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Review of the Northern Territory Youth Justice System: Report

September 2011



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Special thanks are extended to the tenacious members of the Review team: Ruth Brebner, Sue Erickson, Jayne McAlister, and Jean Doherty. Sincere thanks to staff in Community and Justice Policy of the Department of Justice for their support and tolerance, in particular Sal Cohen.



Jodeen Carney

Chair

Review of the Northern Territory Youth Justice System
30 September 2011

EXECUTIVE SUMMARY

Introduction

This Review was undertaken on behalf of the Northern Territory Government to identify emerging issues and trends in youth justice and youth offending outlined in the terms of reference. It was not an inquiry established under the *Inquiries Act*.

A long list of recommendations is not provided in this report. Instead, there are nine. The Review elected to provide key recommendations that would, if adequately resourced and implemented, enhance the ability of government and non government agencies to assist in the delivery of services and responses for young people in the youth justice system. The recommendations will assist to reduce offending and re-offending.

Supporting young people is a core function of any government. Services are always in demand and will always need to be increased. The challenge for the Northern Territory Government is to provide targeted and specialist interventions to those young people who are in the youth justice system and those who are at risk of entering it.

Apart from assisting these young people for compassionate reasons, there are sound economic reasons for doing so. This underpins the concept of justice reinvestment. It requires a change of direction and purpose of expenditure. It requires realigning expenditure so that, over time, custodial operations are reduced and community interventions are increased.

Unless this is attempted in a coordinated and comprehensive way, many young offenders are likely to re-offend, and will continue to present challenges for government, its agencies and the community. Many young offenders require intensive case management and interventions that are not achieved in detention centres.

The relatively small number of young people in, or at risk of entering, the youth justice system provides an opportunity for Northern Territory Government agencies and the non government sector. Many of them are well known to providers of support and intervention services, as well as specific agencies. Hence, identifying these young people is not difficult and, with the appropriate systems in place, monitoring them is significantly easier than in other jurisdictions.

Many young people in the youth justice system come from homes where poverty, alcohol abuse, violence and dysfunctional relationships are the norm. These are young people in greatest need and the ones who are likely to require a higher level of intervention and case management. These are the same young people who are more likely than others to graduate to further offending and incarceration. These are the ones who represent ongoing costs to the community. These are the ones for whom the underlying causes of their offending and re-offending must be addressed.

Policy development and decision making in the area of youth crime must be evidenced based. There must be a bipartisan approach to youth offending and political leaders must

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do what is right—not simply what is popular. The political challenge is that some results will take time to measure. The Review does not expect that government and the community would see the results for three to five years; perhaps longer.

Accurately measuring recidivism is difficult and is the subject of much academic commentary. What is known in the Territory, however, is that while the numbers of young offenders and repeat offenders are relatively small, many are likely to become entrenched in the youth justice system unless the cycle of offending and their criminogenic needs are addressed.

The Review has identified a number of areas of need that, based on the available evidence, offer the best prospects of delivering reductions in offending and re-offending that in turn will assist government to create safer communities.

For the Review to meet its terms of reference, it was necessary to obtain statistical information that would give an accurate picture of the extent of youth offending across the Territory. The Australian Institute of Criminology was commissioned to analyse data that was collected.

This has been extremely useful to the Review and forms the basis of recommendations made. The emerging issues and trends are:

- Youth offending in the Territory is trending upwards in a number of areas.
- The number of young people involved in the justice system has increased in recent years.
- The number of young offenders is small: 639 young people were apprehended by police in 2010–11; a total of 1192 matters were lodged in courts of which 665 were finalised; and only 39 young people were in juvenile detention on any given day during this period. There are around 53 100 young people under the age of 15¹.
- Young people involved in the youth justice system are mostly male and Indigenous (76%).
- Property offences such as theft and unlawful entry with intent are the most common type of crimes committed by young offenders. Traffic and motor vehicle offences represent the second biggest category of youth crime.
- The number of young people in juvenile detention is small but has increased from an average daily number of 18 in 2005–06 to 39 in 2010–11. There is an increasing number of children under the age of 15 being detained.
- Young people in detention are more likely to be on remand than serving sentences. The number of juveniles on remand is increasing (with an average daily number of around 23 on remand in 2010–11 compared with around 11 in 2005–06).

¹ ABS, *Population by Age and Sex, Regions of Australia, 3235.0* Canberra.

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The cost of detaining a young person in 2009–10 was \$592 a day. Based on that figure, the cost of detaining one young offender for one year is \$216 000.

The Review does not know the costs of the effects of youth crime. It is, however, considerable.

The terms of reference for this Review provide that the youth justice system ‘encompasses a continuum of services and responses from preventive, policing, pre court, correctional and post release’.

The Review examined each component of the system and found there was, in fact, no continuum. Instead, there is a fragmented and uncoordinated approach to the delivery of services and responses.

Government agencies responsible for various parts of the youth justice system tend to focus on their own areas of responsibility. Once a young offender has moved on, that was the end of the agency’s responsibility. Hence, young people who move throughout the youth justice system have no coordinated monitoring and are not dealt with again until they next come to the attention of the same or another government agency.

Agencies recognise the importance of the continuum, but operate independently in accordance with their key portfolio responsibilities. There was widespread agreement that the fragmented ministerial and administrative arrangements made coordination of the system difficult and it was often unclear which agency was responsible for particular functions. A recommendation is made that is designed to streamline administrative and ministerial responsibilities.

The need to establish a new unit or division within an existing department became obvious and is recommended in this report.

There is a need to develop a new and comprehensive youth justice strategy with targets and benchmarks. The development of the strategy will guide the operations of the new unit.

Government faces enormous challenges delivering services to young people across the Territory who are in, or at risk of entering, the youth justice system. Geographic obstacles, cultural issues, and limited resources are just some of the difficulties.

The Federal Government continues to develop partnerships within the three tiers of government, the non government sector and the community in youth service delivery, with a particular focus on building service centres in Indigenous communities. This must continue in order to meet the various challenges that a continuum of services and responses requires.

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The available evidence supports the need to identify and support alternative measures to deal with young offenders and those at risk of offending, which include diverting them from the courts, providing community based treatments and interventions, and improving their educational status. Effective early intervention and preventive programs will also reduce some young people's prospects of offending.

Residential rehabilitation facilities, such as youth camps, have an important role to play in the delivery of therapeutic treatments and other services to be offered to young people. The Review found that a significant number of young offenders were placed in detention centres on remand (i.e. are waiting for their matter to be determined by the court) because there was nowhere else for them to go. This is an awful state of affairs.

Increasing the number of youth rehabilitation camps is likely to reduce the numbers of young people who are held in detention on remand. They are unlikely to receive a range of necessary interventions while they are in a detention centre.

Youth rehabilitation camps may also be able to assist with offenders' transition from detention to post release, and be a form of 'step-down' facility that can assist young offenders to integrate back into the community.

There are two Family Support Centres in the Territory. Early indications are promising and their capacity needs to be increased.

A number of therapeutic interventions have been shown to be successful in reducing young people's criminal activity. However, success is limited if the young person returns to the same dysfunctional environment from which he or she came. Interventions must, therefore, involve the family if successful outcomes are to be maximised. At the same time, the parents and families of these young people must take responsibility for their actions, some of which are actively damaging their children. A recommendation is made to expand the capacity of Family Support Centres that work with families of children who are in, or at risk of entering, the youth justice system.

Evidence suggests that diverting young people away from courts reduced re-offending rates. On that basis, diversionary options should be expanded, as should eligibility for diversion. For instance, young offenders who commit a range of first time driving offences could be eligible for diversion. This will only be effective, however, if suitable and meaningful programs are available, such as driving education courses.

A recommendation is made to improve data collection and analysis. This will enhance government's ability to respond to youth offending by identifying relevant trends and issues.

A recommendation is also made regarding evaluation of programs delivered to young offenders and those at risk of offending.

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As the Review was required to work within its terms of reference, many useful suggestions do not appear in this report. The submissions will provide a valuable resource for government in its continuing efforts to improve the youth justice system.

A coordinated model to target individual youth across the spectrum of issues they face will also bring government's approach to youth justice in line with the strategically coordinated, socially inclusive mandate of both *Territory 2030* and *Working Future*.

The key recommendations involve the Northern Territory Government:

1. establish a new unit within an existing department with responsibility for administering all services and responses to the youth justice system
2. develop a new youth justice strategy
3. streamline administrative arrangements and ministerial responsibilities
4. improve data collection, share information between government agencies, and ensure that programs delivered contain built in evaluations
5. increase investment in police diversion, including increased eligibility for diversion, and expand diversion programs
6. increase the number of youth rehabilitation camps
7. expand the Family Support Program and increase capacity of Family Support Centres
8. increase workforce capacity
9. establish an external monitoring and evaluation process.

Conclusion

The Review does not seek to downplay the effects young offenders have on the community. There is a need for sentences to meet community expectations, to reflect the seriousness of the crime committed, and to punish. However, putting young people in detention centres is not a medium to long term solution to reducing crime. Detainees leave detention centres and go back into the community—unless their needs are addressed, how can we expect them to change their behaviours?

The causes of youth offending are complex, solutions are challenging and resource intensive and the results can be difficult to measure in the short to medium term. Hence, investing in solutions that reduce offending and re-offending requires political courage. It also requires considerable effort, commitment and resources.

RECOMMENDATIONS

Recommendation 1

That a youth justice unit, with statutory authority, be established within a government department and that it have responsibility for administering and coordinating services and responses to young people in, or at risk of entering, the youth justice system.

Recommendation 2

That a new, comprehensive youth justice strategy be developed and implemented.

Recommendation 3

That the Administrative Arrangements order be reviewed and that the number of ministers responsible for aspect of parts of the youth justice system be reduced to mirror the existence of the youth justice unit and ministerial responsibility.

Recommendation 4

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

Recommendation 5

That resources be increased for police diversion to include the establishment of Youth Diversion Units in Katherine and Tennant Creek, that eligibility for diversion be expanded, and that additional community based programs be established that have a measurable rehabilitative value.

Recommendation 6

That the number of youth rehabilitation camps be increased and include the establishment of one short term therapeutic camp program in greater Darwin area and one in Central Australia, and a longer term therapeutic residential program in the Top End and one in Central Australia, and that the youth rehabilitation camps be regulated by legislation.

RECOMMENDATIONS

Recommendation 7

That additional resources be allocated to the Family Support Program and existing Family Support Centres.

Recommendation 8

That the capacity of the Northern Territory workforce be strengthened to include training of workers across the youth justice system including youth workers, court support workers, and community youth justice workers.

Recommendation 9

That all programs delivered for young people in, or at risk of entering, the youth justice system have built in evaluation processes, that an external monitoring committee oversee progress of the youth justice unit; that the youth justice unit's activities are included in the department's annual report, and that government report on the recommendations of this Review by 30 June 2012, again by the end of 2012 and annually thereafter.

Further details of the recommendations and models are provided in chapter 11.

ESTABLISHMENT OF THE REVIEW

On 29 March 2011, the Minister for Justice and Attorney-General, The Hon Delia Lawrie, commissioned a strategic review of the Northern Territory youth justice system, and appointed the former Member of the Legislative Assembly, Ms Jodeen Carney, as the Chair. The Review was undertaken on behalf of the Minister and her colleagues, the Minister for Children and Families, the Minister for Correctional Services and the Minister for Police, Fire and Emergency Services. The Minister established the terms of reference, expectations and timeframes for the Review.

The Review was commissioned to ensure the Northern Territory's youth justice system delivers the best practice programs and services to meet the needs of young people and the community, and to provide the most effective and coordinated youth justice system possible.

TERMS OF REFERENCE

The terms of reference as provided to the Chair, and released publicly on 29 March 2011, are to:

Undertake, on behalf of the Minister for Justice and Attorney-General, the Minister for Children and Families, the Minister for Correctional Services and the Minister for Police, Fire and Emergency Services, a strategic review of the Northern Territory youth justice system, the terms of reference of which are:

1. Identification of emerging issues and trends in youth justice and offending in the Northern Territory that adversely affect the achievement of Territory 2030 and Working Future goals and outcomes.
2. Evaluation of the impact of existing government legislation, policy and practice to develop recommendations to government on appropriate reform to laws, policies and programs to assist achieving the government's commitment to reducing youth offending and re-offending, and to creating safer communities.
3. Recommendations on strategies for dealing effectively with offending young persons taking into account relevant national and international research, reviews and reports, and their application to the Northern Territory context.
4. Recommendations to enhance the ability of government agencies and communities to assist in the continuum of services for young people in the youth justice system to achieve a reduction in offending, particularly by Indigenous offenders.
5. Using available research and data, provide cost benefit analysis for proposed strategies and options.
6. A proposed strategy on future policy, programs, practices within the youth justice system in the Northern Territory, including monitoring and evaluation of these, taking into account resource implications and with particular reference to vulnerable groups of young people including:
 - Indigenous youth
 - young people affected by alcohol or other drug abuse
 - young people with mental health issues
 - young women
 - culturally diverse groups

For the purposes of the Review, the youth justice system encompasses a continuum of services from preventive, policing, pre court, correctional and post release.

APPROACH AND METHODOLOGY

From the outset, the Minister made it clear that that she wanted the Review to be done as quickly and as thoroughly as possible. While the timeframes presented a number of challenges, the Chair shared the Minister's view that it was important that the Review could, and should, be undertaken quickly.

The Review team comprised:

- the Chair, who commenced 3 May 2011
- a lawyer, who commenced 18 April 2011
- a legal research officer, who commenced 24 May 2011 and worked one day a week from 30 August 2011
- a project officer who commenced 8 June 2011 and finished on 7 September 2011
- a project officer (four days a week) who commenced 20 June 2011, based in Alice Springs
- a project officer who commenced 6 September 2011.

Secretariat support was established in late May. The Review team and the Chair were located in Community and Justice Policy (CJP) of the Department of Justice.

A Reference Panel to assist the Review was announced on 20 May 2011 and met in Darwin on three occasions. Members of the panel are listed in the appendices in part 4.

The Review was launched on the Northern Territory Government website on 20 May 2011, which included a discussion paper, a questionnaire, a list of panel members and details of how make submissions and contact the Review team. Submissions to the Review were due by 15 July 2011.

The Minister first announced the call for submissions on 20 May 2011. Advertisements calling for submissions were placed in the *NT News* and the *Centralian Advocate* on 9 and 12 July 2011 respectively.

Consultations were as broad as possible within the tight timeframes. The Review team met with individuals and organisations in urban and regional centres and a number of remote communities. A list of the consultations is in appendix 2.

Submissions were invited from individuals and organisations with an interest in the youth justice system. A total of 40 written submissions were received. A list of submissions received is in appendix 3.

The Chair focused on providing the Minister with evidence based policies and strategies that are established best practice and that would directly address the terms of reference and, in turn, provide better outcomes for young offenders and the community. To this end, the Review team drew extensively from literature published in Australia and internationally.

APPROACH AND METHODOLOGY

Analysis was commissioned from the Australian Institute of Criminology and details are provided throughout the Report.

The Review team benefited enormously from the consultations and the written submissions received.

The Chair provided an interim report to the Minister on 30 August 2011; this is the final report as presented to the Minister on 30 September 2011.

STRUCTURE OF THIS REPORT

The report is divided into four main parts:

- Part 1: Introduction, issues and data
- Part 2: Evaluation of the impact of existing legislation, policy and practice
- Part 3: How government agencies can better assist in the continuum of services to reduce offending and re-offending
- Part 4: Models for change.

Each part details specific components, issues and service delivery in the youth justice system.

TERMINOLOGY USED IN THIS REPORT

'Aboriginal' refers to people of Aboriginal or Torres Strait Islander descent. The Report adopts the 'Commonwealth definition' of Aboriginal and Torres Strait Islander people, being:

- a person of Aboriginal or Torres Strait Islander descent
- who identifies as being of Aboriginal or Torres Strait Islander origin, and
- who is accepted as such by the community with which the person associates.

This definition is widely used in Commonwealth and other government agencies, including the ABS Census¹.

'Agencies'/'agency' and 'departments'/'department' are interchangeable and refer to Northern Territory Government departments, unless specifically noted as Federal Government departments.

'Attorney-General' refers to the Attorney-General of the Northern Territory of Australia, unless otherwise stated.

'Children in care' or a 'child in care' refers to a child or children in the care of the CEO of the Department of Children and Families either under a temporary placement arrangement or under an order of the Court, under chapter 2 of the *Care and Protection of Children Act*.

'A child' or 'children' 'in statutory care' refers to a child in respect of whom an order has been made under chapter 2 of the *Care and Protection of Children Act*.

'Consultations' refers to meetings with interested individuals or organisations throughout the Northern Territory, including meetings in person, via telephone and through email.

'Consultation period' refers to consultations undertaken by the Review team throughout the Northern Territory between 12 May and 15 July 2011.

'Criminogenic' refers to characteristics or risk factors which are likely to lead to offending behaviour, or recidivism.

'Government' refers to the Northern Territory Government of Australia, unless otherwise stated.

'Juvenile' refers to a person aged between 10 and 18 years, and is used interchangeably with 'youth' and 'young person'.

'The magistrates' refers to the Darwin Youth Magistrate and the Chief Magistrate of the Northern Territory.

¹ ABS, *Indigenous Statistics for Schools: About Aboriginal and Torres Strait Islander Statistics* (2010) <<http://www.abs.gov.au/websitedbs/cashome.nsf/4a256353001af3ed4b2562bb00121564/7464946b3f41b282ca25759f00202502!OpenDocument#standard%20question>> at 14 September 2011.

TERMINOLOGY USED IN THIS REPORT

‘Minister’ refers to a Minister in the Northern Territory Government unless otherwise stated.

‘Offender’ refers to a person who has been charged with or found guilty of a criminal offence under the laws of the Northern Territory.

‘Remote’, ‘Very Remote’ and ‘Provincial’ geographic classifications are consistent with those used by the Australian Bureau of Statistics (ABS) to define remoteness. ‘Provincial’ has been used in this Report interchangeably with the revised 2006 ABS classification for ‘Outer Regional’ parts of Australia (which includes Darwin and Palmerston). See www.abs.gov.au for further information.

‘Therapeutic’ refers to an express targeted needs-based intervention, as underpinned by best practice criteria, and acknowledging that different programs will apply different therapeutic processes to achieve their outcomes².

‘The Territory’ refers to the Northern Territory of Australia.

‘Youth’: in line with the subject of the Review, and noting there are various different ways of defining ‘youth’ across different policy streams, the Review has adopted the legal definition of a young person for the purposes of its analysis. In the Territory, the legal definition of a ‘youth’ is any person who has not yet attained the age of 18 years.

‘Youth at risk’ refers to youth at risk of offending.

‘Youth justice system’ encompasses a continuum of services and responses from preventive, policing, pre-court, correctional, and post release.

‘Vulnerable’ or ‘at risk’ are used in this Review to refer to young people who experience high rates of social dysfunction, mental illness, family and domestic violence, alcohol and other drug misuse, low rates of employment and education and who subsequently are at risk of entering the youth justice system.

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