programs.⁴⁰

36 NTCS, 'Case Management' in *Youth Detention Policy Manual*, Northern Territory Government, Darwin, section 14, 1.

37 A strong and capable workforce is paramount to the delivery of youth justice and is discussed further in chapter 9.

38 NTCS, *submission 18*, 6

39 *Ibid*, 5.

40 Email from NTCS to the Youth Justice System Review, 14 September 2011.

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NTCS advises that work is progressing to develop a rolling group program by the end of 2011, which would be a cognitive program. No programs are operated that address criminogenic factors relating to young offenders.

Psychological interventions are usually outsourced. At DDJDC referrals are made by caseworkers to NGOs such as Catholic Care for drug and alcohol treatment. At ASJDC referrals are made to Central Australian Aboriginal Congress, an Indigenous health provider.

All staff at the ASJDC are trained in crisis intervention and assault response, Advanced First Aid, Mental Health First Aid (MHFA) and suicide risk awareness. The MHFA, crisis intervention and assault response training, suicide risk awareness are youth specific. While staff receive additional training in emergency response, case management and behavioural management training, there is presently only one dedicated case worker employed at ASJDC.

Given the high rate of Indigenous young people in detention, the Review was interested to know what, if any—particularly cultural—programs operated at either facility. No programs are offered; however, NTCS advises that the number of young offenders from remote areas has decreased in recent years. DDJDC encourages local and AFL sporting identities to visit the facility and, where possible, to mentor some of the detainees.

Post release services

Reintegration services are available to detainees through sentence planning at DDJDC.

NTCS advises that:

Reintegration services are provided by way of sentence planning with a combination of treatment programs, educating continuance linkages, job readiness programs and community support mechanism for housing and other identified gaps. Reintegration services are supported by the NAAJA Through Care Program and various other government and NGO initiatives. These services can be hampered by lengthy remand periods and short or back dates subsequent sentences which create an atmosphere of imminent release for detainees over a significant period of time.⁴¹

NTCS advises that DDJDC staff from the Case Management Unit meet with representatives from NAAJA fortnightly to develop joint case management plans for detainees. At the ASJDC, a Memorandum of Understanding is currently being developed with the Central Australian Aboriginal Legal Aid Service (CAALAS) for a similar purpose. Mission Australia also operates a post release program.

It was impossible for the Review to evaluate these programs in the time available; however, results would have been difficult to obtain in any event, based on the difficulties with data identified in chapter 2. Government should be able to evaluate the success of post release programs and be able to more accurately measure re-offending outcomes.

⁴¹ NTCS, *submission 18*, 5.

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Detainees who turn 18 while in detention and the 'Dual Track' system

A detainee must be transferred to an adult prison within 28 days of his or her eighteenth birthday⁴² although the Director of NTCS has discretion to keep the detainees in the juvenile facility for up to six months.

Victoria has a system known as Dual Track, which permits a court to sentence a 'young offender' (aged less than 21 years) to youth detention⁴³ instead of adult prison. The court makes this decision after assessing the prospects of the young person's rehabilitation or if it 'believes that the young offender is particularly impressionable, immature or likely to be subjected to undesirable influences in an adult prison'.⁴⁴

The purpose of this system is to encourage diversion away from the adult criminal justice system, having regard to what is known about continued brain development during late adolescence.

The Review did not identify this as a current need in the Territory; however, NTCS may wish to investigate the possibility of adopting a dual track system at some point if it determines that, by doing so, it would assist particular young offenders.

Community Corrections

Northern Territory Community Corrections (NTCC) was independently reviewed in 2010⁴⁵ (the Price Report).

The role of NTCC was described in the Price Report as follows:

NTCC functions within the Department of Justice to provide high quality assessment and advice to assist in the formulation of orders and directions of the Court and Parole Board for offenders as well as supervise offenders on orders to ensure order compliance and community safety and to promote offender rehabilitation.⁴⁶

NTCC has offices in Alice Springs, Tennant Creek, Katherine, Nhulunbuy, Palmerston, Casuarina, Groote Eylandt and Wadeye. Despite the significant efforts of individual workers in remote locations, the bulk of their work is with adults. Some NTCC workers reported that they had, at times, none or very few young offenders as clients. Some stated during the consultations that lack of parental motivation and support made it difficult for them to work with young offenders.

Young offenders comprise between 5% and 10% of the work of NTCC. Hence, most of its client base is adults, who comprise the bulk of the prison population and commit most recorded offences. With competing and finite resources, it is understandable what workers

42 *Youth Justice Act*, section 164.

43 In Victoria a youth may be sentenced to a youth justice centre, if aged at least 15 years, or a youth residential centre, if aged less than 15 years.

44 *Sentencing Act 1991 (Vic)*, section 32(1)(b).

45 NTCS, Price Consulting Group Pty Ltd, *NT Community Corrections Workforce Planning Project: Final Report* (2010).

46 *Ibid*, 1.

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prioritise. They also face enormous geographic difficulties in remote areas. However, the Price Report made a number of concerning observations:

The Department's lack of proactive management of juvenile offenders runs contrary to every other State and Territory in Australia ... The overall lack of interest and attention to juvenile offender management by many front line staff, middle and senior management was more than apparent during this project.⁴⁷

And:

There is little or no effort being made within NTCC around prevention or diversion of juveniles, with minimal compliance seeming to be the principal objective. While the current numbers are small, managing juvenile offenders effectively will potentially pay big dividends in the long-term. Other jurisdictions have recognised this, and resourced accordingly.⁴⁸

During the Review, it emerged that there was relatively little interest or expertise within NTCC in youth justice. The magistrates, in their joint submission, make similar observations:

Although Community Corrections do [sic] prepare reports and undertake what they classify as supervision, there does not appear to be any officers within that section with any expertise in juvenile justice, nor has there been any intention displayed for officers to be trained. It is understood that there are no separate probation officers for youth; they simply form part of a caseload together with adult offenders.⁴⁹

In addition to low client numbers, lack of expertise and desire to work with young offenders, and the need to balance competing resources, there appears to be an additional reason for NTCC not being proactive in this area. It dates back to 2008, during the development of amendments to the YJA and the Government's Youth Justice Strategy. The amendments saw administrative and departmental responsibility for parts of the YJA shared between the then Department of Health and Families (DHF)⁵⁰ and DoJ.

As part of the reforms, the youth function of NTCC was to have been transferred to DHF, to be located in the Youth Services Branch (as it then was) that would have required legislative and other changes. For a variety of reasons, the transfer did not occur.

The effects of this proposed transfer not occurring partly explain the somewhat lethargic approach adopted to young offenders by NTCC. The magistrates observed in their submission:

Under the *Youth Justice Act*, the responsibility for providing reports and supervision orders remains with Correctional Services. Despite this, the Minister for Families and Children [sic] has retained responsibility for those parts of the *Youth Justice Act* that deal with sentencing

47 Ibid, 57.

48 Ibid.

49 The magistrates, *submission 16*, 12.

50 The Department of Health and Families was divided into two separate departments, the Department of Health and the Department of Children and Families on 1 July 2011.

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by the Court and the supervision of youth offenders in the community. However, under the administrative arrangements order, the Minister for Correctional Services has portfolio responsibility for 'juvenile justice'. Given there is no 'juvenile justice' legislation, it is unclear what this responsibility entails.⁵¹

The magistrates remarked that 'no single minister or departmental agency takes responsibility for this part of the *Youth Justice Act* (or indeed the system as a whole)'.⁵²

Conclusion

DoJ has 'limited involvement in youth offending, other than management of juvenile detention, and has very limited capacity for the development of crime prevention policy (noting Police responsibility in this realm as well)'.⁵³

It has 'shared' responsibility with DCF for various elements of the youth justice system, and works under a confusing set of Administrative Arrangements.⁵⁴

The department has a lack of relevant youth specific expertise in policy coordination and advice; however, if properly resourced, it could develop its capacity to provide government with strategic advice on how to reduce youth offending and re-offending. It also has a limited ability to collect and analyse relevant data.

NTCS's juvenile detention facilities appear to operate well in the context of small but increasing numbers of young people in detention, increasing numbers serving time on remand, and an increasing number of children under the age of 15 being detained.

The biggest challenge for NTCS is working with young offenders to target their offending behaviours. By the time most young offenders are in detention, NTCS does not have the necessary skill base or resources to address aspects of the offending of its detainees. While some inroads can be made, the importance of other services and responses prior to and after detention cannot be overstated. There will only be a real prospect of detainee numbers reducing when young offenders receive the level and type of interventions they require and which are unable to be provided in detention centres, particularly given that planning is difficult for so many detainees on remand.

NTCC clearly experiences difficulties providing adequate services to young offenders for a variety of reasons. While one-off improvements can be made to NTCC, no significant changes are likely to occur unless NTCC and NTCS are part of a coordinated approach to the youth justice system that ensures a continuum of service and response delivery. This is discussed in more detail in part 3 of this report.

51 The magistrates, *submission 16*, 12.

52 *Ibid.*

53 Email from DoJ to the Youth Justice Review, 22 August 2011.

54 It may also be in part due to confusion which arose from the proposed transfer of all youth justice system matters in 2008 (which did not in fact occur until 2011) resulting in NTCS continuing to assume administrative responsibility for both 'juvenile detention' and 'juvenile justice'.



Chapter 7: Department of Education and Training

Introduction

Context and challenges

Legislation and current reforms

Education and justice outcomes

Compulsory school attendance

Youth camps

Interagency collaboration

Partnerships

Cross cultural legal education

CHAPTER 7: DEPARTMENT OF EDUCATION AND TRAINING

Introduction

The Department of Education and Training (DET) provides:

quality early childhood services and education for all young Territorians, with a focus on meeting the needs of Indigenous students, leading to jobs, training and further education. In the training business area, we work to increase access to training pathways for Territorians to build or expand their skills so they can contribute to and benefit from the Territory's development.¹

The Review considered DET's strategies, the way it is driving commitment to education through reform, how legislation impacts on its ability to support youth, including those either in or at risk of entering the youth justice system, the importance of education and training for young people, and the risks generated through disengagement with the system. Although it is not a DET focus, cross cultural legal education is also discussed.

Context and challenges

DET provides the majority of mainstream education services in the Territory through 152 schools. Another 36 non government education facilities also provide education services:

- More than 44% of the Territory population resides in remote or very remote areas, and is dispersed over a wide area.
- More than 40% of the school aged population in the Territory is Indigenous.
- 75% of the Indigenous population resides outside a major regional centre.
- A significant proportion of the population is highly mobile.
- The Territory has comparatively young people and a high birth rate, particularly among the Indigenous people.
- 40% of all Territory schools have almost 100% Indigenous enrolment.
- Almost 25% of Territory students attend schools where the Indigenous enrolment exceeds 80%.²

This data, combined with the acknowledged level of socioeconomic disadvantage in many remote communities, presents significant challenges for DET. At present, the Territory has over 50% of government schools in the bottom decile of SEIFA/IRSD (index of relative socio economic disadvantage) list of Australian schools. More than 25% of Territory students attend these schools.³

1 DET, *About Us* (2010) Northern Territory Government <www.det.nt.gov.au/about-us> at 22 September 2011.

2 DET, *submission 10*, 3.

3 *Ibid.*

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DET recognises the same critical socioeconomic issues present in remote locations that lead to a number of problems including disengagement, offending and re-offending. This was also acknowledged by the departments of Children and Families (DCF) and Health (DoH), and others, including the Parole Board of the Northern Territory.⁴ A key priority for DET is to work closely with students, families and communities to address these problems and to increase the value of schooling.⁵

Research shows a clear link between poor academic performance and the onset and frequency of offending. Other factors connected with young people becoming involved in the youth justice system include:

- lack of supervision
- truancy
- family problems
- gender
- aboriginality
- alcohol and other drug use.⁶

Young people who are involved in the youth justice system are also likely to have dropped out of school early.⁷ Importantly, some causes of poor attendance are beyond the control of the school. A number of factors underlie this disadvantage. Among them, and key to this Review, is the comparatively low participation rate by adults in work that requires formal education and skills, which in turn leads to a disconnect between school and the opportunities of work or further education post school years.⁸ Additional evidence reveals that adults who are the most persistent and serious offenders have been previously involved in the youth justice system.⁹

The connection between education and life outcomes is not necessarily well understood by parents and the wider community, and is both a cause and effect of a lack of commitment to school attendance.¹⁰

4 Parole Board of the NT, *submission 28*, 2.

5 DET, *submission 10*, 3, 6, 8.

6 Joanne Baker, *Juveniles in Crime Part 1: Participation Rates and Risk Factors*, Crime and Justice Bulletin No 74 (1998) NSW Bureau of Crime Statistics and Research.

7 Tom Calma, *Preventing Crime and Promoting Rights for Indigenous Young People with Cognitive Disabilities and Mental Health Issues* (2008) Australian Human Rights Commission 45.

8 DET, *submission 10*, 3.

9 Andrew Day, Kevin Howells and Debra Rickwood *Current Trends and Issues in Crime and Criminal Justice*, Trends & Issues in Crime and Criminal Justice No 284 (2004) Australian Institute of Criminology.

10 DET, *submission 10*, 3.

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Data accessed by DET shows that good school attendance habits, developed early, have better long term outcomes, and cooperation between a school and its community improves attendance. The data also indicates:

- Interesting and relevant pathways leading to employment increase engagement with learning.
- Retention in very remote schools in the middle years is decreasing.
- High staff turnover has a substantial negative effect on attendance and engagement.¹¹

In addition to the responsibility schools have for preparing young people for successful transition to employment, training or further education, those in remote locations often have to address problems of lack of literacy and numeracy as well as those associated with lack of attendance and engagement, which may emerge when children enter formal education or at various stages throughout schooling. Moreover, some children have limited intellectual and social skills, which means they are 'not ready to learn'.¹²

Significant challenges confront education in the Territory. Despite this, reforms in recent years promise improvement in education outcomes generally, and particularly for children in remote areas. DET is well placed both to maintain its present contribution, which provides protections to young people to assist in preventing their involvement in the youth justice system, and assist in rehabilitation of those who are already in the youth justice system.

Legislation and current reforms

The *Education Act* (EA) underpins the administration of school and training service providers in the Territory. It provides that all children are required to attend formal schooling from six years of age. The compulsory school age extends to 17 years.¹³

The Northern Territory Council of Social Services (NTCOSS) highlighted the importance for this legislation to be 'accompanied by programs and/or initiatives that improve access to ... training as it is a particular challenge for young Aboriginal people, and those living remotely.'¹⁴

The Parole Board of the Northern Territory also stressed the importance of children successfully completing education as:

The number of offenders who come before the court who cannot read or write or do arithmetic

11 DET, *submission 10*, 2.

12 DET CEO, consultation, Darwin, 5 July 2011; DET, *submission 10*, 3.

13 *Education Act*, section 20.

14 NTCOSS, *submission 19*, 22.

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and yet have supposedly completed year 10 or 11 is significant ... A youth who has reached year 10 or 11 and cannot read or write or do arithmetic must experience a great sense of disconnection with the community.¹⁵

The Central Australian Aboriginal Legal Aid Service (CAALAS) confirms the challenges and desperation of disengagement with education:

Many young Aboriginal people who are involved with the youth justice system have histories of poor engagement with education and low education attainment levels. Often, this results in an ongoing cycle of truancy and detachment from education as the young person recognises that they are below average literacy or numeracy standards for their age, are ashamed of this fact and therefore are unwilling to re-engage in mainstream education.¹⁶

The Territory has undertaken a number of reforms aimed at providing educational engagement, attainment and successful transitions for young people. Since January 2010, all children in the Territory have been required to complete year 10. Thereafter, they may elect to participate in employment, training, further schooling or a combination of these, until they reach 17 years of age.

Some of this renewed focus on education attainment and successful transitions is occurring in the context of two key DET strategies:

- Strong Start, Bright Future – a model for success in remote service delivery
- Every Child, Every Day – an enrolment, attendance and participation strategy.¹⁷

These incorporate school improvement approaches that emphasise establishing partnerships with families, communities, business and industry. The intention is to develop ways in which to support remote students to engage more fully with education and transition pathways.¹⁸

In practice, DET offers a series of programs in the Territory Growth Towns where Indigenous people in particular face obstacles in transition from education facilities to employment.

Key strategies

Strong Start, Bright Future is essentially a model of service delivery developed in the context of the Northern Territory Government's *Working Future* and the Federal Government's National Partnership Agreement (NPA) on Remote Service Delivery (RSD).

15 Parole Board of the NT, *submission 28*, 2.

16 CAALAS, *submission 17*, 46.

17 DET, *submission 10*, 6.

18 *Ibid*, 3.

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The model:

redesigns education, early years and training service delivery for Indigenous students in 20 Territory Growth Towns as well as their surrounding small communities, homelands and outstations.¹⁹

Key features are:

- community/whole school
- engagement
- early childhood
- participation and pathways
- training and job pathways
- research and evaluation.

DET advises that the strategy should provide a more integrated and holistic approach to education and training services in each community with a strong focus on very young children from preschool through school and pathways beyond formal learning.

There is great potential for this model in engagement with local communities, collaboration with cultural advisers, and formalised use of DET facilities for evening, after school and weekend programs. In addition, there are opportunities for development of strong cultural leadership focusing on early childhood, incorporation of cultural perspectives and provision of flexible learning arrangements with the capacity to increase attendance.

There are also possibilities for inclusion of some specialist subject areas with a view to including some for boys and for girls, as well as focusing Vocational Education and Training (VET) on getting jobs for school leavers.

In July 2008, the Federal Government announced three new boarding facilities for Indigenous students in remote communities. The facilities, yet to be completed, will provide access to quality schooling and better education outcomes for Indigenous secondary school students.²⁰ The Review acknowledges the support this federal initiative will add to the delivery of Strong Start, Bright Future and the opportunities these boarding schools will provide to more than 150 Indigenous students.

The Strong Start, Bright Future model is being evaluated through a longitudinal study by the Menzies School of Health Research.

¹⁹ Ibid, 6.

²⁰ Jenny Macklin and Julia Gillard, 'Indigenous Boarding Facilities in NT to Help Close the Gap' (Media Release, 23 July 2008).

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Every Child, Every Day

DET introduced the Every Child, Every Day strategy and action plan in December 2010, and advises that it is directed to providing a: 'comprehensive and integrated approach to improving enrolment, attendance, and participation'.²¹

Five priorities were identified, supported by initiatives oriented to helping parents, schools and communities to overcome some barriers to success:

- shared belief and understandings
- strong leadership
- making schools safe and welcoming places
- real home, school, business and community partnerships
- relevant and interesting learning pathways.²²

DET states in its submission that the strategy is based on a belief that strong leadership combined with real partnerships with families and communities are critical to supporting young people to attend and engage with education, as well as having them participate in an eligible option at completion of year 10.

Clearly, it will be some time before sufficient data can be collated and analysed for both Strong Start, Bright Future and Every Child, Every Day; nevertheless, there are early and promising signs of positive results in the Territory education system that have their origins in a series of reforms aimed at improving student outcomes.

Education and justice outcomes

A body of national and international research shows that engagement with education is both a preventative and rehabilitative factor in offending behaviour that may otherwise bring young people into contact, or further involvement, with the youth justice system.²³

DET is already playing a role in prevention and rehabilitation of young people who come into contact with the system. Its current role can be described as one in which DET:

- is identified as an 'appropriate agency' in relation to the Family Responsibility Program
- is an authorised officer of the FRA interagency collaboration panel
- provides services to improve the wellbeing and engagement of young people in schooling
- provides school counsellors, attendance officers and school liaison officers
- provides programs for young people at risk of disengaging from school

²¹ DET, *submission 10*, 7.

²² *Ibid*, 7-8.

²³ Baker, above n 6.

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- provides drug and personal awareness programs
- is identified as an appropriate agency in relation to FRAs and orders with families where persistent truancy is an issue.²⁴

DET also has a strong and continuing presence in communities and for many of these it is the only point of government service delivery. Along with the integration of early childhood services within education and initiatives to increase high quality early childhood programs, DET has the opportunity for DET to establish links with young children and families much earlier than other agencies.²⁵

DET advises that earlier access to families will enable comprehensive screening of children for a range of wellbeing related problems and provide for early intervention. In turn, this should lead to improved success rates at all age levels. The recently restructured service delivery model, which now has a regional focus, allows for local services to provide more rapid and responsive interventions.

DET delivers a number of supports and programs for young people at risk of disengaging or who have dropped out of school, including pathways to year 12, employment and VET qualifications. However the department advises that 'enhancement and expansion of existing services and measures' are required'.²⁶

Re-engaging youth who are at risk of or who are already disengaged from education requires a case management approach to ensure the flexibility and responsiveness to address individual needs. These kinds of interventions are necessarily resource intensive, but developing individualised learning plans and providing intensive support are fundamental to re-engage young people.

The North Australia Aboriginal Justice Agency (NAAJA) advises there is a 'need for Aboriginal-specific mentoring and positive role model programs to be developed'.²⁷

Mentoring can have a positive impact on participation and performance in education, training and employment. Evidence suggests that some young people who are assigned a mentor feel more confident about their performance at school, attend school more regularly and achieve better outcomes than young offenders who do not have a mentor.²⁸ Studies have also shown that mentoring can result in a doubling of participation rates in education, training and employment.²⁹

24 Ivan Raymond and Sean Lappin, *Northern Territory Youth Camp Intervention Strategy* (2011) Connected Self, Darwin, 7.

25 DET, *submission 10*, 8.

26 Ibid.

27 NAAJA, *submission 2*, 77.

28 JB Grossman and JP Tierney, 'Does Mentoring Work? An Impact Study of the Big Brothers Big Sisters Program' *22 Evaluation Review* 403.

29 National Crime Prevention, *Early Intervention: Youth Mentoring Programmes* (2003) Australian Government, Canberra, cited in DET, *submission 10*, 14.

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DET supports, as does the Review, mentoring programs and has identified that it can also take a role in establishing a mentoring program for young offenders, particularly for Indigenous youth. Government and the business community may wish to consider working together to develop initiatives aimed at young people who are the subject of this Review. Establishing mentoring programs and providing financial and other support are worthy of consideration, particularly if they result in reductions in youth offending.

Suspension from school and orders to attend school

The issues of suspension from school and the lack of support services provided to children while suspended arose during consultations. While disruptive students often need to be removed from a school, with the exception of a recent DET initiative, there are no programs available to these students when they are removed. Some research suggests that suspension can contribute to offending:

The key risk factors are those associated with school attendance/behaviour and past contact with the criminal justice system. Not being at school, having been suspended or expelled from school and having had several prior contacts with the criminal justice system all independently increase the likelihood of another conviction.³⁰

This year, DET commenced operating a 'suspension centre' in Palmerston. It is voluntary, only operates in the mornings, and is only available to students who have been suspended for more than five days, and is the only one in the Territory.

This is a positive step and, subject to an evaluation, it may be that additional centres should be established. In the meantime, government should consider alternatives.

DET commented on the challenges associated with the lack of specificity of court orders made regarding school attendance:

Officers also report instances of court orders being too general, making enforcement difficult and compliance ambiguous. For example, lack of specificity in court orders means a young person could effectively comply with an order to attend school by arriving at school, being marked for attendance for part of the day and then leaving.

To rectify this, an order should specify what 'attend school' means and include what will be considered a reasonable excuse for non-attendance: for example: the young person must attend school with a 90% attendance record and provide a medical certificate for absences. In this way, breaches of the order would be more identifiable.³¹

30 Don Weatherburn, Lucy Snowball and Boyd Hunter, *The Economic and Social Factors Underpinning Indigenous Contact with the Justice System: Results from the 2002 NATSISS Survey*, Crime and Justice Bulletin No 104 (2006) NSW Bureau of Crime Statistics and Research.

31 DET, *submission 10*, 11.

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The Review considers that this issue should be addressed. Legislative amendment may be an option; however, in the first instance, it would be sensible for the CEO of DET to meet with the Chief Magistrate to appraise her of his concerns with a view to the latter issuing a relevant practice direction.

Given the importance of children attending school, the Chief Magistrate may also wish to consider including additional school based options when orders are made by the Youth Justice Court. For instance, the law provides that children must go to school, but sentencing or bail orders could be made by the court that require the child to complete a semester, or a year level.

An order of this nature would clearly need to take into account the young person's intellectual capacity, family circumstances, and a number of other factors; however, there is no reason why such an order cannot be made.

DET, other government agencies, the legal and non government sectors during consultations, and in submissions affirm the importance of education for young people generally, and its ability to impact on re-offending in particular. While detention is required for particular young offenders whose crimes require it, efforts must be made to broaden the use of existing sentencing options and bail options. An order made to attend and complete school would appear to do this.

Compulsory school attendance: different departmental approaches

Parts of the *Youth Justice Act* (YJA) and the EA appear to be at odds. The EA makes school attendance compulsory. Yet, under Part 6A of the YJA, Family Responsibility Agreements (FRAs) are intended to operate differently, and provide a system of support rather than compulsion. As outlined in chapter 4, FRAs are agreements between families and an authorised agency, such as a Family Support Centre (FSC).

While there is provision in the YJA to enforce FRAs, no orders have been made and DCF advises that this is because none have been required. Some families fail to get their children to school, and FRAs are designed to provide assistance to those families in the hope that, over time, their parenting will improve and result in better outcomes for the child.

In its submission, DET points to the different approaches and argues that 'the *Education Act* and the *Youth Justice Act* must complement each other and should have the same or similar enforcement capabilities'.

The Review accepts that there should be different approaches to working with families and children, and that those contained in the EA and the YJA appear to be intentionally different policy responses. Nevertheless, government may wish to further consider the effect of DET's suggestion.

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Youth camps

As outlined in chapter 4, DCF is responsible for the development and delivery, through non-government organisation (NGO) partners, of youth camps. DET supports the use of youth camps as bail and sentencing options available to courts.

DET supports an expansion of youth rehabilitation camps that could meet the educational needs of young offenders, who would be assisted in their return to school, or participation in an alternative eligible program. DET has the capacity to provide practical assistance in this regard.³²

Interagency collaboration

DET states in its submissions that ‘interagency collaboration is critical to reducing to youth offending and recidivism’.³³ It also comments that:

There is no overarching strategy for youth in the Northern Territory. This results in ‘ad hoc’ arrangements between departments, usually on a local level, rather than strategic partnerships that facilitate tactical alignment of effort.³⁴

Partnerships across government agencies and NGOs are fundamental to the continuum of youth justice service delivery. During consultations, partnerships, collaboration and cooperation were discussed and supported.

While there is a certain level of collaboration and cooperation demonstrated across agencies—for example, by NTP working with DET to have Blue Light Discos in schools and DET and DCF officers working together in the Family Responsibility Program—more can be done. Recommendations are made in part 3 and are aimed to achieve this.

Partnerships

In order to better address low school attendance rates in remote Aboriginal communities, CAALAS recommends:

greater collaboration between schools and community Elders to develop mechanisms that encourage school attendance rather than punishing parents and children for non-attendance ... [and] notes recent progress in the community of Hermannsburg involving consideration of innovative strategies such as the developments of a ‘Men’s Only Shed’ to enable young men

³² Ibid, 10.

³³ Ibid, 11

³⁴ Ibid.

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who have passed through customary Men's Business to continue their education away from initiated young people and school timings and terms that account for traditional initiation and sorry business.³⁵

CAALAS also recommends that 'education providers work collaboratively with Aboriginal communities to develop a system of attendance and participation'.³⁶

Partnerships, collaboration and cooperation across government and with NGO service providers are essential if better outcomes are to be achieved for young offenders, and if service and response delivery are to be improved.

Cross cultural legal education

NAAJA operates a legal education practice that involves working with young people at youth camps, high schools and at the Clontarf Football academy. It also provides work placements for Indigenous school students in the Top End.

Meaningful cross-cultural legal education should not be through an 'information-dumping' process. It should rather engage with the specific linguistic and cultural needs of particular groups of people, so that barriers to understanding can be identified.³⁷

NAAJA advises that the type of legal education offered includes information about police powers, understanding basic legal rights and the court process and also advice about civil law rights. The provision of legal education is an important service provided by NAAJA.

Given that many young offenders have little or no family support, NAAJA may wish to consider including legal education about other people's rights. It is easy to take for granted the basic rules instilled in most children about respecting other people and their property. If those are not taught by parents, it is important that they be taught by others.

The Review encourages DET to obtain further information about NAAJA's legal education program with a view to collaborating so that the program could be expanded.

³⁵ CAALAS, *submission 17*, 46.

³⁶ *Ibid*, 47.

³⁷ NAAJA *submission 2*, 69.



Chapter 8: Department of Health

Introduction

Primary, preventive health and early intervention

Mental health

Alcohol and other drugs

Aged and disability program

Improvements to be made

CHAPTER 8: DEPARTMENT OF HEALTH

Introduction

The Department of Health (DoH) is responsible for the provision of all primary and acute health services across the Territory and aims to

promote, protect and improve the health and wellbeing of all Territorians in partnership with individuals, families and the community.¹

The services that are relevant to this Review include:

- mental health
- remote health (primary health care and allied health)
- alcohol and other drugs (including volatile substances)
- aged and disability
- health development and community health.

The Review is required to take into account vulnerable groups, in particular, in a health context, young people affected by alcohol and other drugs and young people with mental health issues when considering its proposals and recommendations.

Nationally, around 15.4% of all children and adolescents aged up to 17 years have a mental disorder², and mental illness remains the biggest risk factor for suicide.³ At 17 years of age, 61% of males and 43% of females drink alcohol. Around 30% of young people have used marijuana at some time in their lives.⁴

Several submissions to the Review highlight the effects of mental illness and substance use on young people and offending.⁵

Research suggests that high rates of mental illness and disability are a key risk factor for youth offending.⁶ However, there is very little data available that measures these indicators for young offenders in the Territory. Therefore, it is difficult to estimate the quantity of need and to plan services for young offenders.

The only Northern Territory Government agency that records data on offending and illness is the Northern Territory Police (NTP). NTP categorises each record of contact with an offender by a number of factors, including mental illness, alcohol and drug use. However,

1 DoH, *Annual Plan 2009–10* (2010) Northern Territory Government, Darwin, 22.

2 Department of Health and Ageing, *National Mental Health Reform 2011–12: Early Intervention and Prevention, and Mental Health Services for Children and Young People* (2011) Australian Government <<http://www.health.gov.au/internet/publications/publishing.nsf/Content/nmhr11-12-nmhr11-12-challenges-earlyintervention>> at 29 August 2011.

3 Ibid.

4 Australian Institute of Health and Wellbeing (2005) *Statistics on Drug Use in Australia 2004*, Cat No PHE 62, Canberra.

5 NTLAC, *submission 13*; The magistrates, *submission 16*; AMSANT, *submission 22*; Headspace, *submission 24*.

6 See Tom Calma, *Preventing Crime and Promoting Rights for Indigenous Young People with Cognitive Disabilities and Mental Health Issues* (2009) Australian Human Rights Commission.

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as discussed in chapter 2, the data collected by this process is not comprehensive and relies on an assessment of risk that may not be evident upon presentation.

Given that health issues such as mental illness and substance abuse are identified 'risk factors' for offending, DoH plays an important role in preventing and reducing youth offending. DoH provided four helpful submissions to the Review, three of which specifically focus on the vulnerable groups to which the terms of reference refer:

- Northern Territory Mental Health Program (NTMHP)
- Alcohol and Other Drugs Program (AODP)
- Aged and Disability Program (ADP)

The fourth submission is from the Office of the Chief Health Officer (OCHO).

Primary, preventive health and early intervention

The Territory health system is dominated by acute care services that consume most of the health budget.⁷ Comprehensive reform and expansion of primary health care are contained in many elements of *Territory 2030* and *Working Future*, and seek to develop more cohesive and inclusive frameworks for a healthier and safer Territory.⁸ The determinants of health in this context include a range of individual, behaviour, social, economic, physical and environment factors.⁹

Preventive health and early intervention programs have been found to be effective in addressing the risk factors that contribute to offending by young people.¹⁰

In its four submissions, DoH focuses on providing preventive and early intervention health strategies in order to reduce the number of known risk factors for entry into the youth justice system, particularly in early childhood. However, DoH acknowledges that there is a lack of capacity to provide them and current delivery is limited and ad hoc.¹¹

7 Northern Territory Government, *Budget 2011–12: Budget Paper No. 3 The Budget* (2011) 133.

8 DoH, *submission 14(b)*, 2.

9 Ibid.

10 See, for example: G Robinson, SR Silburn and F Arney, *A Population Approach to Early Childhood Services: Implementation For Outcomes* (2011) Northern Territory Government, Darwin; Department of Health and Ageing, *Fourth National Mental Health Plan: An Agenda For Collaborative Government Action in Mental Health 2009-2014* (2009) Commonwealth Government, Canberra; Rosalind Harris, 'Risk/Needs Assessment and Response to Criminogenic Factors with Young People' (Paper presented at the Young People, Crime and Community Safety: Engagement and Early Intervention Conference, Melbourne, 25-26 February 2008).

11 DoH, *submission 14(b)*, 2 notes that the NTMHP does not have the capacity to participate in primary prevention or health promotion activities for youth or younger age groups or their families.

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Mental health

Mental health is defined by the World Health Organisation as:

a state of well-being in which every individual realises his or her own potential, can cope with the normal stresses of life, can work productively, and is able to make a contribution to her or his community.¹²

Mental health problems and mental illness refer to the range of cognitive, emotional and behavioural disorders that interfere with the lives and productivity of people.¹³ Serious problems emerge for young people when mental health problems are left untreated and develop into a major mental disorder.¹⁴ 'Untreated conduct disorders in childhood significantly increase the social and economic costs to the individual and the community later in life, including through the criminal justice system.'¹⁵

Often the first contact with police or other youth justice service providers is also the first opportunity for contact with mental health assistance or programs.¹⁶

In their submission, the magistrates identify that young offenders are often affected by mental illness and other health issues:

Virtually all youths who come before the Youth Justice Court have some risks to their wellbeing for often complex reasons including homelessness, substance misuse, having been the victim of abuse or having mental or physical health problems.¹⁷

This suggests that a significant proportion of young offenders who appear in court have some form of mental illness or disorder although, as previously discussed, the Review was unable to source primary, diagnostic data to confirm this.

Some health workers consulted by the Review advise that mental illness is common in young people at risk, including young offenders.

NTMHP states in its submission that:

trauma lies at the heart of a significant portion of criminal activity, and the residing trauma in young offenders must be taken seriously and dealt with sensitively.¹⁸

12 World Health Organisation, *What is Mental Health?* (2007) <<http://www.who.int/features/qa/62/en/index.html>> at 19 September 2011.

13 Mental Health Council of Australia, *Mental Health Fact Sheet: A Range of Definitions of Mental Health/Illness* <<http://www.mhca.org.au/documents/Definitionsofmentalhealth.pdf>> at 22 September 2011.

14 Melissa Haswell, Hunter Ernest, Rachael Wargent, Brenda Hall, Ciaran O'Higgins and Roy West, *Protocols for the Delivery of Social and Emotional Wellbeing and Mental Health Services in Indigenous Communities: Guidelines for Health Workers, Clinicians, Consumers and Carers* (1st ed, 2009) 14.

15 Department of Health and Ageing, *National Mental Health Reform 2011–12: Early Intervention and Prevention, and Mental Health Services for Children and Young People* (2011) Australian Government <<http://www.health.gov.au/internet/publications/publishing.nsf/Content/nmhr11-12~nmhr11-12-challenges~earlyintervention>> at 29 August 2011.

16 NTLAC, *submission 13*, 10; Headspace, *submission 24*, 5.

17 The magistrates, *submission 16*, 5.

18 DoH, *submission 14(b)*, 3.

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It suggests that strategies to deal with young offenders need to address the complex range of issues that may include: 'social and cultural distress, poverty, illness, family dislocation, truancy, trauma, substance misuse [and] homelessness,'¹⁹ which are also significant indicators for the development of mental illness.²⁰

Under the NTMHP, multi-disciplinary child and youth mental health teams exist in Darwin and Central Australia, providing assessment, treatment, management of at risk episodes, preparation of court reports, liaison with other service providers, support of staff at the youth detention centres and community follow up.²¹ There is no dedicated forensic mental health facility for young people in detention, nor is there an inpatient facility for young people in the Territory.²²

The Northern Territory Legal Aid Commission (NTLAC) states in its submission that government struggles to meet demand in respect of young people:

[DoH] is already stretched in terms of its resources, and reports can take between 4 to 6 weeks to be prepared. This has led to a situation where reports are only requested where the charges are serious, a term of detention is imminent and/or the behaviour is highly suggestive of a health issue.²³

Given the above difficulties in assessing mental health conditions for young offenders, it is not surprising that the Review was not able to source basic information on the numbers of young offenders with mental health problems.

It was also suggested during consultations that private psychology practitioners would not attend the detention centres or provide assessments of young offenders or remandees, due to professional concerns about the expertise required for forensic assessments.²⁴

The NTMHP acknowledges the need for more resources for forensic mental health programs and enhanced services for young people.²⁵

It suggests, as an interim measure, that dedicated specialist staff be placed on call in court and detention settings for assessment and acute interventions as required and as a link to ongoing community based care following release.²⁶

In Palmerston and Alice Springs, *headspace* centres provide services for 12 to 25 year olds experiencing mental health challenges.²⁷ The centres offer local or visiting youth the chance for early intervention through their community based youth friendly service model

19 Ibid.

20 Ibid.

21 Ibid, 2.

22 Ibid.

23 NTLAC, *submission 13*, 7.

24 DoH Mental Health program, consultation, Darwin, 27 June 2011.

25 DoH, *submission 14(b)*, 4.

26 Ibid.

27 *headspace, submission 24*, 3.

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and have the ability to treat a broad range of problems.²⁸ The *headspace* program is part of the Federal Government's Youth Mental Health Initiative established in 2006.

In its submission to the Review, *headspace* notes that:

the prevalence of mental health disorders in youth involved in justice is particularly high with an estimated 70 to 80% suffering from a mental health disorder.²⁹

The *headspace* program is generally viewed as a positive initiative in urban areas; however, it is not always seen as appropriate for young Indigenous people. The program received a positive independent evaluation in 2009.³⁰

In New South Wales, diversion programs support youth who have come into contact with the youth justice system and who may have an unresolved mental health complaint.

The Justice Health Adolescent Court and Community Team can refer a young person for a mental health assessment and report to the court on issues and possible options for dealing with the young person.³¹

The program was evaluated in 2009 and found reductions in offending frequency, as well as other positive outcomes, particularly the assistance it offered to the court in identifying mental health issues and offering diversion or treatment options.³² The Review considers that a similar program could be of benefit in the Territory's Youth Justice Court; however, further investigation needs to be undertaken.

Alcohol and other drugs

Strategies and programs designed to address alcohol and drug misuse in youth populations must examine the underlying causes of this behaviour, as well as provide treatment and support for social reintegration. The links between substance misuse, mental ill health and offending behaviour cannot be overlooked.³³

In the Northern Territory, 60% of all assaults are alcohol-related. It is very clear: if you are not tackling alcohol, you are not tackling crime. It is not just crime; the scourge of alcohol-related violence and neglect of children hits the health budget, stops kids going to school, and increases the vulnerability of children throughout the Northern Territory. In fact, every aspect

28 *headspace* centres are explicitly supported in Commonwealth of Australia, Department of Health and Ageing, *Fourth National Mental Health Plan: An Agenda For Collaborative Government Action in Mental Health 2009-2014* (2009) Canberra.

29 *headspace*, *submission 24*, 5.

30 *Ibid.* See also: Ilan Katz, Kristy Muir, Roger Patulny, Shannon McDermott, Sandra Gendera, Saul Flaxman and David Abello, *Independent Evaluation of Headspace: The National Youth Mental Health Foundation, Evaluation Plan* (2008) SPRC Report 20/08, Social Policy Research Centre.

31 Noetic Solutions, *A Strategic Review of the New South Wales Juvenile Justice System: Report for the Minister of Juvenile Justice* (2010) 130.

32 *Ibid.*

33 Parliament of Victoria, Drugs and Crime Prevention Committee, *Inquiry into Strategies to Prevent High Volume Offending and Recidivism by Young People* (2009) 281.

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of our society is adversely affected by the abuse of alcohol. The figures show – and they are somewhat dated now – it costs us over \$640m a year.³⁴

While the Review was unable to identify the number of young people in the youth justice system with alcohol or other drug issues, it is reasonable to assume, based on submissions received, that they represent a significant proportion of young offenders. Hence, treatment services would form an integral part of addressing youth crime, since:

Reductions in harm caused by alcohol and other drugs...will contribute to community safety ... [and in turn] ...improve participation and performance in education, and reduce the prevalence of youth involved with the justice system.³⁵

The Review notes that under age drinking and illicit drug use are themselves criminal activities and, while a young person may engage in such conduct for a variety of reasons such as adolescent experimentation, the activity is nevertheless an entry point into the youth justice system.

The Alcohol and Other Drugs Program (AODP) develops policies and programs, and delivers services to respond to the misuse of alcohol and drugs in the community. AODP notes that:

substance misuse issues are key contributors to the underlying determinants of family dysfunction in the Northern Territory and a major contributor to ... interaction with the justice system.³⁶

AODP offers a workforce development program that aims to develop and support a local workforce to promote harm minimisation and intervention. Training is provided at certificate and diploma level, thereby providing an education and employment pathway. The program supports a number of full time Indigenous, rural and remote students, as well as a number of students from non government organisations.³⁷

In its submission, AODP identifies a lack of services, such as residential treatment programs that address complex client needs. This is exacerbated by the remote location of many clients, although the AODP notes that alcohol reform funding contributes to programs in this area.³⁸

NTP also identifies this service gap:

The distinct lack of appropriate youth focussed services, particularly for those with complex needs is an acknowledged service gap, for young people. This is further exacerbated by the remoteness of many Northern Territory communities and the difficulty in identifying, managing and supporting those that require intensive services.³⁹

34 Northern Territory, *Parliamentary Debates*, Legislative Assembly, 5 May 2011 (Mr Henderson, Chief Minister).

35 DoH, *submission 14(d)*, 2.

36 *Ibid.*

37 *Ibid.*, 6.

38 *Ibid.*, 2.

39 NTP, *submission 33*, 11.

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NTP comments in its submission on the shortfall of appropriate services, such as residential treatment programs for youth with long term substance abuse who 'repeatedly' enter the youth justice system; the lack of supported accommodation programs; and the lack of culturally appropriate 'holistic programs such as alternative education, access to counselling, life skills and anger management'.⁴⁰

The NT Early Intervention Pilot Program (NTEIPP) referred to in chapter 5 was established to target:

binge drinking and support the referral of young people to appropriate services, such as assessments, counselling and on the ground support.⁴¹

An evaluation of the pilot is underway, although NTP suggests the model is a good example of a program that could be offered to address alcohol abuse in young people.⁴²

Alcohol reforms commenced in July 2011 and incorporate a response to substance misuse where offending behaviour is a major contributing factor.

The new SMART Court⁴³ discussed in chapter 3 enables adult and youth offenders with a substance misuse problem to receive treatment and rehabilitation as part of their community based sentence. The significance of the SMART program for young people lies in the potential to reduce substance misuse.

The lack of drug and alcohol rehabilitation services for young people is a concern. In particular, the availability of residential rehabilitation services has been identified as a major gap in the continuum of services by many in the non government sector.

In its submission, AODP outlines a number of existing programs for young people affected by alcohol and other drug issues.

For example, BushMob in Alice Springs is funded to provide a youth treatment centre and case management service for 12 to 25 year olds with mental health and substance abuse problems. This includes a Bush Adventure Therapy Program and a Residential Rehabilitation Service. BushMob also provides an education and multimedia training program funded by the Federal Government;⁴⁴ however, it advised the Review more funding for more beds was required.

The AODP also provides, through inreach to the Don Dale Juvenile Detention Centre, assessment and counselling services for young people on remand or sentenced for less than six months. This service includes discharge planning and referrals for the young person for ongoing support and counselling on release.⁴⁵

40 Ibid.

41 Ibid.

42 Ibid.

43 SMART Court is established under the *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act*.

44 DoH, *submission 14(d)*, 10.

45 Ibid, 8.

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The Red Dust Role Models Program is funded by DoH to work with Indigenous communities on drug and alcohol issues, using positive role models from the fields of sport, businesses, music, film and entertainment.⁴⁶ The program operates in the Daly River and on the Tiwi Islands, with a permanent office established in Alice Springs in 2009 to service Central Australian communities.⁴⁷

Volatile substance abuse

The *Volatile Substance Abuse Prevention Act* (VSAP Act) provides a comprehensive and systematic approach to prevention, intervention and treatment of volatile substance abuse (VSA) in the Territory.⁴⁸ The VSAP Act does not criminalise the sniffing of volatile substances although, anecdotally, many young people who are diverted for volatile substance abuse treatment under the legislation have concurrent matters before the Youth Justice Court, or are at significant risk of future contact with the youth justice system.

The VSA program provides assessment, counselling, coordinated care, and referrals for mandated and voluntary treatment for clients of all ages. Families, police and health workers may apply for an assessment of an individual under the program for intervention, and then apply to the court for mandatory treatment as a person at risk of severe harm.⁴⁹

Since commencement of the VSAP Act in 2006, 693 requests have been made for assessment for court ordered treatment: 286 from Central Australia and 353 from the Top End. During the first three years of the program, the majority of referrals were from Central Australia (see Figure 8.1).⁵⁰ This shifted from 2008–09, with a larger proportion of referrals coming from the Top End.

The majority of referrals came from NTP, followed by DoH, and then child protection workers. Children under 18 years account for 57% of referrals.⁵¹ Most referrals are resolved through case management and working with the client and family. Of the 73 applications that have proceeded to court, 63 resulted in orders for treatment.⁵²

46 DoH, *submission 14(d)*, 5.

47 *Ibid.*

48 Department of Health and Families, *Alcohol and Other Drugs Program—Fact Sheet: Volatile Substance Abuse Prevention Act* <(www.health.nt.gov.au/library/scripts/objectifyMedia.aspx?file=pdf/16/40.pdf&siteID=1&str_title=NT+Volatile+Substance+Abuse+Prevention+Act+-+The+Facts.pdf> at 22 September 2011.

49 DoH, *submission 14(d)*, 3.

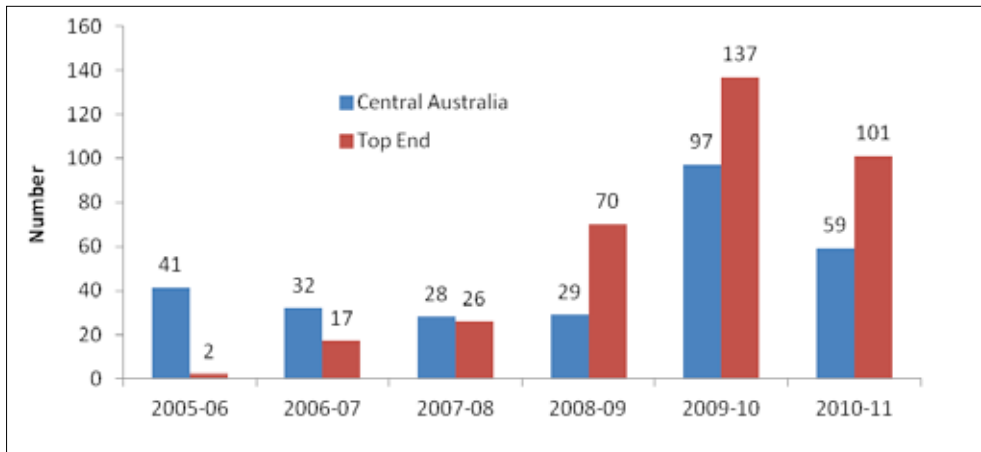
50 AIC, *Review of the Northern Territory Youth Justice System: Overview of the Data* (2011) Canberra 29.

51 DoH, *submission 14(d)*, 3.

52 *Ibid.*

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Figure 8.1 Volatile substance abuse program referrals, February 2006 to March 2011, by region



Source: NT Department of Health

DoH notes that, while the use of Opal fuel has been successful in reducing sniffing overall in Central Australia, outbreaks continue in groups of young people in town camps with complex needs and challenging behaviours. There have also been outbreaks in Tennant Creek where historically sniffing has not occurred.

The Review was advised that some girls (aged between about 8 and 14 years) sniff petrol because it suppresses their appetites—these girls are unlikely to be provided food by their families and would otherwise feel hungry. Sniffing is also associated with a peer group activity; however, some reportedly sniff petrol alone, which is an additional concern.⁵³

In some communities where Opal fuel had been rolled out, many youth were moving towards other volatile substances such as paint and aerosols. Criminal activity was observed in relation to this, as addicted youth broke into premises stocking these items.⁵⁴ DoH advises that further amendments are planned to the VSAP Act to ensure retailers securely store volatile substances in response to the emerging issue of youth obtaining harmful inhalants.⁵⁵ The Review encourages government to fast track these amendments.

Foetal Alcohol Spectrum Disorder (FASD)

FASD refers to a range of features that affect some babies exposed to alcohol before birth.⁵⁶ FASD describes a range of physical, mental, behavioural and learning disabilities, resulting in hyperactivity, behavioural problems, learning problems, learning disabilities and

53 Steps, consultation, Tennant Creek, 13 July 2011.

54 Thamarrurr Development Corporation, consultation, Wadeye, 2 June 2011 and YMCA, consultation, Katherine, 15 June 2011 observed that nail polish remover and butane gas were also replacing petrol.

55 DoH, *submission 14(c)*, 3.

56 Colleen O'Leary, *Fetal Alcohol Syndrome: A Literature Review* (2002).

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a general inability to function normally.⁵⁷ People with FASD tend to be impulsive, unable to change their behaviour, unable to learn from their mistakes and often do not understand the consequences of their actions.

FASD is not a problem endemic to Indigenous populations. Estimates suggest that up to 60% of children born with FASD will make contact with the justice system.⁵⁸ There is no diagnostic tool presently available for FASD. Given the FASD can lead to poor appreciation of consequences and impulsivity, it is critical that governments not only fund more research into FASD, but also incorporate remedial responses into any youth justice strategy. Government may wish to consider pursuing this issue at a national level.

Healing programs

The impact of violence, trauma, dislocation from family and culture, and subsequent entry into the youth justice system can be lessened by culturally appropriate healing programs.⁵⁹

Healing programs address trauma resulting from neglect, domestic violence and sexual abuse, and do so in a positive cultural and spiritual environment.⁶⁰

The Balunu Healing Program, as well as other programs that offer rehabilitation and treatment services in a culturally appropriate environment (such as the Mt Theo program outside Yuendumu, and the Ilpurla outstation), can improve self esteem and develop positive social norms for young Indigenous Territorians.⁶¹ It is not known whether these programs directly reduce offending and re-offending rates; however, their broader impact on young people either in, or at risk of entering, the youth justice system is seen as positive, and is generally supported by legal aid providers.

Aged and Disability Program (ADP)

ADP provides assessment, therapy, case management, equipment and subsidies for people with disabilities.

The Review was unable to source details as to how many young people in the youth justice system have a disability.

DoH advises that disabled people identified as ‘at risk’ of entering the youth justice system due to offending behaviours will have a plan developed to manage the risk and the behaviours of concern.⁶²

57 *The National Organisation for Fetal Alcohol Syndrome and Related Disorders Inc.* (2011) <<http://www.nofasard.org/>> at 19 September 2011. See also Heather Douglas, ‘Sentencing and Foetal Alcohol Spectrum Disorder’ (Paper presented at the Sentencing 2010 Conference, Canberra, 6-7 February 2010) 4.

58 Diane Fast, Julianne Conry and Christine Look, ‘Identifying Fetal Alcohol Syndrome Among Youth in the Criminal Justice System’ (1999) 20 *Developmental and Behavioural Pediatrics* 370, cited in Douglas, above n 57.

59 Department of Families, Housing, Community Services and Indigenous Affairs, *Voices From the Campfires: establishing the Aboriginal and Torres Strait Islander Healing Foundation* (2009) Australian Government, Canberra.

60 Balunu, *Our Programs: Indigenous Youth Healing Program* <www.balunu.org.au/programs.html> at 22 September 2011.

61 Standing Committee on Aboriginal and Torres Strait Islander Affairs, House of Representatives, The Parliament of the Commonwealth of Australia, *Doing Time—Time for Doing: Indigenous Youth in the Criminal Justice System* (2011) Canberra, 105.

62 DoH, *submission 14(c)*, 1.

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A young person's ability to access services relies on identification and diagnosis of disability. As with mental illness, diagnosis of some intellectual disabilities in young people can be challenging. Difficulties in diagnosis are likely to be heightened for disengaged young people or those who are geographically isolated.

A NSW report on the juvenile justice system suggests that young people with a disability are more likely to become entrenched in the criminal justice system due to their need to be accepted by a peer group and also because of their increased vulnerability to copying the behaviour of others. The same report notes that it can be more difficult to reintegrate a young person with an intellectual disability back into the community and this generates an increased likelihood of further re-offending.⁶³ The Review was unable to determine whether reintegration for disabled offenders is problematic in the Territory, but given the known range of complex issues already facing young Indigenous offenders, it is likely that reintegration for disabled offenders would be even more difficult.

In its submission, the ADP outlines the proposed Exceptional Needs program, which aims to provide support to older youths and adults at risk of entering or re-entering the criminal justice system.⁶⁴ Using an intensive case management approach, the program will assist clients who experience a combination of mental illness, intellectual disability, acquired brain injury, behavioural difficulties, family dysfunction and drug or alcohol abuse. DoH will lead the project to 'provide a multi agency strategic approach to the management of this client group'.⁶⁵

Hearing loss

During its inquiry, the House of Representatives Standing Committee on Aboriginal and Torres Strait Islanders heard evidence about the impact poor hearing has on a number of young Indigenous persons, particularly in the context of their contacts with police, the courts and correctional services.⁶⁶

The rates of hearing loss for Indigenous children are higher than for other children, with hearing or ear problems experienced by 9% of Indigenous children aged 0 to 14 years, compared with only 3% of non Indigenous children of the same age.⁶⁷

Middle ear infection, or *otitis media*, is more common in children experiencing overcrowded housing, poor health and nutrition⁶⁸ and is known to be more prevalent among Indigenous children than among other groups of children in Australia. Hearing loss or poor hearing can manifest itself in behavioural and learning problems in school⁶⁹, which can result in disengagement from the education system through truancy or poor learning outcomes.

63 Noetic Solutions, above n 31, 126.

64 DoH, *submission 14(c)*, 1.

65 *Ibid.*

66 Standing Committee on Aboriginal and Torres Strait Islander Affairs, above n 61, 108.

67 ABS, *National Aboriginal and Torres Strait Islander Health Survey, 4715.0*, Canberra, cited in ABS, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples, 4704.0*, Canberra.

68 Damien Howard, 'Intercultural Communications and Conductive Hearing Loss' (2007) 3 *First Peoples Child & Family Review* 96, 96.

69 Damien Howard, 'Why We Need More Aboriginal Adults Working With Aboriginal Students' (2004) 29 *Australian Journal of Teacher Education* 14, 19.

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In 2004, 62% of children tested in remote communities were found to have varying degrees of hearing loss in one or both ears.⁷⁰ Court recording systems do not amplify the sound which, combined with a lack of English comprehension, can make understanding court proceedings more difficult for Indigenous young offenders.

Improvements to be made

Clearly there needs to be better data collection of materials likely to impact upon a young person's ongoing health needs, as well as supports put in place to reduce the risk of further entrenchment in the youth justice system.

There are particular difficulties in collecting mental health, alcohol, substance abuse and disability data⁷¹ for young offenders or those at risk of offending. This then limits proper assessment and treatment options for many young people.⁷²

Fragmented service delivery fails to address the systemic roots of many of the problems faced by young people at risk.⁷³ There is ample evidence that fragmentation of services has adverse effects on outcomes delivered by those services, with a flow on effect to families and children receiving those services.⁷⁴

The human dimension is too often missing from approaches to integration of services: the key to better collaboration is to provide the conditions for interpersonal relationships at all levels. The principles underpinning these conditions are trust, authority and negotiation. Integration cannot simply be imposed from above, but must be developed at strategic and operational levels. Practitioners need to be entrusted with the authority to develop relationships that support innovation in collaborative practices in community settings.⁷⁵

The Review identified there is a lack of coordination to identify, assess and treat the health and wellbeing of young offenders. DoH suggests that to improve service delivery for young people the following is required:

- a strategic plan and service delivery framework to align and coordinate health services from all areas of the department and other health service providers for young people at risk/offenders; which
- fits into a human services strategic plan and service delivery framework for young people at risk/offenders.

70 Australian Institute of Health and Welfare, *Aboriginal and Torres Strait Islander Health Performance Framework: 2008 Report* (2008) Canberra, 215.

71 See Calma, above n 6.

72 See Robinson et al, above n 10.

73 M Bamblett, H Bath and R Roseby, *Growing them Strong, Together: Promoting the Safety and Wellbeing of the Northern Territory's Children: Report of the Board of Inquiry into the Child Protection System in the Northern Territory 2010* (2010) Northern Territory Government, Darwin; DCF, submission 5, 10.

74 G Robinson, L Gawa, S Silburn and F Arney, *Effective Integration of Services for Children and Families: Making it Happen* (2010) Menzies School of Health Research, Darwin, cited in S Silburn, G Robinson, F Arney, K Johnstone and K McGuinness, *Early Childhood Development in the NT: Issues to be Addressed* (2011) Northern Territory Government, Darwin, 17.

75 Ibid.

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Recommendations are made in part 3 that will, if accepted and implemented, go some way to achieving this.

NTMHP proposes in its submission that ‘culturally appropriate multi-system programs employing local Indigenous workers’⁷⁶ supported by forensic child and youth service specialists are required to address the complex issues presented by youth at risk and young offenders.

NTMHP also notes that whole of government approaches to health and wellbeing of young people, reflected in policy documents such as *Territory 2030* and *Working Future*, will:

provide a stronger social framework for developing education and training options, housing, health and safety for communities enabling more positive and rewarding possibilities for a young person’s future to be held.⁷⁷

To complement the ‘continuum of services’ for young people in the justice system, the OCHO recommends a ‘developmental continuum’, or a:

life course approach, given the important aspects of pre-natal, infancy and childhood factors on adolescent outcomes and also outcomes further in life ...[and]...Policies should be developed in an integrated manner that focus on both prevention and intervention strategies at all stages of development.⁷⁸

This approach is required because of the need to integrate and coordinate services between multiple providers.

The OCHO proposes a framework of strategies for youth justice including:

- early childhood interventions
- improved collaboration, information sharing, referrals and data management
- increasing community based interventions rather than detention with community engagement underpinning program design
- improvement in management and follow-up of re-offenders through secondary prevention measures like rehabilitation programs and intensive assistance
- embedded monitoring and evaluation in programs with performance indicators.⁷⁹

The proven success of targeting preventable risk factors in health settings has refocussed

⁷⁶ DoH, *submission 14(b)*, 4.

⁷⁷ *Ibid.*, 2.

⁷⁸ DoH, *submission 14(a)*, 6.

⁷⁹ *Ibid.*, 8.

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health policy makers from tertiary service delivery in high cost medical facilities to community based primary prevention strategies. Many of the early indicators for chronic ill health correspond to, or influence, the likely risk of a young person entering the justice system.⁸⁰

The Review supports the continuation and expansion of the systematic approach to crime prevention through the 'developmental continuum' outlined by DoH and agrees that this method is likely to reduce the risks contributing to young people offending.

The Review also notes that the expansion of new and existing programs offered by DoH for young people, particularly those with risk factors such as alcohol and drug abuse, and mental health problems, will require the commitment of additional resources by government.

⁸⁰ Ibid, 3.