

Queensland Parliament Legal Affairs and Community Safety Committee

Submission

Youth Justice and Other Legislation Amendment Bill 2014

Contact

The Very Reverend Dr Peter Catt
Dean, St John's Cathedral
Chair, Social Responsibilities Committee
Anglican Church Southern Queensland



Introduction

The Social Responsibilities Committee of the Anglican Church of Southern Queensland (the SRC)¹ welcomes an opportunity to make a submission to the Legal Affairs and Community Safety Committee (the Committee) on the Youth Justice and Other Legislation Amendment Bill 2014 (the Bill).

The SRC welcomes any attempt by the Queensland Government to improve the Youth Justice system such that our young people can be more effectively diverted from crimes and achieve their full potential.

To this end, the SRC has previously provided an extensive submission on the proposed *Blueprint for the Future of Youth Justice in Queensland* (the Blueprint) through consideration of the *Safe Streets Crime Action Plan – Youth Justice Information Paper* (the Discussion Paper) (see Attachment A).

Executive Summary

This submission is supportive of the general aims of the Youth Justice reform agenda.

However, the Bill in its current form cannot deliver on these aims, as the initiatives it contains currently lack a rigorous, evidenced based underpinning or rationale. They were also not the most supported initiatives of Queenslanders who took part in the *Safer Streets Crime Action Plan – Youth Justice Crime Survey* (the Survey).

We urge the Committee to view the current Bill in light of the broader *Blueprint* strategy, this includes:

- Seeking additional detail in order to properly assess the proposals before the Parliament. Parliament ought to be given the full picture of reforms, in order to judge whether these measures, which depart from good practice, legal principle and international standards are proportional and warranted.
- Recommending to Government that it strengthen the policy process, by opening it up to greater transparency and involvement of civil society, and that it put a collective impact approach at the backbone of the *Blueprint* strategy going forward.

We would like to see the Youth Justice reform agenda succeed, and are willing and eager to be a part of real systemic change that will produce positive results - for our young people, their families, the victims of crime, and the broader community.

However, due to the inadequacies described below, we would ask that the Committee recommend that the Bill not be passed in its current form.

¹ The Anglican Church of Southern Queensland was formerly known as the Anglican Diocese of Brisbane.

The context and development of the Bill

In order to evaluate the efficacy and appropriateness of this Bill, it is very important to understand some key contextual points and their implications for these policies:

1. The cohort at which the Bill is largely aimed
2. The ongoing policy process which provides context for the Bill

The Explanatory Notes to the Bill state that while fewer young people are offending, those who are offending are doing so more often.² It is this small cohort at which the Bill is largely directed - the 'repeat and serious offenders'.³ This group of young people, who are responsible for the majority of youth offences, tend to start offending early, frequently, and eventually to offend seriously.⁴

Chronic offenders


The vast majority of young people who offend can be diverted from ongoing offences or anti-social behaviours with a police caution or similar "light touch" intervention. However, there is a key difference that often stands out about this small group of young chronic offenders.

In very many cases, they have **seriously dysfunctional lives and families**.

The *Discussion Paper* correctly noted that these young people have often experienced:

- *child abuse and neglect,*
- *exposure to domestic or family violence,*
- *severe and long-term family dysfunction in their childhood years and*
- *homelessness.*

This group of young people do not just emerge in statistics on youth justice. They are also evident in figures highlighting disadvantage in a plethora of other areas, such as education, employment, and health.



A small number of young people are responsible for the majority of youth crime

What do we know about these chronic young offenders?

▪ Born to teenage/single parents	▪ Are maltreated
▪ Premature, low birth weight	» physically, sexually, emotionally and neglected
▪ Fetal alcohol syndrome/spectrum	▪ Learning difficulties
▪ Family drug and alcohol abuse	▪ Have difficulties in school, behavior problems, truancy, exclusion
▪ Family violence	▪ Homeless/couch surfing
▪ Family mental health issues	▪ Low levels of education, unemployed, unemployable
▪ Family economically stressed	▪ High levels of suicide/mental health issues/ teenage pregnancy
▪ Remote and rural	
▪ Parental incarceration	

² Explanatory Notes, Youth Justice and Other Legislation Amendment Bill 2014, p. 1.

³ As the Attorney General has noted of this cohort - Bleijie, J. The Hon. (2013). Personal correspondence to The Very Rev Dr Peter Catt, 5 Nov 2013. Response to letter dated 14 June 2013.

⁴ Stewart, Anna (2013). "Youth Justice: A Balanced Approach", School of Criminology and Criminal Justice, Griffith University. Presentation to Youth Advocacy Center Public forum, 29 May.

What does this mean for the community and policy makers?

This means that we are dealing with a very difficult area of social and justice policy - what is sometimes termed a “**complex**” or “**wicked**” **problem**.

For the policy agenda more broadly, this means that effecting change in the youth justice system cannot be achieved by government “going it alone”. Increasingly, business, government and civil society across the world are realising that complex problems cross jurisdictional, bureaucratic and organisational boundaries; they require **collaborative solutions**.

With such a complex array of factors also influencing the behaviour of chronic offenders on a personal level, the latest research from contemporary neurobiology, psychology and justice research also instructs us on how best to respond in order to **generate real individual behavioural change** in these young people.

We expand on both of these points below, in relation to effective policies.

The Blueprint development

This Bill sits within a broader youth justice reform process, and pre-empts the finalising of the *Blueprint*, of which the Attorney General has stated:

The blueprint will guide major reform into the future on how we respond to youth offending. It will outline the strategies that will be implemented in the coming years to prevent offending, address the causes of youth offending, improve the responsiveness of the justice system and, importantly, hold young offenders and their parents accountable for their actions.⁵

We also note that the experience of the youth justice reform process to date has been:

- Enormous time and resources were poured into the 45 “extensive written submissions” received in response to the *Discussion Paper*, yet none of them have been publicly released;
- None of the substantive data from the survey monkey process has been made publicly available, and the current Bill does not contain any of the preferred strategies (see below);
- There has been little substantive effort to engage further with many of those agencies that made submissions and expressed interest in involvement in this policy process; and
- There has been little clarity about the actual development of the *Blueprint* itself, how it is being drafted, the timeframes or the content.

Because of these factors, the development of this legislation has appeared to be a somewhat disjointed, opaque and siloed process. This raises some issues regarding the current Bill.

Firstly, in the Brief for the Committee from the Department of Justice and Attorney-General (DJAG), it was noted in multiple instances that concerns about the impact of detention on children would be ‘substantially offset by measures in the *Blueprint*’⁶ designed to reduce or divert numbers.

While we respect the efforts put into drafting the current Bill, we suggest that it is not sufficient that derogations from good practice, legal principle and international standards should be justified on the basis that safeguards or ameliorating initiatives will be forthcoming *at a future date*.

⁵ Hon. JP Bleijie, Explanatory Statement, Youth Justice and Other Legislation Amendment Bill, Hansard, 11 Feb 2014, pp.46-47.

⁶ Department of Justice and Attorney-General, Brief for the Legal Affairs and Community Safety Parliamentary Committee, Youth Justice and Other Legislation Amendment Bill 2014, As at 17 February 2014, see for example at p.12 & 15.

Rather, if the Parliament is to be asked to pass the proposed Bill, which departs from established legislative principles and potentially puts us in breach of international obligations, this should only take place once the full *Blueprint* strategy is available or, at the very least, the Bill is accompanied by more substantive information about the nature and extent of the additional planned future interventions. Parliament ought to be given the full picture, in order to judge whether such measures are warranted.

Secondly, it lacks transparency and makes it difficult for parties genuinely wanting to engage and contribute to a successful policy, to assess the merits and efficacy of the current Bill. Particularly given the information and evidence base relied upon for this Bill has not been made publicly available.

Finally, it potentially undermines broader efforts to fundamentally shift from Government being a “doer” to an “enabler.”⁷ Such a closed policy process works at odds with an agenda to reduce the footprint of government, foster greater community ownership, and through that community and individual responsibility. These are prerequisites for the whole youth justice reform agenda to succeed.

Fit for purpose – some specifics on the Bill

The SRC submission in response to the *Discussion Paper* clearly identified concerns with many of the initiatives that had been outlined. In this previous submission the SRC opposed proposals to:

- expand the existing naming laws (“name and shame” provisions)
- remove the sentencing principle of detention as a last resort
- make breach of bail an offence
- allow courts access to a person’s juvenile criminal history when sentencing them as an adult.

It is important to note that the broad **aims which underpin the current Bill are shared and supported** - that is:

- The *Discussion Paper*, in reviewing the youth justice system aimed at ‘promoting the rehabilitation and accountability of young offenders while better protecting the community from recidivism.’⁸
- The Attorney General noted of the Bill that ‘[t]he key objective is to improve the safety in our communities by reducing the number of crimes being committed and the damage these crimes are having on everyday Queenslanders.’⁹

However we continue to question the strategies embedded in the current Bill, in terms of their fit for purpose and long term efficacy.

⁷ See for example the Budget speech or the Response to the Commission of Audit, where the Government has stated this intent, : <http://www.budget.qld.gov.au/current-budget/budget-papers/bp1.php> and <http://www.treasury.qld.gov.au/coa-response/better-services.shtml>

⁸ Explanatory Notes, Youth Justice and Other Legislation Amendment Bill 2014, p.2

⁹ Hon. JP Bleijie, Explanatory Statement, Youth Justice and Other Legislation Amendment Bill, Hansard, 11 Feb 2014, p.47

Youth Justice and Other Legislation Amendment Bill 2014

The Bill does not reflect evidence which demonstrates that the above strategies are **inappropriate** for young people; and are particularly **ineffective** in dealing with this cohort and achieving the desired outcomes of reduced youth crime and recidivism.

Nor do the proposals reflect the findings of the *Safer Streets Crime Action Plan – Youth Justice Crime Survey*, which demonstrated that **more Queenslanders supported rehabilitative approaches as more effective** than the punitive measures in this Bill.

Inappropriateness for young people

- **Developmental immaturity**

Few adults would not have committed some form of minor crime (such as underage drinking, shoplifting or other small scale theft, fare evasion or fighting) as a teenager. This is normal. Risk taking is high during adolescence when the brains of young people are undergoing enormous physiological change and remodelling, and they are coping with the shift to a more complex understanding of the world.

Incontrovertible scientific evidence has shown that the biological process of transformation from the 'child' brain into the 'adult brain' takes until at least 24 years of age in healthy development,¹⁰ progressing from the most primitive functions, in the brainstem and midbrain, to the most complex, which regulate functions such as reasoning, impulse control and empathy/morality.

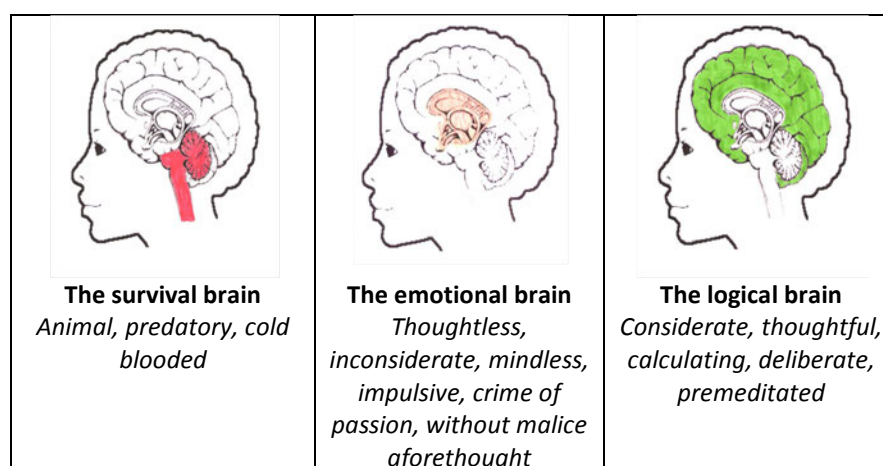


Figure 1: The 'triune' brain and the language of behaviour¹¹

As the United States Department of Health and Human Services notes:

*Most teenagers act impulsively at times, using a lower area of their brain—their “gut reaction”—because their frontal lobe is not yet mature. Impulsive behavior, poor decisions, and increased risk-taking are all part of the normal teenage experience.*¹²

Thus, punitive approaches such as 'naming and shaming', or allowing childhood findings of guilt to be admissible as an adult, that rely on young people's ability to foresee and understand the consequences of their actions years into the future, are highly unlikely to be effective deterrents.

¹⁰ Hoehn, Elisabeth (2013). "The Young Person's Brain", Presentation to Youth Advocacy Center Public forum, Brisbane, 29 May.

¹¹ Bath, Howard (2011). "Understanding Trauma and Its Impact on Children". *Educating for Tough Times* Conference Darwin, July. <http://nice.edu.au/resources/ITEC%20Darwin/Bath.pdf>

¹² U.S. Department of Health and Human Services (2009). "Understanding the Effects of Maltreatment on Brain Development", *Issue Brief*, August, p. 11

- **Long term impacts**

Existing social disadvantage is further intensified by experience within the justice system. In an internet era, identifying a young offender now can have implications for their life prospects many years in the future. One study of the perceived employability of ex-prisoners, for example, indicated that the prospect of obtaining employment with a criminal background was rated fourth highest of five 'disadvantage conditions' (below people with a chronic illness, those with a physical or sensory disability, and people with a communication difficulty).¹³

Since lack of employment is an identified risk factor for recidivism, 'naming and shaming' and proposals that increase the possibility of a young person ending up in detention are clearly not strategies that will successfully keep Queenslanders safe now or in the future.

Ineffectiveness in achieving the desired outcome

- **Developmental problems affecting behaviour**

The implications for developmental immaturity noted above, can be even more severe for those young people who have grown up in an environment of neglect or violence, such as those affecting many chronic offenders.

This kind of neglect and violence results in trauma for the child or young person.

Trauma has a significant negative effect on the sequence of brain development described above. Ongoing repetition of pain and negative social relationships when a child is young '**hard wires**' **anti-social responses** such as violence, deceit and inappropriate attention-seeking — survival mechanisms driven by more primitive parts of the brain — into his/her brain; and the child becomes less competent at reasoning, at abstract thought, and at processing more complex information.

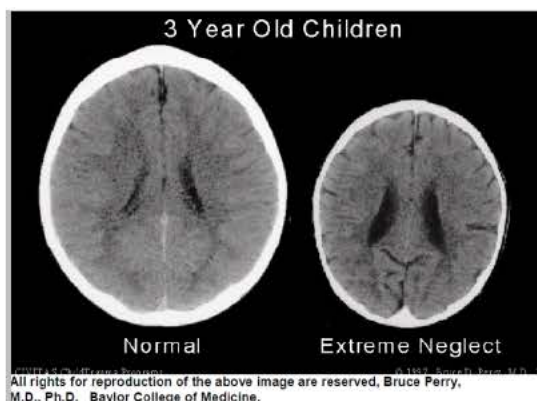


Figure 2: The impact of extreme neglect on the brain

Given the description of dysfunction detailed in the Discussion Paper and cited above, it is clear that this small cohort of repeat offenders are those who are most likely **to have suffered brain damage from altered brain functioning and socio-emotional development**, due to neglect and abuse.

The key thing to that will produce positive results - for our young people, their families, the victims of crime, and the broader community note that the science tells us is that **punitive measures may simply reinforce trauma-based responses**. The wrong kind of "getting tough" on these chronic offenders, may actually exacerbate their anti-social behaviours and will not be effective over the long term.¹⁴

¹³ Graffam, J., Shinkfield, A. and Hardcastle, L. (2008) "The perceived employability of ex-prisoners and offenders", *International Journal of Offender Therapy and Comparative Criminology*, vol. 52 no. 6, 673-685.

¹⁴ For a more detailed explanation of the research we urge you to refer to our submission at Attachment A

Young repeat offenders and their families therefore require different policy responses and *specific, trauma-informed therapeutic interventions* to assist in repairing the damage, changing antisocial behaviours and effectively divert them from crime.

- **Unintended consequences - the example of name & shame**

Research and policy review supports the view that measures such as those proposed in this legislation are largely ineffective in achieving the desired outcome of reduced youth crime.

Recent research by criminologists Chappell and Lincoln in the Northern Territory, for example, presents evidence that naming and shaming can have the opposite effect to that desired. Lincoln notes that some young people were actually emboldened in their offending, as they lived up to their 'sullied reputations' (or as Russell Goldflam from the Criminal Lawyers Association of the Northern Territory (CLANT) puts it, the 'badge of honour' effect created by public identification). Lincoln also points out that naming and shaming can result in stigmatisation of the young person and/or their family, the potential for vigilante action, a false sense of community protection, and the possibility of disrupting rehabilitative efforts.¹⁵

In New South Wales, the Standing Committee on Law and Justice's inquiry into the prohibition on the publication of names of children involved in criminal proceedings (2007) came to the following conclusion:

The Committee believes that naming juvenile offenders would stigmatise them and have a negative impact on their rehabilitation, potentially leading to increased recidivism by strengthening a juvenile's bonds with criminal subcultures and their self-identity as a 'criminal' or 'deviant,' and undermining attempts to address the underlying causes of offending.

*The Committee acknowledges that it is important for juvenile offenders to recognise their actions have caused harm and it is right that they should experience shame. However, the shame should be constructive, promoting rehabilitation and assisting the child to make a positive contribution to society over the rest of their lives.*¹⁶

Public support for rehabilitative approaches

In response to the *Discussion Paper*, the Government received 45 "extensive written submissions", the majority of which "highlighted the importance of early intervention and effective diversion of young people from further entry into the youth justice system".¹⁷

Over 4,000 Queenslanders also responded to the *Safer Streets Crime Action Plan – Youth Justice Crime Survey*. A summary of the results in relation to the current Bill are below.¹⁸

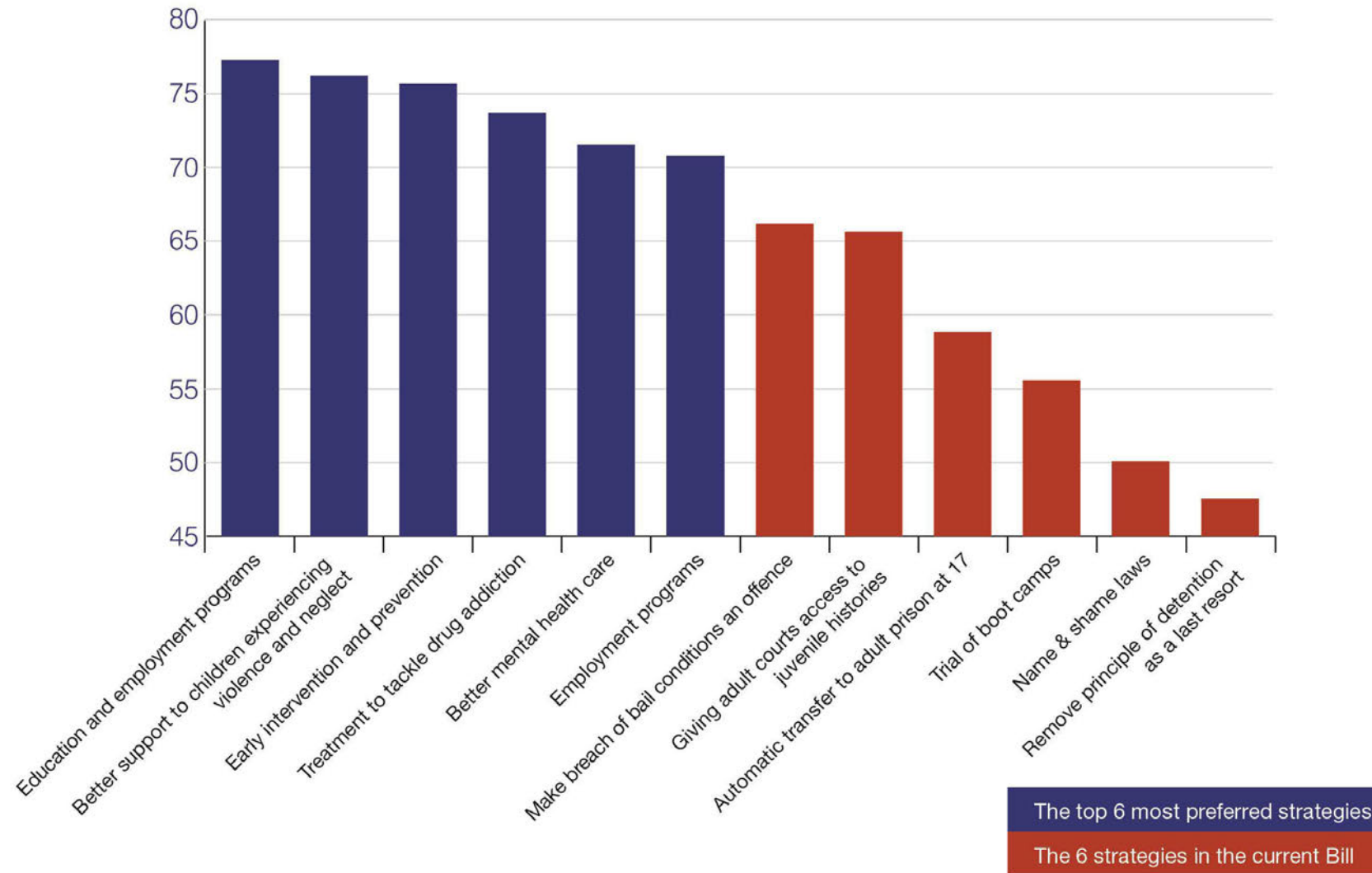
¹⁵ Lincoln, R. (2012) "Naming and shaming young offenders: reactionary politicians are missing the point", The Conversation, 22 August. <http://theconversation.com/naming-and-shaming-young-offenders-reactionary-politicians-are-missing-the-point-8690>

¹⁶ New South Wales Parliament. Legislative Council Standing Committee on Law and Justice (2008) The prohibition of the publication of names of children involved in criminal proceedings. Sydney, N.S.W. : the Committee, Report no. 35, April. [www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/a6e0bf2fbb2c4cc5ca25743900104238/\\$FILE/FINAL%20REP_QRT.pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/a6e0bf2fbb2c4cc5ca25743900104238/$FILE/FINAL%20REP_QRT.pdf)

¹⁷ Bleijie, J. The Hon. (2013). Personal correspondence to The Very Rev Dr Peter Catt, 5 Nov 2013. Response to letter dated 14 June 2013.

¹⁸ Original survey at: <http://www.justice.qld.gov.au/corporate/community-consultation/community-consultation-activities/past-activities/safer-streets-crime-action-plan-youth-justice#survey>. **Bootcamp** - Though we note a slight difference in relation to "Boot Camp Trials" as these have already been implemented. The changes being proposed in the current Bill are more specifically in regards to a amendment to the Boot camp regime. It appears the public may have only been surveyed on the initial idea. **Transfer to Adult prison** - We also note with concern the discrepancy in the original data which suggests the survey question was about automatic transfer to adult prison at 18, not 17 as the current Bill intends.

Crime prevention initiatives and proposed reforms by level of support - respondents to the *Safer Streets Crime Action Plan - Youth Justice Crime Survey*.



We are pleased to note that over 70% of participants supported rehabilitative approaches - such as early intervention and prevention, and employment programs - as the most effective. We note that punitive approaches such as 'naming and shaming' (49.9%) and removing the 'detention as a last resort' principle (47.8%) were actually the **least supported** of all the crime prevention initiatives and proposed reforms nominated in the survey (as illustrated in the chart above).¹⁹

The chart suggests that many Queenslanders understand that the majority of youth offending is minor and non recurrent, and quickly responsive to early intervention. It also suggests that many people understand that punitive measures such as 'name and shame' are inappropriate even for the small cohort of repeat and serious offenders who are the source of most criminal activity by young people.

Another Way Forward

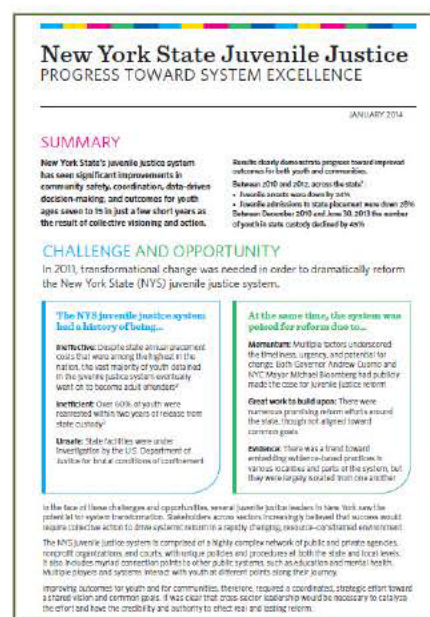
A desire to take responsibility, an invitation to collaborate

To return to our previous discussion of the policy process and how complex an area of policy this is, we, like many others in the sector and across the community, want to know **how can we contribute? What is our role?** How do we develop a youth justice strategy that works, is based on evidence and the long experience of those doing this work on the ground?

In our previous submission we noted the importance of an integrated whole-of-government approach that supported a continuum of service delivery for families and at-risk youth. We now take that a step further in proposing a mechanism for assisting in systemic and successful reform.

A youth justice roundtable – An ongoing collaboration of cross-sector stakeholders that can draw on collective or aligned actions and generate systemic change.

This could be the back bone mechanism that underpins the *Blueprint strategy* and shapes the delivery of reforms into the future.



The *New York State Juvenile Justice: Progress Toward System Excellence* provides a template for such a **collective impact approach** (see Attachment B).

Between 2010 and 2012:

- Juvenile arrests dropped 24%
- Juveniles admitted to detention declined by 23%
- Juvenile probation intake cases declined 20%
- Admissions to State Placement were down 28%

These precipitous drops in numbers of youth across the system have not led to any increase in crime or risk to public safety

From Progress Toward System Excellence

¹⁹ This is of the data that has been made publicly available. Only limited information has been released to date.

We urge the Committee to view the current Bill in light of the broader *Blueprint* strategy, and to not only seek additional detail in order to properly assess the proposals before the Parliament; but also recommend to Government that it strengthen the policy process, by opening it up to greater transparency and involvement of civil society, and put a collective impact approach at the backbone of the *Blueprint* strategy going forward.

Why collaboration ?

We acknowledge youth justice is a **complex and difficult** area of policy. That is why it requires a rigorous process, which brings together all those parts of the system able to effect change, working in unison.

This is recognised in the *Queensland Youth Strategy 2013*, the key aim of which is “connecting young Queenslanders,” and the fifth plank of its key approaches, which is “building strong partnerships with the non-government sector and local and state government agencies to foster better collaborations.”²⁰

In particular, for this most complex of youth cohorts, clearly no single department or service provider can “solve” the issue of ‘repeat and serious offenders’. There is a broad range of stakeholders across both government and civil society who can take responsibility and play a role in reforming Queensland’s youth justice system and outcomes. But real responsibility can only be generated and taken up through a rigorous collaborative process.



Youth justice sits within a spectrum of interrelated systems²¹

We *don't* propose collaboration because it is a soft approach. We propose it because we know that done well, it *is proven to work*.²² And as the survey results showed, Queenslanders want initiatives that they know will lead to better outcomes over the long term.

²⁰ Queensland Government (2013) *Queensland Youth Strategy – connecting young Queenslanders*

<http://www.communities.qld.gov.au/resources/communityservices/youth/strategy/youth-strategy.pdf>

²¹ Jesuit Social Services (2013). *Thinking Outside: Alternatives to Remand for Children Summary Report*. Richmond, p. 8.

²² Another example of this approach is the Cradle to Career vision and organizes itself to identify what gets results for children; improves and builds upon those efforts over time; and invests the community’s resources differently to increase impact”. See: <http://www.strivetoegether.org/approach>

Embedding youth justice in the vision for Queensland's future

The approach we proposed in our original submission, and have built upon above — a strengths-based, early intervention model grounded in a truly collaborative relationship between government and the community — has distinct synergies with other Queensland Government initiatives and policies. It aligns strongly with:

- the Queensland Government response to the **Queensland Child Protection Commission of Inquiry** final report, in which all of the Commission's recommendations were accepted in full or in principle, and the principle of "strong collaborative partnerships between the government and the non-government sector" was supported.²³
- the **Queensland Youth Strategy**, which is underpinned by the concepts of engagement and connection with and for young people.²⁴
- the **Queensland Plan**, a vision for our state shaped by the "collective aspirations" of Queenslanders through a significant engagement process.²⁵
- Queensland '**Closing the Gap**' commitments, particularly in education, that involve working in partnership with families, community, and levels of government to achieve their objectives.
- The Queensland Government response to the Independent **Commission of Audit Final Report, A Plan: Better Services for Queenslanders** (2013)²⁶ which accepts the recommendation to work with the non government sector and notes the recent establishment of the Social Services Cabinet Committee "to connect and work with the non-government". The Government also accepts a recommendation to "shift its investment focus to early intervention and prevention services targeting those most at risk of entrenched disadvantage and social exclusion to reduce the investment in crisis services".²⁷

***Government can't do this alone,
but as a community working
together we can achieve
everything we want for our
state's future***

From The Queensland Plan, p. iv

Despite the 'get tough on crime' stance of the current proposals, a collaborative strengths-based, early intervention approach is also consistent with a number of statements from the Department's *Discussion Paper*, such as the recognition of the critical role of ongoing community-based support and networks in ensuring successful reintegration of a young person back into their community.²⁸ It is also consistent with the stated aims of the forthcoming *Blueprint*, which "will particularly focus on addressing the causes of youth offending, and ... provide positive alternative pathways for children who have come into contact with the youth justice system".²⁹

As it stands, however, the proposed Bill actually runs contrary to many of the goals and principles espoused in the above documents.

²³ Queensland Government response to the Queensland Child Protection Commission of Inquiry final report — *Taking Responsibility: A Roadmap for Queensland Child Protection*. December 2013. <http://www.ccypcg.qld.gov.au/pdf/qg-response-child-protection-inquiry.pdf>

²⁴ Queensland Government (2013) *Queensland Youth Strategy – connecting young Queenslanders* <http://www.communities.qld.gov.au/resources/communityservices/youth/strategy/youth-strategy.pdf>

²⁵ Queensland Government (2013) *The Queensland Plan: a 30-year vision for Queensland*. December. <http://queenslandplan.qld.gov.au/>

²⁶ Queensland Government response to the Independent Commission of Audit Final Report, *A Plan: Better Services for Queenslanders* (2013). http://www.treasury.qld.gov.au/coa-response/better-services.shtml#D15_Social_Inclusion

²⁷ Queensland Government response to the Independent Commission of Audit Final Report, *A Plan: Better Services for Queenslanders* (2013). http://www.treasury.qld.gov.au/coa-response/better-services.shtml#D15_Social_Inclusion

²⁸ Queensland Government Department of Justice and Attorney-General (2013). *Safer Streets Crime Action Plan*. p.13 http://www.justice.qld.gov.au/__data/assets/pdf_file/0007/177775/safer-streets-crime-action-plan-youth-justice.pdf

²⁹ Dept. Justice and Attorney General, Office of the Director General. (2014) Sosso, John, Correspondence to Mr Ian Berry MP. <https://www.parliament.qld.gov.au/documents/committees/LACSC/2014/YouthJustice2014/cor-18Feb2014.pdf>

Conclusion

Although we share the key objectives underpinning the Bill, we are convinced that the initiatives it proposes cannot deliver on this promise, as they are not backed by the evidence. For the reasons outlined above, and the points made more extensively in our previous submission, chronic offenders present a particularly complex challenge.

We recognise the genuine concerns and needs of those who have been harmed by crime and “the moral claim victims have for redress in the aftermath of violence that is contained in retributive intuitions.”³⁰ This is important to recognise, and that those who break the law must be held to account.

However there is a balance that must be struck between different justice approaches - such as retributive, punitive, restorative and distributive. And these must also be informed by the evidence and science of what works for this cohort, and what creates behavioural change at an individual level. Our concern is that the current Bill is only aimed at the former, and these measures do not strike the right balance.

Applying overly simplistic or siloed policy, risks leading to further exacerbating the underlying issues that already give rise to youth reoffending, worried communities and greater costs on the taxpayers in the long term.

We want the youth justice reforms to succeed. In this endeavour we have also put forward a positive suggestion for a constructive and collaborative way forward, in which civil society and communities can take responsibility alongside government.

We seek above all, an informed, effective and transparent policy process that will produce positive results - for our young people, their families, the victims of crime, and the broader community.

We would ask that the Committee recommend that the Bill not be passed in its current form.

³⁰ Danaher, William J. (2007) “Towards A Paschal Theology of Restorative Justice”, *The Anglican Theological Review*, Summer (Volume 89, Number 3), p. 367.

Department of Justice and Attorney-General

Safe Streets Crime Action Plan – Youth Justice Information Paper

Submission

Diocesan Social Responsibilities Committee, Anglican Diocese of Brisbane

Contact

The Very Reverend Dr Peter Catt
Dean, St John's Cathedral
Chair, Diocesan Social Responsibilities Committee
Anglican Diocese of Brisbane



Anglican Diocese of Brisbane

Social Responsibilities Committee

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Executive Summary

This is a submission of the Anglican Diocese of Brisbane Social Responsibilities Committee (SRC) on the Department of Justice and Attorney-General proposed Blueprint for the Future of Youth Justice ('the Blueprint') and, in particular, the Safe Streets Crime Action Plan – Youth Justice Information Paper ('the Information Paper') (March 2013).

This submission does not question the fact that victims of crime have a moral claim for redress in the aftermath of their experience; nor that those who break the law must be held to account.

It *does* ask the Queensland Government and the community to seriously consider: *what truly makes our families and communities safe?* We caution against a situation whereby the balance of justice tips towards retribution for the sake of being “tough on crime”, at the expense of restoration and healing. This is not just about Christian virtues of compassion and forgiveness — it is a position informed by rigorous scientific evidence, expert testimony and long experience working with youth at risk.

Hence, this submission **strongly supports**:

- **further engagement** undertaken between the Queensland Government and the community, to better inform policy development and implementation on this important issue
- future youth justice policy and program activity that is clearly informed by a **rigorous and explicit evidence base, extensive experience** and principles consistent with the **best interests of the child**
- future youth justice policy and program activity that is based on well established scientific evidence demonstrating that the specific cohort of young repeat offenders and their families **require different policy responses** and specific, **trauma-informed therapeutic interventions** to assist in changing antisocial behaviours and effectively divert them from crime
- the value of an **integrated whole-of-government** youth policy that supports a **continuum of service delivery** enabling families to access the right services, at the right time, before escalation to crisis point.

Full recommendations are provided on the following page of this submission.

Recommendations

We strongly recommend that:

- **further engagement** be undertaken between the Queensland Government and the community, to better inform policy development and implementation on this important issue
- future youth justice policy and program activity is clearly informed by a **rigorous and explicit evidence base**, the **extensive experience** of those who work successfully with young people, and principles consistent with the “**best interests of the child**” that are enshrined in the UN Convention on the Rights of the Child, to which Australia is a signatory
- future youth justice policy and program activity recognises that **young repeat offenders and their families require different policy responses** and specific, **trauma-informed** therapeutic interventions to assist in changing antisocial behaviours and effectively divert them from crime
- the use of **police cautions** as a cost effective, minor, but effective diversionary strategy should be considered for 17-25 year olds as well as younger adolescents and children
- a **contemporary model of practice, based on a proven theory of change**, such as CARE, be adopted and integrated across the Youth Justice policy spectrum
- the Queensland Government develop an **integrated whole-of-government** youth policy that acknowledges the overlapping impact of education, health, justice, child protection and other spheres on young people’s lives, and supports a **continuum of service delivery** enabling families to access the right services, at the right time, before escalation to crisis point
- further investigation into **the application of a Justice Reinvestment approach** in Queensland

We strongly oppose the proposals to:

- remove the principle that when sentencing a young person for an offence, detention should be the last resort
- expand the existing naming laws so that the names of repeat young offenders can be made public (“name and shame” provisions)
- make breach of bail an offence (ostensibly to reduce the number of repeat young offenders)
- allow courts access to a person’s juvenile criminal history when sentencing them as an adult, so the court can see their full criminal history.

Introduction

“Delivering a youth justice system that leads the nation, is innovative, engaged with community, respects victims, is transparent and measures its successes, will require transformational strategies beyond those that have already been announced” (Information Paper p. 3).

We welcome initiatives of the Queensland Government that aim to improve the youth justice system. We believe it is critically important that effective strategies are in place to help divert from crime those young people who are at risk of offending, and to assist them to reach their potential as community members, citizens and taxpayers.

We also believe that achieving this requires us to reconsider our conceptions of justice, and to ask ourselves *what truly makes our families and communities safe?* There is no doubt that victims of crime have a moral claim for redress in the aftermath of their experience; nor that those who break the law must be held to account. However, we need to be wary that the balance of justice does not tip toward retribution for the sake of being “tough on crime”, at the expense of restoration and healing. This is not just about Christian virtues of compassion and forgiveness — it is a position informed by rigorous scientific evidence, expert testimony and long experience working with youth at risk.

We therefore welcome this opportunity to comment on the proposed Blueprint for the Future of Youth Justice (‘the Blueprint’) and, in particular, to provide feedback on the Safe Streets Crime Action Plan – Youth Justice Information Paper (‘the Information Paper’).

This submission begins with a case study, to ensure that the subjects of the above documents — individual young people with their personal histories, personalities and potentialities — stay front and centre. It follows with some overarching comments, and then provides more detailed input on the specific themes of the Information Paper.

However, we look forward to the opportunity for further engagement with the Queensland Government on these issues, in the expectation that the current round of consultation is a first step in developing sound policy and programs in this important area. Developing a youth justice system that is *‘innovative, engaged with community, transparent, measurable and respectful of victims’*, does truly require ‘transformational strategies’ for which the current Information Paper does not fully prepare the grounds.

The future of young Queenslanders is at stake. It is important to get this right — for potential reforms to be driven by well established evidence, and by the experience of those who have successfully worked with young people to turn their lives around. We also have significant concerns that findings from the Survey Monkey process may not always reflect either of these sources of good advice, so we urge caution in interpreting such data, and request that the Queensland Government take time to consider the implications of the findings.

We would be pleased to discuss further any of the points raised in this submission. In addition, we would be happy to meet with the Attorney-General and appropriate departmental staff to discuss further our recommendations on how adopting an *evidence-based, trauma-informed and person centred approach*, such as the CARE model, might inform the practices and outcomes of the youth justice system more broadly.

Case study

There are few surprises in Michael's story.

At 16, Michael has been in court for stealing, public nuisance, trespass and break-and-enter, committed over the course of the last three years and spiralling in frequency and severity. His offences build on a childhood history of delinquency, truancy, and suspensions and expulsions from school.

They also link directly to a childhood history of neglect and abuse, littered with alcoholism, violence, sexual abuse and instability as he was passed from relative to relative. Like nearly one in 5 young people in detention in Australia, Michael has an IQ of less than 70, with very limited literacy and numeracy and severely restricted socio-emotional and cognitive development — a product of neglect, inadequate and harmful parenting, and disengagement from school from a young age.

Michael's exclusions from school as "uncontrollable" saw him on the street without access to therapeutic intervention or support, and with increased access to drugs and alcohol, already normalised in his home environment, as well as an anti social peer group. The delinquency that had characterised his home and school behaviour as a young child — a response to neglect, pain and an inability to understand much of the complexity of his world — spiralled into criminal activity that led to long periods held on remand, with further limited access to therapeutic services and support.

For Michael and others like him, punitive measures simply reinforce damage to the brain which has already occurred. There is significant scientific evidence now to show that experiences in early life are critical in how the brain is 'wired' — ongoing repetition of pain and negative social relationships 'hard wires' anti social responses such as violence, deceit and inappropriate attention-seeking. In addition, the functions of reasoning and impulse control are the last to mature in all human brains, much less those which have suffered significant damage — so purely punitive measures are also ineffective because Michael simply doesn't have full capacity to think through and understand all of the consequences of his actions, or to regulate his responses appropriately.

As a repeat offender, there is little doubt that Michael will end up in detention and eventually in an adult prison. Without a therapeutic 'circuit breaker' in place to help address the behavioural outcomes of his brain damage, the antisocial 'wiring' will continue to be traumatised and reinforced in prison. The survival mechanisms that he draws upon will inevitably make him a better criminal.

The costs of timely and appropriate therapeutic intervention and support are significant, but they in no way compare to the costs that are implicit in Michael's story, and the stories of others like him: the personal price paid for a life of trauma, with little opportunity to grow or flourish in any way that makes a human life satisfying; and the economic and social costs to Australian society as a whole, now and in the future.

About us

The Anglican Diocese of Brisbane Social Responsibilities Committee (SRC)

The Anglican Diocese of Brisbane Social Responsibilities Committee (SRC) is responsible to the Archbishop and was formed in August 2009 in order to provide appropriate and timely responses to social justice issues raised within the community, media, Church Commissions, and Episcopal jurisdictions. This includes advice on a range of social, moral, ethical and cultural issues as required, in order for the Anglican Church in the Diocese of Brisbane to be an active contributor to the proclamation of the Gospel message of social justice, reconciliation and hope.

The Committee consists of a Chair and up to six members from the Diocese, appointed by the Archbishop.

The SRC has drawn upon case studies from the community services arm of the Anglican Diocese of Brisbane, namely Anglicare Southern Queensland (Anglicare SQ), in particular their knowledge and experience in being a leading provider of family and children's support services. However the views and recommendations expressed in this submission are those of the SRC only.

General comments

Who are these young people?: What science can tell us

In order to set the context for this or any policy discussion on youth justice it is of utmost importance to understand the evidence from three critical areas of study. These have been significantly advanced by psychological and scientific research in the last 10-15 years:

- The brain development of children
- Effects of trauma on the brain
- The need to differentiate between specific cohorts of young people

The following insights from contemporary neurobiology, psychology and behavioural sciences, are largely lacking or not reflected in the current Information Paper.

A strong evidence base must clearly inform future youth justice activity if policy development and implementation in this area is to have positive outcomes for young people and the Queensland community more broadly.

The brain development of children and young people

Although humans are genetically predisposed towards developing in certain ways, much more is now understood about the powerful influences of our environments — how our experiences and interactions with other people determine how predispositions are eventually expressed.¹

In the first three years of life, our brains experience rapid growth and will have reached 90% of their adult size and contain approximately 1000 trillion synapses.² Experiences in these first three years are critical:

The brain develops in response to experiences with caregivers, family, and the community, and the quality of those experiences affects whether the child will develop a strong or weak foundation for all future learning, behavior, and health (Center on the Developing Child at Harvard University, 2007).³

Essentially, positive or negative experiences ‘wire’ the brain, with ongoing repetition strengthening the wiring. Though our brains can change and adapt throughout our lives, these first three years ‘organise the brain’ and ‘research now shows that many capacities thought to be fixed at birth are actually dependent on a sequence of experiences combined with heredity’.⁴

As the child grows, between early childhood and through adolescence, the brain undergoes a process of remodelling (growing new connections and pruning others) whereby the ‘child’ brain is slowly transformed into the ‘adult brain’. This process takes until at least 24 years of age in healthy development,⁵ progressing from the most primitive functions, in the brainstem and midbrain, to the most complex, which regulate functions such as reasoning, impulse control and empathy/morality (see figure 1, below).

¹ U.S. Department of Health and Human Services (2009). “Understanding the Effects of Maltreatment on Brain Development”, Issue Brief, August, p. 2.

² U.S. Department of Health and Human Services (2009). “Understanding the Effects of Maltreatment on Brain Development”, Issue Brief, August, p. 2.

³ U.S. Department of Health and Human Services (2011). “Supporting Brain Development in Traumatized Children and Youth”, Bulletin For Professionals, August, p. 2.

⁴ U.S. Department of Health and Human Services (2009). “Understanding the Effects of Maltreatment on Brain Development”, Issue Brief, August, p. 2.

⁵ Hoehn, Elisabeth (2013). “The Young Person’s Brain”, Presentation to Youth Advocacy Center Public forum, Brisbane, 29 May.

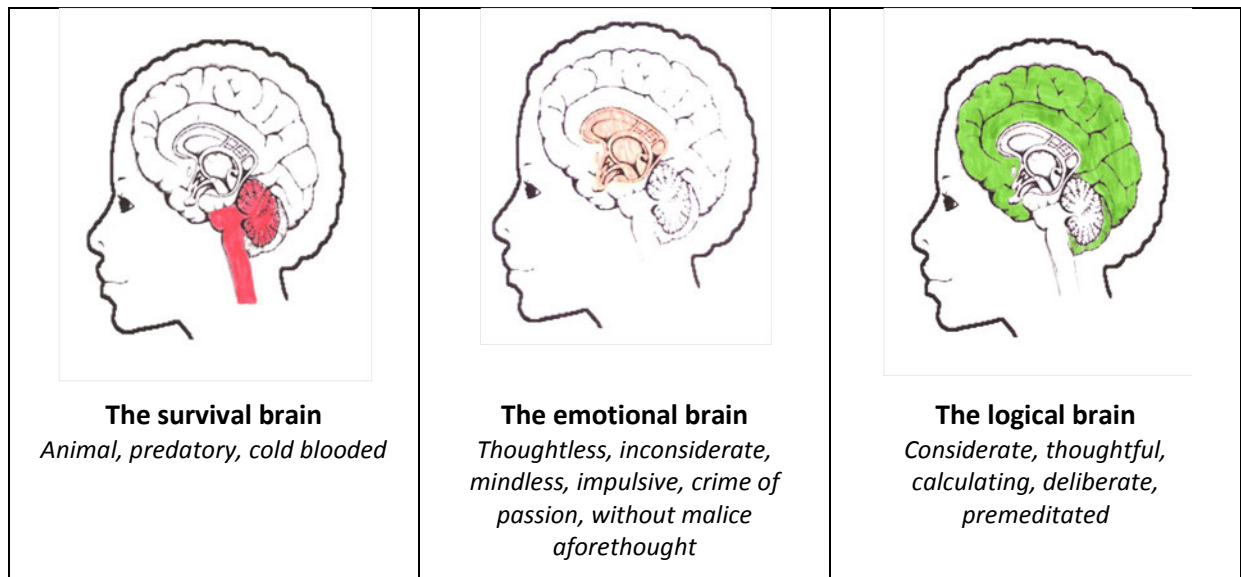


Figure 1: The 'triune' brain and the language of behaviour⁶

In this respect, for our more complex systems to function at a high level, the less complex systems must have a healthy development in order to lay strong building blocks.⁷ The interim period between the 'child' and 'adult' brain – adolescence – is a time of intense change and often turmoil for almost all teenagers, as they cope with the normal changes associated with the maturation of an adolescent brain, when:

- emotional regulation is still developing, and the already developed middle and lower brain regions are driven by testosterone and sexual urges
- oxytocin drives the need for social connection (which provides more sustained rewards from relationships and teaches delayed gratification). If these social connections are not rewarding, thrill seeking rewards will predominate, and can result in addictions.
- dopamine surges can also drive thrill seeking and rapid reward behaviours.⁸

The United States Department of Health and Human Services notes that:

Most teenagers act impulsively at times, using a lower area of their brain—their “gut reaction” — because their frontal lobe is not yet mature. Impulsive behavior, poor decisions, and increased risk-taking are all part of the normal teenage experience.⁹

For those who have suffered brain damage through neglect or abuse as young children, however, progress to more complex functions is severely restricted, and they have significant difficulty coping with the above changes. The impact of trauma on the sequence of brain development described above is explored further in the following section.

⁶ Bath, Howard (2011). “Understanding Trauma and Its Impact on Children”. *Educating for Tough Times*’ Conference Darwin, July. <http://nice.edu.au/resources/ITEC%20Darwin/Bath.pdf>

⁷ Hoehn, Elisabeth (2013). “The Young Person’s Brain”, Presentation to Youth Advocacy Center Public forum, Brisbane, 29 May.

⁸ Hoehn, Elisabeth (2013). “The Young Person’s Brain”, Presentation to Youth Advocacy Center Public forum, Brisbane, 29 May.

⁹ U.S. Department of Health and Human Services (2009). “Understanding the Effects of Maltreatment on Brain Development”, *Issue Brief*, August, p. 11.

Effects of complex trauma on the brains of children

Trauma such as neglect and abuse can take a range of forms, and may be a singular experience or repeated and chronic.¹⁰ It can be experienced by a child feeling intensely threatened and/or involved as a witness to violence or other forms of abuse. Abuse can be physical (hitting, shaking, burning), sexual or emotional. Neglect may involve failure to meet a child's physical needs or, equally, his/her cognitive, emotional, or social needs. Researchers use the term 'global neglect' to refer to deprivations in more than one domain — for example, language, touch and interaction with others.¹¹

Chronic stimulation of the brain's fear response at a young age means that the primitive regions of the brain involved in this response are frequently activated,¹² and other, more complex regions of the brain are less frequently activated.

Ongoing repetition of pain and negative social relationships when a child is young 'hard wires' anti-social responses such as violence, deceit and inappropriate attention-seeking — survival mechanisms driven by more primitive parts of the brain — into his/her brain; and the child becomes less competent at reasoning, at abstract thought, and at processing more complex information.

Research indicates that early maltreatment can also permanently alter the brain's ability to use serotonin, which helps produce feelings of well-being and emotional stability;¹³ and can cause permanent brain adaptation to their negative environment. This means that children who grow up in threatening, chaotic environments may become hyper-alert to danger because survival depends on developing these strategies. They have no strategies for functioning in an environment that is nurturing and supportive.

While chronic abuse and neglect can result in sensitised fear response patterns, neglect alone can also result in other problems. Physical neglect has obvious results, such as malnutrition; while failure to meet a child's cognitive, emotional, or social needs can lead to delays in achieving developmental milestones. Extreme lack of stimulation can result in fewer neuronal pathways available for learning. For example, neglected children often do not show the rapid growth that normally occurs in language development at 18-24 months, or other indicators of normal development.¹⁴

¹⁰ U.S. Department of Health and Human Services (2011). "Supporting Brain Development in Traumatized Children and Youth", *Bulletin For Professionals*, August, p. 2.

¹¹ U.S. Department of Health and Human Services (2009). "Understanding the Effects of Maltreatment on Brain Development", *Issue Brief*, August, pp.6–8.

¹² U.S. Department of Health and Human Services (2009). "Understanding the Effects of Maltreatment on Brain Development", *Issue Brief*, August, p. 7.

¹³ Healy, J. M. (2004). *Your child's growing mind: Brain development and learning from birth to adolescence*. New York: Broadway Books.

¹⁴ Scannapieco, M. (2008). *Developmental outcomes of child neglect*. The APSAC Advisor, Winter. Elmhurst, IL: American Professional Society on the Abuse of Children.

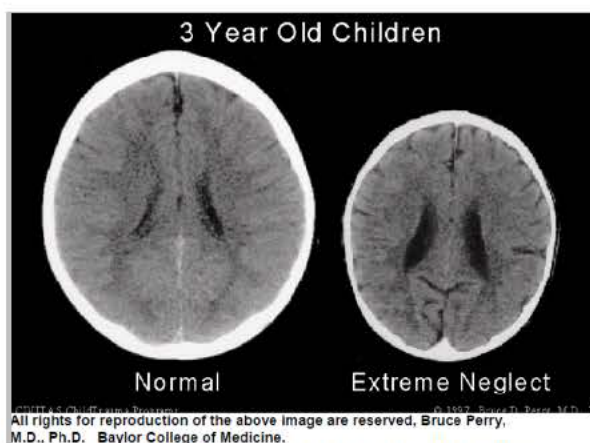


Figure 2: The impact of neglect on the brain

The above images graphically illustrate the negative impact of global neglect on the developing brain. In the CT scan on the left is an image from a healthy three year old with an average head size. The image on the right is from a three year old child suffering from severe sensory-deprivation neglect.¹⁵

The Adverse Childhood Experiences (ACE) study is a large-scale, long-term study that has documented the link between childhood abuse and neglect and later adverse experiences, such as physical and mental illness and high-risk behaviours. Some of the specific long-term findings of this project in relation to effects of abuse and neglect on the developing brain include:

- diminished growth in the left hemisphere, which may increase the risk for depression
- irritability in the limbic system, setting the stage for the emergence of panic disorder and posttraumatic stress disorder
- smaller growth in the hippocampus and limbic abnormalities, which can increase the risk for dissociative disorders and memory impairments
- impairment in the connection between the two brain hemispheres, which has been linked to symptoms of attention-deficit/ hyperactivity disorder.¹⁶

Differentiation between young people involved in the criminal justice system

Youth offending through minor crime is normal

As we know from our personal experiences, it would be rare to find an adult who had not committed some form of minor crime as a teenager; be it shoplifting or other small scale theft, underage drinking or use of drugs, fighting, fare evasion or (in recent years) online stalking.

Youth offending in this way is normal. Risk taking is high during adolescence when the brains of young people are undergoing enormous physiological change and remodelling, and they are coping with and shifting to a more complex understanding of the world.

As the Information Paper notes, for a great many young people, simple and cost effective measures such as police cautions are enough to divert them from ongoing anti-social or criminal behaviours. A police caution costs approximately \$1,275 to administer; while a Youth Court appearance costs \$3,701.

¹⁵ Perry, B.D. and Pollard, D. (1997). "Altered brain development following global neglect in early childhood", Society For Neuroscience: Proceedings from Annual Meeting, New Orleans, 1997, p. 6.

¹⁶ Centers for Disease Control and Prevention. (n.d.). Adverse Childhood Experiences Study. Retrieved August 2009 from www.cdc.gov/nccdphp/ACE/; Teicher, M.D. (2000). Wounds that time won't heal: The neurobiology of child abuse. Cerebrum: The Dana Forum on brain science, 2(4), 50-67.

Over a third (35%) of cautioned young people never reappear in the criminal justice system; while another third (30%) reappear once or twice and never again.¹⁷

Well accepted scientific research has established that the brain of a young person continues to mature until at least the age of 24 years, and that the great majority of young people appear in court on minor offences. Police cautions, however, are not available for 17-25 years olds.

We recommend that the use of **police cautions** as a cost effective, minor, but effective diversionary strategy should be considered for 17-25 year olds as well as younger adolescents and children.

Repeat offenders: the small cohort entrenched in the youth justice system

Although the majority of youth offending is minor and non recurrent, there is a very small cohort of young people who have high involvement in the youth justice system. The Information Paper correctly notes that:

Young people entrenched in the justice system and those who are at high risk of becoming entrenched often have a range of things happening in their lives that influence their criminal behaviour.

These young people have often experienced:

- *child abuse and neglect,*
- *exposure to domestic or family violence,*
- *severe and long-term family dysfunction in their childhood years and*
- *homelessness.*

These experiences often lead to:

- *drug and alcohol misuse,*
- *poor mental and physical health,*
- *inter-generational poverty and unemployment and*
- *low levels of education.*

*All the evidence shows that when a young person experiences these things without receiving any help, committing crimes is often the next step in life.*¹⁸

It is this small cohort of young people who are responsible for the majority of offences; they tend to start offending early, frequently, and eventually to offend seriously.¹⁹

Given the description of dysfunction detailed in the Information Paper and cited above, it is clear that this small cohort are those who are most likely to have suffered brain from altered brain functioning and socio-emotional development, due to neglect and abuse. As the US Department of Health and Human Services notes:

For teens who have been abused, neglected, or traumatized ... impulsive behavior may be even more apparent. Often, these youth have developed brains that focus on survival, at the expense of the more advanced thinking that happens in the brain's cortex (Chamberlain, 2009). An underdeveloped cortex can lead to increased impulsive behavior, as well as difficulties with tasks that require higher-level thinking and feeling ... Teenagers who lack stable relationships with caring adults who can provide guidance and model appropriate

¹⁷ Stewart, Anna (2013). "Youth Justice: A Balanced Approach", School of Criminology and Criminal Justice, Griffith University. Presentation to Youth Advocacy Center Public forum, 29 May.

¹⁸ Queensland Government (2013). *Safe Streets Crime Action Plan – Youth Justice Information Paper*, March, p. 9.

¹⁹ Stewart, Anna (2013). "Youth Justice: A Balanced Approach", School of Criminology and Criminal Justice, Griffith University. Presentation to Youth Advocacy Center Public forum, 29 May.

*behavior may never have the opportunity to develop the relationship skills necessary for healthy adult relationships or for becoming good parents.*²⁰

Young people in this group are clearly a different cohort to the majority of young people, who offend in minor ways and rarely more than once or twice. These are often highly traumatised young people, displaying what is clinically referred to as “pain based” (albeit maladaptive or anti-social) behaviours.

Young repeat offenders and their families require different policy responses and specific, trauma-informed therapeutic interventions to assist in changing antisocial behaviours and effectively divert them from crime, rather than merely punitive measures, which evidence shows is likely to reinforce these pain-based responses.

²⁰ U.S. Department of Health and Human Services (2009). “Understanding the Effects of Maltreatment on Brain Development”, *Issue Brief*, August, p. 11.

A robust policy framework

The Information Paper and attendant submission process mark a key policy milestone and take place amongst wholesale changes to the entire youth sector and policy areas that affect children, young people and their families. The Information Paper:

- precedes and informs the Department of Justice and Attorney General's *Blueprint for the Future of Youth Justice*
- flags a subsequent Department of Justice review of the *Youth Justice Act 1992*
- coincides with an imminent report from the Queensland Child Protection Commission of Inquiry, due 30 June
- overlaps with a Department of Communities, Child Safety and Disability Services review of State Government investments in all youth services and
- follows significant reform within the Department of Education with the recent release of the *Great teachers = Great results* five-year action plan for all Queensland schools. *Strengthening discipline in Queensland state schools* will be the first of 15 strategies introduced under the initiative.

As is clear from this diverse range of policy and program activity, and as Jesuit Social Services note in their *Thinking Outside: Alternatives to remand for children* report,²¹ the youth justice system connects to and operates within a wider human and community services system. The system aims, overall, to support children to reach their full potential, but is fragmented across a wide range of services and programs such as those shown below.



Figure 3: A spectrum of systems

The interfaces between these elements are key. The Information Paper notes, for example, that approximately 70% of young people in the youth justice system are also known to the child protection system (an immediate sign also, that the child will have experienced at least some form of serious trauma in the family home).²² This highlights the absolutely critical importance of the child protection/youth justice/support services interface.

²¹ Jesuit Social Services (2013). *Thinking Outside: Alternatives to Remand for Children Summary Report*. Richmond, Vic., p. 8.

²² Queensland Government (2013). *Safe Streets Crime Action Plan – Youth Justice Information Paper*, March, p. 11.

In this respect, although a COAG document and thus operating in a different context, the *National Framework for Protecting Australia's Children 2009–2020*,²³ of which Queensland is a signatory, provides a good point of reference. It is an evidence based document that acknowledges the need for a more integrated response in order to achieve success; and involves a commitment to better link the multitude of supports and services provided to avoid duplication, coordinate planning and implementation, and share information and innovation more effectively.²⁴ It also creates a framework for integration and responsibility, many aspects of which would be directly transferrable to the youth focussed policy arena in Queensland.

The Information Paper notes that “the Blueprint will provide an action-plan to transform the youth justice system and break the cycle of offending”.²⁵

Achieving such an aim **requires congruency with policies and programs simultaneously under development in other areas of the Queensland and Federal Government** that are aimed at the same young people, their wellbeing, behaviours and families.

At present there appear to be no explicit links between the various youth related policy changes that are taking place.

The Blueprint process that is the subject of this submission would be **immeasurably strengthened by the establishment of an overall policy framework** for young people and their families. This should: take a whole-of-government approach; and include reference to the *National Framework for Protecting Australia's Children*.

²³ Australian Government, *National Framework for Protecting Australia's Children 2009–2020*, available online at: <http://www.fahcsia.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business>

²⁴ Australian Government, *National Framework for Protecting Australia's Children 2009–2020*, available online at: <http://www.fahcsia.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business>

²⁵ Queensland Government, Blueprint for the Future of Youth Justice website, <http://www.justice.qld.gov.au/youth-justice/blueprint-for-the-future-of-youth-justice>

Approaches based on clearly articulated principles and a strong evidence base

Youth justice principles

In order to deliver upon the stated aims of the Information Paper (*innovative, engaged with community, respects victims, transparent and measures its successes*) the principles and consequent approaches upon which this Blueprint process is based need to be more clearly articulated and visible.²⁶ This would contribute to consistency and the employment of proven good practice across the policy spectrum. It would also allow greater transparency of the underlying assumptions to be properly tested against the evidence. As noted in the *Thinking Outside* report:

A critical issue underpinning legislation, policy and practice in youth justice is how we authorise our response to children who offend. Cross-national comparisons of approaches to youth justice demonstrate differences between jurisdictions with respect to the extent to which they adopt justice or welfare oriented approaches. Key determinants in these differences are the degree to which children are deemed developmentally vulnerable as opposed to independent moral agents, the extent to which coercion as opposed to rehabilitation is seen as the most effective means of controlling individuals and protecting societies, and the related issue of the age of criminal responsibility.²⁷

The Information Paper does not engage with any of these underlying assumptions or theories of change, even as it proposes very significant changes, such as the removal of the principle of detention as a last resort.

Nor does the Information Paper make any explicit reference to the key principles enshrined in the *Youth Justice Act 1992*. Yet as the Department notes on its Youth Justice website, these principles currently underpin ‘youth justice practice’ in Queensland. They are summarised as follows:

- *a recognition of the vulnerability and maturity of children and their need for special protection when they have contact with the justice system*
- *the diversion of the young person from the criminal justice system as opposed to the institution of formal criminal proceedings*
- *wherever appropriate the detention of a young person as a last resort*
- *a focus on the rehabilitation of a young offender*
- *holding young people accountable and encouraging them to accept responsibility for their offending behaviour.²⁸*

Although they could be improved upon to better reflect our contemporary understanding of child and youth brain and moral development (the last point in particular), this summary represents a sound set of guiding principles for youth justice policy and implementation.

The key is to strike a balance between competing approaches that shape our policy in youth justice. These can be categorised as restorative, justice and welfarist approaches, as depicted in figure 4 below.²⁹

²⁶ Queensland Government (2013). *Safe Streets Crime Action Plan – Youth Justice Information Paper*, March, p. 3.

²⁷ Jesuit Social Services (2013). *Thinking Outside: Alternatives to Remand for Children Summary Report*. Richmond, Vic., p. 7.

²⁸ Queensland Government, *Blueprint for the Future of Youth Justice* website, <http://www.justice.qld.gov.au/youth-justice/>

²⁹ Jesuit Social Services (2013). *Thinking Outside: Alternatives to Remand for Children Summary Report*. Richmond, Vic., p. 8.

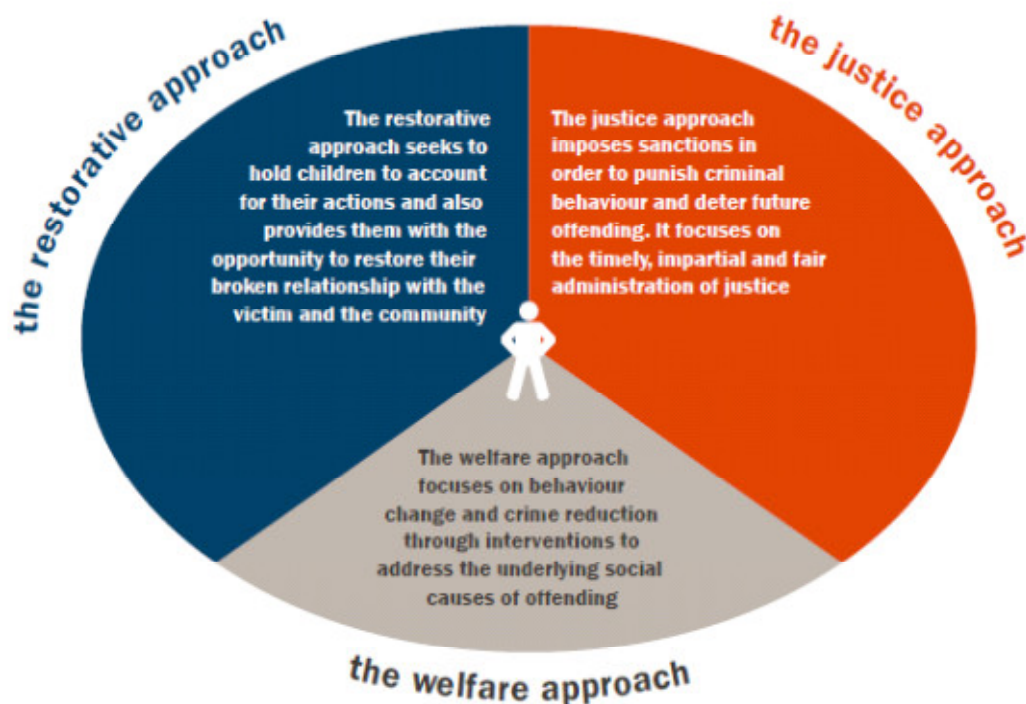


Figure 4: Balancing our approaches

If we want to discard certain principles, or replace them with others, this should be put into context and done in a considered way. A piecemeal approach risks losing sight of the bigger picture of what we are trying to achieve, and getting the balance wrong.

A good model of practice, based on a proven theory of change

Anglicare SQ Child Protection and Youth Services have recognised the need for a contemporary model of practice to assist in underpinning and shaping services and interventions for children and young people in their care. To achieve this they are working in collaboration with Cornell University's Child Care Project and The Thomas Wright Institute over a three year period to implement and integrate Children and Residential Experiences (CARE) Creating Conditions for Change practice model across all Anglicare Child Protection and Youth Services.

The CARE practice model is founded on six **research and standards-informed principles** designed to guide staff practice and interactions with children in order to **create the conditions for change** in children's lives. The principles, as follows, were established after literature reviews, surveys of experienced child care workers and supervisors, and standards reviews:

- Developmentally focussed
- Family involved
- Relationship based
- Trauma informed
- Competence centred
- Ecologically orientated

CARE is a multi level program model that ensures congruence in approach from managers to direct care staff and carers across all Child Protection and Youth Services. It ensures the same set of values, principles and actions are applied when making decisions about the best interests of children and young people across all levels of child and youth services.

The CARE project has a process and outcome based evaluation component to measure the effectiveness of the model on staff intentions to use CARE principles in their work, aspects of organisational climate and culture, and impact on children's lives. For instance Anglicare SQ is implementing a Youth Perception Survey which will measure young people's perceptions of their interactions with them. It will also introduce the Strengths and Difficulties Questionnaire (SDQ) which over time, will be used to measure the impact of the effectiveness of their interventions.³⁰ A more detailed explanation of the CARE model is attached in Appendix 1.

The CARE approach has clear applicability to the youth justice system. As an evidence-based, trauma-informed and person centred approach, this and similar models have the potential to assist young offenders and those at risk of offending to address the effects of complex trauma; to develop appropriate social and living skills; to learn about trust and empathy; and to have positive experiences of individual success.

This is not about being "soft on crime". It is about 'rewiring' traumatised young brains so, through consistency and repetition; they begin to recognise an alternate way of coping with the world. It is an approach based on rigorous evidence, extensive experience and principles.

It is also consistent with the "best interests of the child" that are enshrined in the UN Convention on the Rights of the Child, to which Australia is a signatory, and are reflected in the current Youth Justice Principles.

We strongly recommend that a **contemporary model of practice, based on a proven theory of change, such as CARE**, be adopted and integrated across the Youth Justice policy spectrum.

³⁰ More information can be found at: <http://www.sdqinfo.com/>

Community perceptions: The youth crime “problem” and safe communities

Throughout the Information Paper, and in associated statements, there is the general assertion of a rising “youth crime” problem.³¹ Yet the most commonly committed offences by 10-17 year olds in Queensland, property offences, have fallen 21.6% over the past decade, and offences against the person (which are much lower in prevalence) have remained stable.³² As noted above, the majority of young people do not come into contact with the youth justice system and offending is not on the increase.³³

As the SRC noted in its submission on justice reinvestment to the Commonwealth Parliamentary Committee on Legal and Constitutional Affairs, the promulgation of statements about such “crime problems”, without reference to real trends, statistics and the nuances of these realities, reflect a very limited conception of justice and community safety:

The glaring disparities in our current criminal justice system speak to an ongoing and flawed emphasis on retributive and punitive justice, driven by a preoccupation with “law and order” or in populist terms a call to “get tough on crime”. This is perhaps reflective of a certain cultural anxiety or fear in which it is not crime itself, but our perceptions of crime, that have been driving areas of policy.

This is not to suggest that these conceptions of justice may not have some place, as it is important to recognise “the moral claim victims have for redress in the aftermath of violence that is contained in retributive intuitions”,³⁴ and that those who break the law must be held to account. But rather, their predominance has narrowed and distorted both the operation and effectiveness of our criminal justice system.

*In order to address these inequities we need to reconsider our conceptions of justice, and ask ourselves **what truly makes our families and communities safe?** This includes reconsidering ideas of distributive justice and looking beyond retribution to restoration and healing.³⁵*

[Emphasis added]

Again this highlights the need to get “the balance right” in these critical policy areas, and to ask ourselves the tough questions.

In this regard the Blueprint and Youth Justice Review also provide an opportunity to dispel some of the myths and inaccuracies which contribute to stigmatisation of young people involved in the youth justice system and fuel misconceptions about how the system works. Such stigma merely compounds the underlying challenges that both young people and the youth justice system face.

We suggest the Blueprint process and Youth Justice Review should be accompanied by the **dissemination of credible information/factual material** that clearly and accurately sets out the statistics, trends, facts and issues.

³¹ See for example the media release by the Attorney General. ‘Community Feedback sought on youth justice’, dated 25 March 2013: “As I travel the state, one of the key concerns raised is the rate of youth crime in some of our communities and what needs to be done to combat it,” Mr Bleijie said.

³² Youth ADVOCACY Centre Inc. (2013) Fact sheet, “Busting the myths – the facts about addressing youth offending – Part 2”. Updated 29 May. <http://www.yac.net.au/wp-content/uploads/2013/06/FINAL-Busting-the-myths-the-facts-about-addressing-youth-offending.pdf>

³³ Stewart, Anna (2013). “Youth Justice: A Balanced Approach”, School of Criminology and Criminal Justice, Griffith University. Presentation to Youth Advocacy Center Public forum, 29 May.

³⁴ Danaher, William J. (2007) “Towards A Paschal Theology of Restorative Justice”, *The Anglican Theological Review*, Summer (Volume 89, Number 3), p. 367.

³⁵ Anglican Diocese of Brisbane Social Responsibilities Committee 2013). Submission to the Australian Government Senate Legal and Constitutional Affairs Committee Inquiry of Justice Reinvestment, p. 2.

ATTACHMENT A

This would assist both in de-stigmatising (to some extent) the young people entrenched in the system, and enable the community to engage in these topics in a more meaningful and productive manner. It would also enable the community to both take responsibility for the safety and well being of their children and young people and encourage and support children and young people to transition successfully to adulthood.

We believe that strong families are the key to safe communities. It can be seen how the wrong balance might “punish” the young person, but also deprives and fractures the family. While the young person’s behaviour must have consequences, it is also their family that must be assisted to heal, so they can be a powerful, productive and positive force within their own community into the future.

We believe that the current reforms to the criminal justice system, be it for youth or adults (as the youth will simply end up in the adult system if not successfully diverted) needs to go beyond the somewhat scattered and loaded approach of the survey monkey tool. **We need to ask the public and ourselves the real questions: what truly makes our families and our communities safe?**

We would welcome being an active part of this public discussion.

Response to the Strategic Themes

The Information Paper notes that strategies will be developed in line with eight themes. We have synthesised these into three key areas, for some additional comment. Our responses are consistent with the evidence, principles and approaches outlined and recommended above:

1. Preventing initiation of offending

The right help for families, at the right time

Without a doubt, the most cost-effective approach to youth justice is one based on prevention and early intervention. Supporting families and children must be at the centre of these efforts. For this to happen, a whole-of-government approach (as outlined above) is required.

The US Department of Health and Human Services has clearly stated:

Research overwhelmingly points to the benefits of supporting children and families at an early age to prevent maltreatment and its negative effects on brain development before they occur. In addition, cost-benefit analyses demonstrate the stronger return on investments that result from strengthening families, supporting development, and preventing maltreatment during childhood and adolescence rather than funding treatment programs later in life (Center on the Developing Child at Harvard University, 2007).³⁶

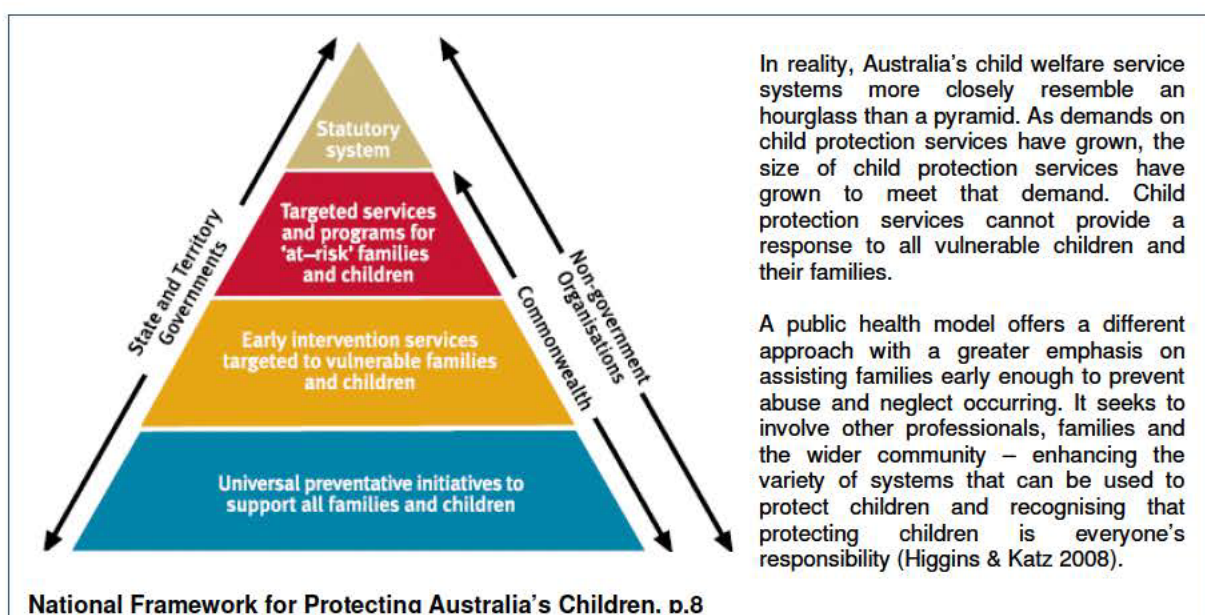
As summarised by a local expert: ‘good child abuse prevention is also good prevention of offending behaviours.’³⁷

Funding models used by the Queensland Government to date, have not encouraged shared responsibility across the various stakeholders involved in family support. This is complicated by the fact that a significant number of family support services are funded by the Commonwealth Government, making navigating the system difficult not only for families, but also for service providers who need to interact with multiple referral pathways and criteria.

Moreover, as we know through our own experiences and that of our children, young people do not see the world through the segregated lens of their “education”, “recreation”, “family function” or “delinquency”. It is simply their life. These labels are the ways our programs, services and bureaucratic structures carve up and allocate responsibility or duties for aspects of young people’s lives, often without reference to their own wishes, intentions, history or aspirations.

³⁶ U.S. Department of Health and Human Services (2011). “Supporting Brain Development in Traumatized Children and Youth”, *Bulletin For Professionals*, August, p. 2.

³⁷ Dr Adam Tomison, Director, Australian Institute of Criminology at the National Out-of-Home Care Summit, Melbourne, June 2013



The model to which the community should aspire is one in which **universal interventions** and services are provided to *all* children and families (for example, infant and child health services, playgroups, kindergarten and other early childhood education services).

Secondary prevention or early intervention strategies for children and families who need more support than that available through primary prevention strategies (for example, those targeted to particular groups who are known to be 'at risk' of family stress).

Tertiary interventions and/or prevention strategies should be provided only to those few children and families who need intensive intervention, where child maltreatment has already occurred, and where a care and protective response by the statutory authority is required.

Unfortunately, the AIHW data, and our own experience, indicates that the over-burdened, reactive, and more costly tertiary system is the only entry point for many Queensland families. At this stage children are already beginning to experience multiple traumas, additional stigma associated with contact with the statutory system (e.g. 'being known to Child Safety'), and the foundations are been laid for a path that is much more likely to bring them into contact with the Youth Justice system.

We strongly recommend that more needs to be done to create a **continuum of service delivery** across Queensland. Care of this type would enable families to access the right services, at the right time, before escalation to crisis point.

Specific prevention measures

Some additional measures we recommend for consideration as part of a whole-of-government approach include:

- **Working with schools**, and through strengthening proven school based programs, such as the Youth Support Coordinators (YSC's), and ensuring the scheme is properly targeted. We would also have concerns that if the *Strengthening discipline* strategy isn't informed by the evidence detailed above, it risks increasing the likelihood of youth justice involvement.
- Further investment in the **child and youth mental health sector** (both government and NGO) to enable greater access to specialist services and professionals grounded in an understanding of the impact of harm and trauma on brain development.

- **Child protection requires differential responses** – greater options and referral pathways. There are significant numbers of notifications to Child Safety Services in Queensland, only a small percentage of these meet the threshold for substantiation³⁸
- Further exploring greater access for young people (particularly those at risk) for **opportunities for safe risk taking** – adolescent development is about extending yourself and testing yourself – how can we create socially acceptable ways for young people to do that?³⁹

2. Preventing re-offending

Breaking the cycle of crime

We suggest a need to focus on **what works** and **the best interests of the child**, because these are mostly likely to deliver on our shared long term outcome – a fully functioning member of the community, citizen and taxpayer.

What works and why

Research suggests that a child's ability to change is affected primarily by their own internal strengths and their relationships with significant adults, rather than by actual techniques or interventions (Holden 2009). For this reason, CARE training focuses on teaching residential care staff how to connect and build attachments with children, rather than on particular behavioural intervention techniques. The underpinning premise of this approach is that *'children do well if they can. If they can't, we need to figure out why so we can help'* (Greene, 2001).

Contemporary research also indicates that maintaining a non-coercive and safe environment is essential for children to learn new responses to stressful situations, and **to break the cycle of pain-based behaviours**.

This creates a fundamental shift:

- From responding to negative behaviours by enforcing rules and demanding obedience and compliance – this is precisely the kind of approach that is likely to trigger in a young person who has experienced trauma, a hard-wired, primitive brain, "fight or flight" type response .
- To understanding what drives the behaviours, and responding in a trauma-informed way. Helping children to learn self-regulation and pro-social skills, while maintaining safety and security for all in the house.

³⁸ Analysis of the Child Protection data published by the Australian Institute of Health and Welfare in 2012 suggests that while there are significant numbers of notifications to Child Safety Services in Queensland, only a small percentage of these meet the threshold for substantiation. This suggests that many notifications are made in recognition that some families are under stress and need extra support, and there are few alternative pathways available for community or other referrers to use to ensure that these families are supported. Referral pathways, other than via Child Safety Services or through other 'Child Safety' funded initiatives such as the Referral for Active Intervention (RAI) program or more recently, the Helping Out Families pilot program are not clear. Queensland lacks a well developed and resourced array of prevention and early intervention services for all families. Community promotion and education in relation to healthy family relationships is lacking, and families who need support are often unable to access it in a timely or responsive manner.

³⁹ For example: outdoor education programs, the City to Country exchange such as that run by Anglicare SQ Youth Support Coordinators in Roma, access to adventure-based recreational activities.

Bootcamps

The success of the bootcamps will depend entirely on the quality of the programming and whether they are informed by the kind of approaches and principles we have outlined above. For instance, as described in the Information Paper:

*The goal of the boot camps is to instill discipline, respect and values in the young person while working with the young person and their family to address the causes of their offending and support them into learning or earning.*⁴⁰

The science would caution some very careful thinking and possible recalibrating when it comes to attempting to “instill” such aims in potentially traumatised young people already demonstrating pain-based behaviours. For instance, as Judge Andrew Becroft of New Zealand noted of this kind of traditional bootcamp, it ‘*was arguably the least successful sentence in the Western world – it made them fitter, faster, but they were still burglars, just harder to catch.*’⁴¹

Certainly, we note with great concern the incident that took place in the first weeks of the Cairns trial, which resulted in its closure, as a possibly predictable outcome to just such poor programming and pre-planning.

An alternative - CARE informed approach

The Anglicare SQ residential care programs are focused on more than simply containment and reactivity to behavioural incidents and outbursts. While providing a safe environment, with holistic care, young people are supported to grow and develop, and address the traumatic aspects of their experiences in earlier life.

Through participation in CARE training, residential care staff learn to view children’s behaviour differently, applying their knowledge of attachment theory and child/adolescent development to build positive and trusting relationships. Staff learn to scaffold tasks appropriately, and discuss how activities and routines within the program can contribute to the ongoing development of resiliency and positive relationships between adults and children.

Through exploring trauma and pain-based behaviour, staff are encouraged to develop new understandings of children’s challenging and difficult behaviours. The manner in which a child’s pain based behaviour is responded to is a key indicator of the quality of care as experienced by children (Anglin 2002; Brendtro and Shahbazian 2004).

Specific measures to consider in breaking the cycle

Some additional and specific measures we would recommend include:

- Decision-making and case management/intervention across the sector should occur within a **trauma informed framework**. This means that all stakeholders are committed to ensuring that children and young people are provided with a consistent, predictable environment, and relationships are based on trust and respect. This requires a commitment from all stakeholders, including Departmental officers, Court personnel and non-government staff.

⁴⁰ Queensland Government (2013). *Safe Streets Crime Action Plan – Youth Justice Information Paper*, March, p. 3.

⁴¹ Youth ADVOCACY Centre Inc. (2013) Fact sheet, “Busting the myths – the facts about addressing youth offending – Part 2”. Updated 29 May. <http://www.yac.net.au/wp-content/uploads/2013/06/FINAL-Busting-the-myths-the-facts-about-addressing-youth-offending.pdf>

- In reviewing effective diversionary / sentencing measures then consideration should be given to (if appropriate even mandated), **whole of family therapeutic interventions**, as evidence shows that families need to be targeted, not just the individual young people themselves.
- In line with our comments on a service continuum, regardless of the temporary status or classification of a young person attributed to them by the youth justice system or related bureaucracy (for eg. on remand versus in detention), if required, there should be provision for **consistent access to programs** necessary to assist them in addressing their childhood trauma and changing their behaviours for the long term.⁴²

Proposals not supported

Finally, there are some proposed measures outlined in the Information Paper that we do not believe are in the best interests of the child (and are thus contrary to both the existing Youth Justice Principles and the rights of the Child), or supported by evidence that suggests they will lead to successful or productive long term outcomes.

As such, **we do not support and strongly oppose** the proposals to:

- Remove the principle that when sentencing a young person for an offence, detention should be the last resort
- Expand the existing naming laws so that the names of repeat young offenders can be made public (“name and shame” provisions)
- Make breach of bail an offence (ostensibly to reduce the number of repeat young offenders)
- Allow courts access to a person’s juvenile criminal history when sentencing them as an adult, so the court can see their full criminal history.

In line with this, we would also **not support** a general trend towards strategies that have a punitive or retributive focus and are not carefully balanced with welfarist and justice based principles, and clearly informed by evidence of what works.

If these proposals are pursued, before any such options are fully programmed and implemented, reflecting the stated Government desire to create an innovative system that *‘is transparent and measures its successes’* **we would strongly recommend that:**

- A credible, external and objective assessment be undertaken of the likelihood of long term social impact (through behavioural changes) that are likely to result; and
- That this also form the basis for a rigorous cost-benefit analysis of these strategies, benchmarked against alternatives; and
- That both of these analyses for each strategy be made publicly available.

3. Investment and cross-sectoral involvement

There is no doubt that the youth justice system faces many challenging and complex issues. It is paramount that effective investment, be it from government or other sources, take a long term approach with a clear priority on behavioural change - on enabling these young people to heal and learn new, more healthy ways of being in the world. And in order to get serious and defined outcomes we need to have strong monitoring and evaluation frameworks and ensure we maintain the integrity our programming throughout therapeutic interventions.

⁴² For example access to counselling and therapeutic interventions or programs such as Aggression Replacement Therapy (ART) or the Help Increase the Peace Program (HIPP) program.

Justice Reinvestment

In this respect a Justice Reinvestment approach meets many of these requirements. It involves smarter investment up front in preventative and early intervention measures, carefully targeted at communities based on sound demographic analysis. Although requiring an initial and potentially greater initial investment, it has real potential to save tax payers money and support young people in the long term.

We strongly recommend further investigation into **the application of a Justice Reinvestment approach** in Queensland.

As the SRC has previously noted (in regards to both juvenile and adult justice systems):

*The current approach arguably fails to acknowledge our complex world, in which public safety is not assured by incarceration alone. In this respect, the rehabilitative function of the criminal justice system has become secondary, the impacts on families and communities obscured and preventative measures barely considered.*⁴³

Moreover, prisons are inordinately expensive, and are not necessarily reducing the “debilitating pattern of cyclical imprisonment”,⁴⁴ which “disrupts the fragile economic, social, and political bonds that are the basis for informal social control in a community”.⁴⁵

From an investment perspective, they might be considered business failures. For instance, a recent economic analysis by Deloitte Access Economics revealed that State governments could save \$110,000 per person if Indigenous peoples convicted of a substance abuse-related, non-violent offence went into rehabilitation instead of jail.⁴⁶

The Thinking Outside report also found that for the 27 children in their sample group who had first experienced remand at 10 to 12 years, the cost of custody in the youth justice system was \$3,046,560. Of this cohort of young people 78% had previously been known to the child protection system and, as the report noted, “for most of these children, these costs will continue to grow”.⁴⁷ [Emphasis added]

See at Attachment 2, some of the benefits the SRC identified in this approach in our previous submission to the Commonwealth Parliamentary Committee on Legal and Constitutional Affairs, Inquiry into the application of Justice Reinvestment in Australia.

⁴³ For instance, although there was a slight drop in 2011, the overall numbers behind bars increased exponentially from 86 per 100,000 adult population in 1984 to 165 in 2011. See <http://theconversation.edu.au/prison-rates-down-but-not-enough-2333>. Also the Australian Institute of Criminology notes that about 60 per cent of those in custody in Australia have been imprisoned before. Reoffending behaviour or recidivism can be influenced by many factors including poor education and employment histories, mental illness and bad physical health, as well as drug and alcohol misuse. These are conditions that begin at an early age. See: www.aic.gov.au/crime_community/communitycrime/recidivism.html.

⁴⁴ See also a recent ABS Research Paper: *An Analysis of Repeat Imprisonment Trends in Australia using Prisoner Census Data from 1994 to 2007, Aug 2010* which found that: “reimprisonment is strongly associated with being young, being Indigenous, or having been previously imprisoned (that is, being a prisoner who had already served time in prison). In all jurisdictions except Queensland, the rate of reimprisonment in recent years was higher than in the mid-1990s.” At: www.abs.gov.au

⁴⁵ Open Society Institute (2003), *Ideas for an Open Society: Justice Reinvestment*. At:

www.opensocietyfoundations.org/publications/ideas-open-society-justice-reinvestment

⁴⁶ Deloitte Access Economics (2013). *An economic analysis for Aboriginal and Torres Strait Islander offenders: prison vs residential treatment*, on behalf of the National Indigenous Drug and Alcohol Committee, ANCD research paper (no.24). At: www.nidac.org.au

⁴⁷ These estimates did not include time etc of police and others involved in their cases. See Jesuit Social Service (2013), *Thinking Outside: Alternatives to Remand for Children: Summary Report*. p. 15. At: www.jss.org.au

Conclusion

The Social Responsibilities Committee of the Anglican Diocese of Brisbane consider, on the basis of well established scientific evidence and long and successful experience working with young people, that a “tough on crime” stance, uninformed by accurate statistics and evidence, and fuelled by media sensationalism, is likely to be ineffective, expensive and provide few benefits to:

- government (which is unable to prove to constituents that the policy works)
- the community (which is diminished when young people grow into damaged adults)
- victims of crime (when punitive approaches simply teach young offenders to be better criminals) and
- young people themselves, who have little opportunity to grow or flourish in any way that makes a human life satisfying.

Appendix 1 – CARE model

Anglicare SQ Child Protection and Youth Services have recognised the need for a contemporary model of practice to assist in underpinning and shaping services and interventions for children and young people in their care. Anglicare SQ Child Protection and Youth Services have undertaken to work in collaboration with Cornell University's Child Care Project and The Thomas Wright Institute over a three year period to implement and integrate Children and Residential Experiences (CARE) Creating Conditions for Change practice model across all Anglicare Child Protection and Youth Services.

The intention of the CARE project is to improve staff and carer interaction with the children and young people and enhance their ability to create the conditions for positive change in their lives. CARE is a multi level program model that will ensure congruence in approach from managers to direct care staff and carers across all Child Protection and Youth Services. CARE will ensure the same set of values; principles and actions are applied when making decisions about the best interests of children and young people across all levels of the services.

The CARE program model reflects a set of six practice principles based on the best interest of the child:

Developmentally Focused:

Children do well if they can. If they can't, we need to figure out why so we can help. (Ross Greene)

- All Children/young people have the same basic requirements for growth and development.
- Activities offered to children/young people need to be appropriate to each individual's developmental level and designed to provide them with successful experiences on tasks that they perceive as challenging, whether in the realm of intellectual, motor, emotional or social functioning.
- Research and theory has shown that activities that are developmentally appropriate help to build children/young people to reach their goals and improve their overall self-concept.

Family involved:

Every child needs at least one person who is really crazy about him or her (Urie Brofenbrenner)

Children/young people need opportunities for constructive contact with family.

- Contact with family and community is one of the few indicators of successful intervention.
- Parents and children, in partnership with care services, can facilitate a transition to the home and the community.
- This partnership contributes to increased social and emotional adjustment by improving children/young people's feeling of connection to family and community, their self concept and resiliency.

Relationship based:

There are only two lasting bequests we can hope to give our children. One is roots, the other, wings. (Hodding Carter)

- Children/young people need to establish healthy attachments and trusting, personally meaningful relationships with the adults who care for them.
- These attachments are essential for increased social and emotional competence.
- Healthy child – adult relationships help children/young people develop social competencies that can be applied to other relationships.

ATTACHMENT A

- A child/young person's ability to form relationships and positive attachments is an essential personal strength and a sign of resiliency associated with healthy development and life success.

Trauma informed:

We need to shift our thinking from "What is wrong with you?" to "What happened to you?" (Sandra Bloom)

- A large percentage of children/young people in out of home care have a history of violence, abuse and neglect resulting in devastating effects on their growth and development.
- Adults need to respond sensitively and refrain from responding in a forceful or intimidating way when children/young people exhibit challenging behaviour rooted in trauma and pain.
- Trauma sensitive responses help children/young people regulate their emotions and maintain positive adult- child relationships

Competence centred:

If I have the belief that I can do it, I shall surely acquire the capacity to do it even if I may not have it at the beginning (Mahatma Gandhi)

- Competence is the combination of skills, knowledge and attitudes that each child/young person needs to effectively negotiate developmental tasks and the challenges of everyday life.
- Carers and staff must help children/young people become competent in managing their environment as well as motivate them to cope with challenges and master new skills.
- Learning problem solving, critical thinking skills and developing flexibility and insight are all essential competencies that allow children/young people to achieve personal goals and to increase their motivation for new learning.
- All interactions and activities in out of home care should be purposeful and goal oriented with the aim of building these competencies and life skills.

Ecologically Orientated:

*When you plant lettuce and it doesn't grow well, you don't blame the lettuce
(Thich Nhat Hahn, Vietnamese Buddhist monk)*

- Children/young people are engaged actively with their environment as they grow and develop. To optimise growth and development, children/young people must live within an environment that is engaging and supportive.
- Out of home care staff and foster carers must understand that the relationships with the children/young people in their care are part of a larger social network; their face to face interactions with the children/young people, the activities they promote and the physical environment in which they work all have an impact on the developmental milestones of the children/young people.
- Competent staff and carers using skill sets informed by the CARE principles can only be effective when they are used in an environment that will allow their expression.

These six practice principles form the foundations of a contemporary Model of Residential and Foster Care, which when implemented will make a significant difference to the quality of lives for children and young people, and those who care for them.

Appendix 2 - Extract from SRC Submission on Justice Reinvestment

Possible benefits of justice reinvestment

Justice reinvestment should not be viewed as a panacea to our ongoing ethical and practical struggles with issues of crime and imprisonment. However we are challenged to seek more nuanced understandings of justice, human dignity and public safety. Set within this broader context it is an approach that may open up new ways of thinking, discussing and acting upon these issues.

In this respect justice reinvestment offers possibilities to:

- **Change the narrative** — from a retributive based focus on crime and punishment to a more nuanced understanding of justice, such as based in restoration and rehabilitation.
- **Build bridges not walls** — investing in the sources of crime and the social factors that give rise to criminal behaviour, rather than continuing to foster an industry built on its aftermath.
- **See the entire “criminal justice path”** — and look for interventions at all critical points: prevention, diversion, and (if incarceration is required) in reducing recidivism.
- **Respect human dignity** — by seeking to understand offenders both as citizens with rights and as a human being born with dignities and liberties, and as such always new potential.⁴⁸
- **Provide accountability** — to local community not just ‘society’ at large. By remaining in community, offenders’ roles may be changed from “permanent consumers of correctional services” to “builders and restorers of healthy, safe communities”.⁴⁹
- **Respect the sanctity of family** — when a person is imprisoned it is not just the individual affected, but their family members and dependents also bear a economic, social, mental and emotional burden.
- **Provide sound methodological and evidence-based practice** — although much thinking still needs to be done in how it might apply in an Australian context, justice reinvestment explicitly seeks such underpinnings. It may also engender more community engagement, and culturally safe practices.

Thus we commend further exploration and application of a justice reinvestment approach in Australia, as one approach that may offer new ways of thinking about and reformulating our criminal justice system.

⁴⁸ This understanding of prisoner, framed in principle of both theology and politics, was succinctly articulated by Rowan Williams in a 2011 speech to the House of Commons. At:

<http://rowanwilliams.archbishopofcanterbury.org/articles.php/563/archbishops-address-to-the-appg-on-penal-affairs>

⁴⁹ Open Society Institute (2003), Ideas for an Open Society: Justice Reinvestment.

New York State Juvenile Justice

PROGRESS TOWARD SYSTEM EXCELLENCE

JANUARY 2014

SUMMARY

New York State's juvenile justice system has seen significant improvements in community safety, coordination, data-driven decision-making, and outcomes for youth ages seven to 15 in just a few short years as the result of collective visioning and action.

Results clearly demonstrate progress toward improved outcomes for both youth and communities.

Between 2010 and 2012, across the state¹:

- Juvenile arrests were down by 24%
 - Juvenile admissions to state placement were down 28%
- Between December 2010 and June 30, 2013 the number of youth in state custody declined by 45%

CHALLENGE AND OPPORTUNITY

In 2011, transformational change was needed in order to dramatically reform the New York State (NYS) juvenile justice system.

The NYS juvenile justice system had a history of being...

Ineffective: Despite state annual placement costs that were among the highest in the nation, the vast majority of youth detained in the juvenile justice system eventually went on to become adult offenders²

Inefficient: Over 60% of youth were rearrested within two years of release from state custody³

Unsafe: State facilities were under investigation by the U.S. Department of Justice for brutal conditions of confinement

At the same time, the system was poised for reform due to...

Momentum: Multiple factors underscored the timeliness, urgency, and potential for change. Both Governor Andrew Cuomo and NYC Mayor Michael Bloomberg had publicly made the case for juvenile justice reform

Great work to build upon: There were numerous promising reform efforts around the state, though not aligned toward common goals

Evidence: There was a trend toward embedding evidence-based practices in various localities and parts of the system, but they were largely isolated from one another

In the face of these challenges and opportunities, several juvenile justice leaders in New York saw the potential for system transformation. Stakeholders across sectors increasingly believed that success would require collective action to drive systemic reform in a rapidly changing, resource-constrained environment.

The NYS juvenile justice system is comprised of a highly complex network of public and private agencies, nonprofit organizations, and courts, with unique policies and procedures at both the state and local levels. It also includes myriad connection points to other public systems, such as education and mental health. Multiple players and systems interact with youth at different points along their journey.

Improving outcomes for youth and for communities, therefore, required a coordinated, strategic effort toward a shared vision and common goals. It was clear that cross-sector leadership would be necessary to catalyze the effort and have the credibility and authority to effect real and lasting reform.



REFORMING THE NYS JUVENILE JUSTICE SYSTEM A COLLECTIVE IMPACT APPROACH

Collective impact offered a potential framework and approach to drive this reform effort. Highly structured, cross-sector collaboratives that have achieved substantial impact on a large-scale social problem share five key conditions that distinguish collective impact from other types of collaboration:

- A common agenda
- Shared measurement systems
- Mutually reinforcing activities
- Continuous communication
- The presence of backbone infrastructure

Leaders in the NYS juvenile justice system knew that something profoundly different needed to be done and believed that collective impact offered an approach for significant change. For the first time, there was a commitment to taking a state-wide, cross-system view of juvenile justice reform.

Today, driven by a dedicated group of stakeholders representing a broad spectrum of constituencies from across the system and around the state, transformational results are already being achieved.

HOW IT WAS DONE

The statewide collective impact planning process included data-driven analysis, extensive interviews with stakeholders, and benchmarking of effective practices across New York State and the nation.

The resulting strategic plan, *Safe Communities, Successful Youth: A Shared Vision for the New York State Juvenile Justice System*⁴, was released in July 2011. The collaborative, facilitated process included the following:

Steering Committee: This group included key leaders from across the state and the juvenile justice system, as well as other related systems. There was active participation by senior leadership from city, county, and state agencies; private nonprofit organizations, such as voluntary agencies and Legal Aid; the advocacy community; the judiciary; law enforcement, and the New York City Department of Education.

Shared Vision: The Steering Committee agreed upon a powerful and straightforward shared vision for system excellence: **Across New York State, the juvenile justice system promotes youth success and ensures public safety.**

Work Groups: The Steering Committee established two Work Groups to identify the existing continuum of services for youth and to probe deeply into the available data on the current system.

Action Steps: The Steering Committee identified a set of 10 critical near-term action steps (see Appendix B) in order to launch the work rapidly and with great urgency, with the goal of putting in place the structures and approaches necessary to assure the system was safe, accountable, fair and effective. These action steps were organized along three key themes:

1. Assuring quality system governance, accountability, and coordination
2. Implementing an effective continuum of services based on best practices, and
3. Collecting and sharing data to make information-driven decisions and policy

Strategic Planning Action Committee (SPAC): To ensure effective implementation of the strategic plan, the SPAC was formed and includes leaders from various agencies, organizations, and courts from across the state. The SPAC is co-chaired by the designees of the Governor and the Chief Judge (see Appendix A).

Backbone Staff: The state provides staff to support the SPAC, designated and funded by the NYS Office of the Deputy Secretary for Public Safety, the Office of Children and Family Services (OCFS), and the Division of Criminal Justice Services (DCJS).



RESULTS

By the fall of 2013, just two years after the inaugural meeting of the SPAC, nearly all of the 10 critical near-term action steps (see Appendix B) had been accomplished or were in progress, ensuring significant gains in governance, accountability, and coordination; an effective continuum of services based on best practices, and information-driven decisions and policy. These changes have been complemented by structural reforms and fundamental shifts in practice. Major results have been seen in all of the following categories:

“Because we worked together on developing values and goals that everybody agreed to, people are now more inclined to act on those values. There is now a shared sense of why we’re doing things and, where we want to drive the system to be. The process of having sat at the same table and gotten to know one another has really changed our work and the level of trust we have in each other.”

*Gladys Carrion, former Commissioner
Office of Children and Family Services*

New and Stronger Relationships Across the System

According to multiple stakeholders deeply involved in the effort, establishing relationships where they hadn’t existed before has been perhaps the greatest achievement to date. With these relationships has come the development of a unifying common agenda. Many highlight the importance of now having a regular venue for discussion of important and timely issues related to juvenile justice, strengthened by a shared sense of purpose and collective direction.

The collaboration built over the course of the statewide collective impact planning process has had other impacts as well. These include greater competitiveness by NYS in federal grant applications, closer working relationships among state agencies that were not previously collaborating, and new productive relationships between local communities and state leadership.

Deeper Knowledge of Programs and Services

As a result of the collaborative strategic planning effort, a live online searchable database of the continuum of services and providers available for justice-involved youth across the state is now operational and broadly accessible⁵. The database provides users with a menu of all available program options that can be sorted by location, service type, juvenile justice processing stage, risk and needs profile, as well as other characteristics.

The compilation of programs and services marks the first time the state has generated any comprehensive list of local programs and services for justice-involved youth. This resource serves two key purposes. First, the database allows individuals — parents, youth, community members, judges, and others — to search for local programs and services. Second, it allows policymakers to analyze the continuum of services to understand better if they are comprehensive and to identify if there are gaps.

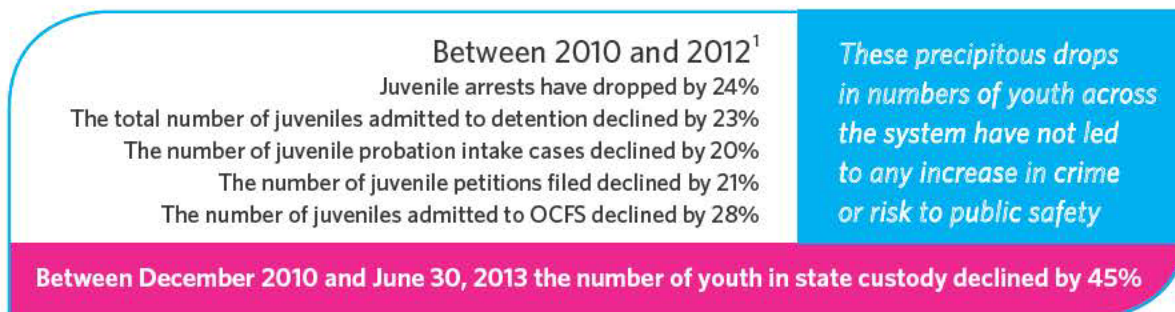
Significant Policy Changes: The Close to Home and Raise the Age

Ultimately, both relationships and unity around a common agenda helped to lay the foundation for agreement on significant policy change. The Close to Home initiative, signed into law by Governor Cuomo in 2012, represents a collaborative effort between New York City and New York State to ensure more appropriate placements for justice-involved youth who come from New York City, increasing the efficiency of the system as a whole. The legislation was designed to keep youth in or close to their home communities to receive the services and support they need. In addition to being consistent with national best practices for improved youth outcomes, the Office of Children and Family Services estimates that Close to Home will save the state and city a total of \$12 million by 2015.⁶ While not directly a result of the state juvenile justice reform planning process, development of the Close to Home legislation and its successful adoption were deeply rooted in the planning process. The level of trust and confidence built, as well as the common set of goals established, laid the groundwork for both the negotiation and the successful implementation of Close to Home. And now, the widespread success of other juvenile justice reforms have paved the way for New York to finally plan to raise the age of criminal responsibility from 16 to 18. Governor Cuomo, in his 2014 State of the State Address said, “Our juvenile justice laws are outdated. Under New York State law, 16 and 17 year olds can be tried and charged as adults. Only one other state in the nation does that; it’s the state of North Carolina. It’s not right, it’s not fair – we must raise the age. Let’s form a commission on youth, public safety and justice and let’s get it done this year.”

Commitment to Data-Driven Decision-Making

A critical need identified in the state planning process was access to better, real-time data across the system in order to drive more effective decision-making. For the first time, performance metrics are now publicly available⁷, capturing a wide range of data, including juvenile arrests, racial breakdown of arrests, cases under probation supervision, average lengths of stay in detention, and family court processing time. Data is available for New York State, New York City, and the 57 counties outside of New York City.

Previously, this data had rested in many different entities and agencies, and had never before been pulled together in one place. This data provides a starting point for analysis and discussion, prompting and informing conversations about the outcomes of the juvenile justice system statewide and serving as an empirical tool to drive policy change. Access to better data has also helped to improve the quality of programs and services.



Engagement of Local Communities

As a result of this work, local communities are now engaged in system reform in dramatically different ways. In 2013, eight Regional Youth Justice Teams were launched and began to meet in regions around the state. The design of these teams is the result of a Work Group recommendation to solicit ongoing input from localities and to create a formal mechanism for feedback. Initiated by the SPAC, a statewide RFP was released to launch these teams, sending a clear message to the regions that their input was important to state-level decision-making.

Empowerment of New Stakeholders

The state planning process represented a new era in terms of who was brought to the decision-making table. Local community-level leadership, the judiciary, private providers, and community advocates were intentionally and substantively invited to participate. There had previously been no regular structure to engage these important voices in state-wide juvenile justice conversations. The planning process created a space for these stakeholders to be heard, feel valued, and actively participate. They brought important new perspectives to the process, which has ultimately resulted in broader alignment and better results.

Exponential Leverage of Original Investment

An original \$140,000 of philanthropic investment has leveraged hundreds of thousands of public dollars from state and federal sources. This complements the millions of public dollars working in greater alignment and with a consistent vision toward juvenile justice system reform, representing more than a six-fold degree of leverage of the direct dollars alone. Resources include the following:

“Helping government facilitate and implement fundamental system reform is something that foundations should strive for. If private funders want to get the biggest bang for their dollars, this type of profound and sustainable commitment to change is worthy of investment.”

*Emily Tow Jackson, Executive Director
The Tow Foundation*

- Staffed backbone support dedicated to guiding the SPAC and moving the effort forward. Additional significant commitment of staff support from across multiple agencies
- Countless hours of time dedicated to SPAC and Work Group participation by leaders from within and outside the juvenile justice system as co-chairs and participants
- Greater alignment of public dollars to support more effective and evidence-based practices
- Nearly \$900,000 in public dollars provided to support the statewide collective impact planning process, development of performance measures, and establishment of a new comprehensive juvenile justice services database

Lead investment came from the New York State Juvenile Justice Advisory Group (JJAG), following its mandate to direct both state and federal funding toward improving system outcomes.



USING COLLECTIVE IMPACT FOR SYSTEMS CHANGE

KEY ELEMENTS FOR SUCCESS

Convene Appropriate Levels of Authority

This effort has relied upon the convening power of senior-level system leaders. The SPAC is co-chaired by the Governor's representative and a high-level member of the judiciary. Members of the committee include state, county and local commissioners and directors. Access to key decision-makers allows reforms to be initiated and move forward quickly from the SPAC.

Emphasize Continuous Communication

As the effort has unfolded, new stakeholders have emerged and people have cycled in and out of various leadership positions. Enormous emphasis has been placed on bringing new participants up to speed on both content and relationships. Commitments to being inclusive and making sure that participants know the importance of continuous feedback loops have been essential to the continuity of the work, even as the players change.

Ensure Work Gets Done Between Meetings

This effort has relied upon backbone infrastructure, both in formal staffed roles and in more ad hoc staff and volunteer allocations of time from multiple agencies to ensure that work progresses between meetings. Seeing clear and tangible progress along the way has served as an important tactic to keep busy stakeholders engaged and to continue to demonstrate that meetings are a good use of their valuable time. As a result, SPAC meetings have not struggled with attendance.

Recognize the Critical Role of Public/Private Funding Partnerships

For this collective impact effort, early private philanthropic investment was critical, as it provided "seed" or "risk capital" before state dollars could be allocated. The ability to quickly access philanthropic dollars allowed for momentum to continue while time-consuming state procurement processes unfolded. Ultimately, the effort has been sustained with state and federal funding, significantly leveraging the original investment.

"Innovating in public policy requires engaging across boundaries, with each stakeholder playing to their strengths. In government we have the authority and the capacity to act, but philanthropy can be a catalyst for change and generate momentum that ultimately benefits the public."

Thomas Abt, NYS Deputy Secretary for Public Safety

The initial statewide collective impact planning effort was funded with support from an anonymous donor and seven private foundations: David Rockefeller Fund, New York Community Trust, Open Society Foundations, Pinkerton Foundation, Prospect Hill Foundation, Public Welfare Foundation, and The Tow Foundation. Public dollars were committed from the Division of Criminal Justice Services (DCJS) and the NYS Juvenile Justice Advisory Group (JJAG). Sourcing funds from this broad range of funders was intentional and grounded the work in both credibility and neutrality.

CONCLUSION

Perhaps the single most important element in New York's recent successes has been a mutually reinforcing dynamic that has emerged in the state's juvenile justice reform efforts. Each step forward serves as a springboard for the next. Recent movement has begun toward establishing a statewide center for best practices and exploring new financing models. Held together by a common vision for system excellence, this culture of reform is fueled by contributions from all of the system leaders, advocates and other stakeholders. And momentum is strong for continued reform for years to come.

APPENDIX A

Agencies currently represented on the Strategic Planning Action Committee (SPAC):

- Broome County Probation Office
- Center for Court Innovation
- Correctional Association of New York
- Council on Children and Families
- Council of Family and Child Caring Agencies
- Division of Criminal Justice Services
- Legal Aid Bureau of Buffalo
- NYC Administration for Children's Services
- NYC Criminal Justice Coordinators Office
- NYC Department of Probation
- NYS Association of Chiefs of Police
- NYS Association of Counties
- NYS Deputy Secretary for Public Safety
- NYS Deputy Secretary for Human Services
- NYS Judicial Institute
- NYS Juvenile Justice Advisory Group
- Office of Children and Family Services
- Office of Probation and Correctional Alternatives
- Orange County Department of Social Services
- Schenectady County Probation Office
- State of New York Police Juvenile Officers Association
- The Tow Foundation

APPENDIX B

NEW YORK STATE JUVENILE JUSTICE STRATEGIC PLANNING ACTION COMMITTEE NEAR-TERM ACTION STEPS

ASSURE QUALITY SYSTEM GOVERNANCE, ACCOUNTABILITY AND COORDINATION

- 1. Ongoing Coordination:** Evolve Steering Committee into a Strategic Planning Action Committee (SPAC), with devoted staff from the Governor's Office, Division of Criminal Justice Services and Office of Children and Family Services.
- 2. Multi-Stakeholder Input:** Evolve the existing Work Groups to establish an ongoing role in providing regular feedback and guidance to the SPAC.
- 3. Performance Measures:** Finalize agreement on a set of high-level system outcomes and performance measures.
- 4. Ongoing Input from Localities:** Develop a plan to implement local interagency advisory teams.
- 5. Feedback Mechanisms:** Establish regular mechanisms to gather feedback where necessary, and share emerging plans and strategies for system reform with key stakeholders around the state.

IMPLEMENT AN EFFECTIVE CONTINUUM OF SERVICES BASED ON BEST PRACTICES

- 6. Analysis of Continuum:** Conduct analysis of current continuum of providers across the state, and assess relative to juvenile delinquency.
- 7. Performance Contracting and Quality Standards:** Implement and effectively utilize uniform performance-based contracting and quality standards for public and private providers.
- 8. Financing Models and Oversight Structures:** Conduct analysis of potential financing models, oversight structures, and case jurisdiction responsibilities.
- 9. Support for What Works:** Establish an interactive, best practice clearinghouse to expand the capacity of the state to adopt both research-driven and evidence-informed practices.

COLLECT AND SHARE DATA TO MAKE INFORMATION-DRIVEN DECISIONS AND POLICY

- 10. Data Infrastructure and Analysis:** Establish the data infrastructure and analytical capacity necessary to improve outcomes.

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CONTACT INFORMATION

Thomas Andriola, Director of Policy and Implementation,
NYS Office of the Deputy Secretary for Public Safety
thomas.andriola@dcjs.ny.gov

Jacquelyn Greene, Counsel to the NYS Deputy Secretary
for Public Safety and Director of Juvenile Justice Policy,
Division of Criminal Justice Services
jacquelyn.greene@dcjs.ny.gov

1. NYS Division of Criminal Justice Services (DCJS): Uniform Crime Reporting and Incident-Based Reporting (UCR/IBR) System, Probation Workload System, and DCJS-Office of Court Administration (OCA) Family Court JD/DF Case Processing Database. NYS Office of Children and Family Services (OCFS) detention and placement databases.
2. State of New York Juvenile Justice Advisory Group, "State of New York, 2009-2011: Three-Year Comprehensive State Plan for the Juvenile Justice and Delinquency Prevention Formula Grant Program," <http://criminaljustice.state.ny.us/ofpa/pdfdocs/jju3yearplan2010.pdf>.
3. Susan Mitchell-Herzfeld, Vajera Dorabawila, Leigh Bates, and Rebecca Colman, "Juvenile Recidivism Study: Patterns and Predictors of Reoffending Among Youth Reentering the Community from OCFS Facilities and Voluntary Agencies," PowerPoint presentation at the New York State Division of Criminal Justice Services, April 27, 2010.
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6. <http://www.nytimes.com/2013/05/05/nyregion/program-keeps-troubled-new-york-youth-close-to-home.html?pagewanted=all>
7. <http://www.nysjjag.org/our-work/performance-metrics.html>