

Youth Justice (Boot Camp
Orders) & Other Legislation
Amendment Bill 2012
Submission 038



youth affairs network qld

LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

**A SUBMISSION FROM THE
YOUTH AFFAIRS NETWORK QUEENSLAND (YANQ)**

**RE: YOUTH JUSTICE (BOOT CAMP ORDERS) AND OTHER
LEGISLATION AMENDMENT BILL 2012**

NOVEMBER 2012

Objective of the Bill

The primary objectives of the Bill, as set out in the Explanatory Notes are to amend the:

1. Youth Justice Act 1992 to:
 - Introduce a Boot Camp Order as an option instead of detention for young offenders; and
 - Remove the option of court referred youth justice conferencing.

Introduction

The Youth Affairs Network of Queensland (YANQ) is grateful for the opportunity to respond to the draft legislation. YANQ, as the only peak organisation in Queensland representing non-government youth organisations scattered throughout this vast State, has years of experience lobbying government to introduce restorative justice into the juvenile jurisdiction which it achieved in the Juvenile Justice Act 1992, and studying the introduction, management and outcomes of Boot Camps both in other jurisdictions in Australia as well as overseas. YANQ is strongly opposed to the introduction of Boot Camps and totally in favour of restorative justice programs such as youth justice conferencing.

About YANQ

YANQ is the peak community youth affairs organisation in Queensland. Representing individuals and organisations from Queensland's youth sector, we promote the interests and well being of young people across the state. YANQ advocates for and with young people, especially disadvantaged young people, to government and the community. Further, YANQ encourages and participates in the development of policies, programs, projects and research that are responsive to the needs of young people.

This submission will firstly deal with Boot Camps and then with Community Conferencing and conclude with Recommendations.

YANQ regrets the lack of time (merely a few days) to respond to such important and detailed legislation. Due to the paucity of time YANQ's submission is not as detailed as it would otherwise be.

Boot Camps

YANQ is opposed to Boot Camps for the following reasons:

- Boot Camps blame the victim
- Boot Camps further stigmatise the young person
- Boot Camps work on imposed discipline rather than self-discipline
- Boot Camps have been evaluated and the research has conclusively shown that they produce minimum positive results.

The Boot Camp Model of dealing with juvenile offenders has been in existence for more than thirty years. During this time the model has been tried in many jurisdictions both in Australia and overseas.

The Boot Camp model has proven to be quite unsuccessful in its stated aims of teaching discipline and the rehabilitation of participants/offenders. So much so that it has been tried, evaluated and discontinued. A recent report notes the strengths and efficiencies of therapeutic programs and ineffectiveness and inefficiencies of programs based on surveillance-orientated and discipline.

Evidence indicates that therapeutic programs that provide counselling (ie individual/group/family counselling and mentoring), multiple services (ie case management, referral or multi-modular programs), skill building (ie behavioural/cognitive-behavioural programs, social skills training, challenge programs and Vocational, Education and Training (VET) programs) or are restorative (ie restitution or mediation) typically reduce offending by 10–13 percent (Lipsey 2009).

The report immediately compares the above mentioned programs with those based on surveillance and discipline which it reports tend to produce crime or criminality,

Surveillance-orientated programs (ie intensive probation/ parole) are about half as effective, while

programs that are based on deterrence (ie Scared Straight) and discipline (ie boot camps) are criminogenic (Lipsey 2009). (Trends and Issues in Crime and Criminal Justice. No. 446 September 2012. Australian Government. Australian Institute of Criminology p7)

Robyn Lincoln, Assistant Professor, Criminology at Bond University, states in a recent article,

While the camp programs vary, the common features of these residential programs are that they are established on militaristic lines with an emphasis on deference to authority, conformity, intimidation, isolation, and concentrated physical training.

The tender documents for the proposed Queensland camps appear no different. The program intends to instill "discipline and respect", ensures "direct consequences for offending" and entails considerable "supervision". (24 October 2012)

Further, in a section entitled "Moral foundations" she asserts,

The principles revolve around shock treatment, power and control, and disciplinarian techniques. To that end they exemplify the "get tough" politicisation of crime, a misplaced view that we have the capacity to correctly identify threat and risk. A misguided belief in the effectiveness of the punitive approaches of past centuries.

Assistant Professor Lincoln maintains that evaluations of Boot Camps have consistently shown them to be of little benefit,

All of this empirical work shows quite clearly that there is no benefit to boot camps. Whether the measures are re-offending rates or whether it is centered around cost-effectiveness — there is little to show that boot camps offer a beneficial alternative.

Her conclusions are as follows,

Thus several decades of evaluations of boot camps has demonstrated quite conclusively that they are not effective in reducing recidivism and have marginal impact on cost-savings.

The problem with these "shock and awe" tactics is that they are centered around individual responsibility. This shows a fundamental lack of appreciation of the "causes" of crime — demographic changes, deployment of police, reform to criminal codes, urban design, extended surveillance, tougher supervision orders.

Most of all it signals a vengeful justice system. Let's face it, boot camps are founded on fear and terror.

Youth Justice Conferencing

Youth Justice Conferencing, one of the most successful programs in the Juvenile Justice system in Queensland, was introduced into legislation in 1992 and further amended in 1998. Numerous evaluations carried out over the years have attested to the success of this program. All stakeholders whether victims, perpetrators, coordinators, and Departmental Staff have confirmed a very high satisfaction rating for this program.

Youth Justice Conferencing is the only opportunity for victims to meet face to face with the perpetrators. It is the only real opportunity which the victim's voice is heard directly by the perpetrator. It is the only place where sorrow and apologies can be offered directly to the victim, where the victim has a say in the sanctions to be administered and over all, where healing can take place.

The Australian Human Rights Commission believes victim-offender conferencing to be well-suited to Indigenous communities,

Restorative justice principles, as seen in victim-offender conferencing and family conferencing have been very influential in program development in Australia. Restorative justice sees crime as:

A violation of people and relationships. It creates obligations to make things right. Justice involves the victim, the offender, and the community in search of solutions that promote repair, reconciliation and reassurance.¹³⁶

This holistic, community wide approach has led many to assume that restorative justice diversionary practices will be well suited to Indigenous communities.

It is also worth noting that the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) state:

Consideration should be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority.¹³⁷

Impact of diversion

Diversionary practices, in particular warnings, cautions and conferencing, have been partially responsible for a sharp decrease in the number of young people in custody since the 1980s. The rate of juvenile detention has declined from a total of 1 352 young people in custody in 1981 to 605 2005 (a 55% decline).¹³⁸ The rate for Indigenous young people has also decreased since 1994 with a 25% reduction.¹³⁹ However, the rate of over representation of Indigenous young people has been relatively stable. We will consider the disappointing state of diversion with Indigenous young people later. (Preventing Crime and Promoting Rights for indigenous Young People with Cognitive Disabilities and Mental Health Issues. Australian Human Rights Commission. 2008 p29).

Removing the option of court referred youth justice conferencing will result in less referrals to conferencing and will more importantly remove scrutiny by a magistrate of police practices. Police under the Juvenile Justice Act 1992 are required to use conferencing, and if not, to write a written report stating their reasons for not doing so. Magistrates rightly have been scrutinising this aspect of police practice and when police have failed to refer the perpetrator to conferencing have done so themselves. Court referred youth justice conferencing is a vital part of our juvenile justice system and needs to be retained.

The Australian Human Rights Commission underscores this point,

The central role of police as gatekeepers of the diversionary system (at least in regard to cautions and conferences in many jurisdictions) has been critiqued by Cunneen¹⁴⁹ and Blagg.¹⁵⁰ Research has shown that police are less likely to use their discretion to divert Indigenous young people, resulting in a criminal record at an earlier age. Cunneen concludes:

The manner in which these programs have been introduced has ignored Aboriginal rights to self-determination and has grossly simplified Indigenous mechanisms for resolving conflicts. In most jurisdictions, community conferencing has reinforced the role of state police and done little to ensure greater control over police discretionary decision-making.¹⁵¹ (ibid p42)

The option of court referred youth justice conferencing needs to be retained.

Recommendations

1. Boot Camps

- a. YANQ strongly recommends that the decision to establish Boot Camps be revoked immediately.
- b. YANQ recommends that the \$2 million dollars allocated for the establishment of Boot Camps be diverted into early intervention and prevention programs for homeless young people from rural and remote areas who have been or are likely to be remanded in custody.

2. Community Conferencing

- a. YANQ recommends reversing the decision to scale down Community Conferencing by removing the option of court referred youth justice conferencing
- b. YANQ recommends reinstating Community Conferencing especially in rural and remote areas of this vast State.

Conclusion

YANQ believes that introducing a Boot Camp Order as an option instead of detention for young offenders and removing the option of court referred youth justice conferencing will result in an increase in young people being detained in juvenile detention centres and the consequent increased expenditure by tax payers. This money would be better spent on proven programs such as youth justice conferencing and bail accommodation programs especially for young people from rural and remote areas.

If and when Boot Camps are implemented, what will be the targets and measures which will indicate they have been a success? Will numbers of young people in juvenile detention centres be taken into consideration?

Two million dollars over two years for two Boot Camps seems an inadequate amount of funding. YANQ believes this money could be better spent.

Finally, are there has been no escalation of juvenile crime rates as the Government asserts, why is this Government intent on phasing out youth justice conferencing which has been shown to work and establish a largely punitive program which has been shown to not?