

Youth Justice – A Commissioner’s Perspective

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Introduction

- Youth Justice is a real hot topic of discussion both within Australia and worldwide. The ongoing debate around the suitability of detention as a form of rehabilitation for juvenile offenders is one that will undoubtedly continue, a debate that is often backed by political agendas and public pressure rather than best practice and scientific evidence.
- Approaches to youth justice around the world are varied and ever-changing, Scandinavia is as good as it gets with their welfare model (*informal proceedings and interventions based on the best interests of the child*), their trailblazing in all social issues does make it the holy grail of places to live and so it may seem like a step too far, nonetheless important lessons can be learnt purely by looking at their attitude to youth offending and their ownership of the issue within the community – what have we as a community done to fail these young people?
- In order to look at youth justice issues it is of course necessary to take a few steps back, to understand and appreciate that youth incarceration is a symptom of the complex needs and issues being experienced by the young person.
- In looking at youth justice a whole of community lense should be used. How have we gotten to this point and how do we prevent it from happening again?

Discussion Outline - the Northern Territory perspective – where are we now and where are we going? – the effects of Youth Detention – educating the public - what can we do better to reduce youth offending – looking forward.

Northern Territory Perspective

Numbers in youth detention in the NT fluctuate, Don Dale sits at approximately 30 with a small number of detainees being held in Alice Springs.

As we are all aware the population is almost exclusively indigenous, at approximately 90%, any discussion of best practice or reducing offending must have evidence relating to indigenous culture and issues.

A small detention population could be the perfect opportunity to lead the way in best, evidence based practice, it allows for tailored solutions to the individual and could facilitate a positive throughcare model for those young persons entering into and transitioning out of detention. It would also suggest the potential for early intervention, allowing for the identification of those families who could benefit from early intervention and intensive family support. However, it appears that the NT’s current approach to Youth Detention is focused at a much later stage, almost entirely on public safety and the safety of the detention centre rather than the reduction of offending or at the very least the rehabilitation of its detainees. Of course there will always be a need for balance, you could never suggest to completely cease youth detention, there will be times where it is necessary and in the public’s interest to have the young person detained, however its use should be limited. A preventative, early intervention approach could achieve a marked reduction so that we don’t get to the point where a young person is looking down the barrel of detention and the need for the Court to make such a decision.

An interesting question to ask yourself and indeed the community and Government is – what do I want youth detention to achieve? Is it that you simply want that “bad kid” taken off the streets? Or is it that you want the kid to be held responsible for their actions and to be helped to not reoffend?

We can see what answer the Government of the day gives to that question by looking at some recent legislative amendments and proposed amendments - the Youth Justice Amendment Bill and the proposed amendments to the Bail Act. Increasing the use of restraints in detention and reducing the likelihood of bail are not examples of progressive juvenile justice practice instead they show concern purely for public safety and the internal functioning of the detention centre.

In fact it has been shown that over restrictive bail legislation in the youth justice area does not work at reducing levels of offending, they merely increase numbers of remand prisoners. A study by the NSW Bureau of Crime Statistics and Research found no evidence that changes to the Bail Act 1976 and stricter police enforcement of bail laws, which contributed to a 32% increase in the juvenile remand population, produced no decrease in juvenile property crime.

In addition the merits of the use of restraints on young people are contested in their entirety and it is our belief that at the very least restraints should not be used within the walls of a detention centre. The NT Government sees things very differently.

At recent government estimates the Minister stated that 8/43 kids currently in detention were in the care of the CEO of DCF, it would be fair to suggest that a number more would have had some contact with the Child Protection system at some point during their lives and that countless detainees who have passed through detention centres over the years would have been DCF kids. A whole-of-government approach is urgently needed, in particular a combined approach between Department of Correctional Services and DCF. Dual systems ie. Child protection and youth justice have proven successful and such a system would be a positive step forward in the NT.

Despite the evidence to suggest that a public health approach is effective, the NT continues down the road of investing purely in the front end, choosing short term gains rather than long term investment for long term gains. This is perfectly highlighted by the proposed introduction of bail legislation to deal with a small number of "frequent flyers".

Effects of Detention

On a very basic level detention can increase recidivism, provides opportunity for offending youth to congregate (which can negatively impact their behaviour and increase their chance of re-offending) and detention pulls youth deeper into the juvenile and criminal justice system.

A number of Australian studies have reported evidence which suggests a higher instance of cognitive disability amongst Indigenous children and young people in comparison with non-Indigenous, this is of course of crucial significance in explaining Indigenous over representation in the juvenile justice system given evidence associating mental illness with higher rates of arrest, parole failure and recidivism.

Given the demographic of our youth detention population and the experience of my office it is fair to say that many of the young persons in detention in the NT suffer from mental health issues, some more seriously suffer from cognitive disabilities, some have never been adequately assessed and so the extent of their issues are unknown, many are suffering the effects of complex trauma. It is known that the environment of detention exacerbates such issues. There is a lack of adequate forensic mental health services in the NT which limits the potential success of any period of detention in terms of rehabilitation.

Removing Indigenous youth from their country to serve a period of detention often causes intense home sickness, feelings of isolation and despair and again tends to exacerbate emotional and mental health issues. This is of particular concern to the OCC at the moment given the movement of Alice Springs detainees to Darwin where there is little hope of any family contact.

Detention also has an impact on the young person's education, it is difficult for a young person to reintegrate into a normal school routine following detention. Of course detachment from education causes a flow on effect on potential for employment and likelihood of reoffending. If a whole of government approach was taken it would alleviate some of these issues by a collaborative approach to restoring the young person to ongoing education / training.

Educating the Public / Vilification of the Young Person

One issue of grave concern to the OCC is the ongoing vilification of the young people who offend in the NT. The NT is a small place, an even smaller place when your face, name and vital stats are published on Facebook and other media outlets linked to a spate of crimes.

The most recent related to 3 young offenders wanted for property offences. The 13, 15 and 17 year olds were the subject of a manhunt and the NT Police went public to get information. The hundreds of comments on FB made for grim reading, all sorts of punishments were called for, an array of names were used, and the great one of "where are their parents?".

One very worrying aspect was the public's attitude towards the Courts – "*Never mind, all good, be back in action once the kind magistrate let's em go*" was one of many negative comments discussing the public's interpretation of the apparent leniency of the Courts.

There was a plea to the Chief Minister on his recent promise of cleaning up the streets saying "Chief Minister. You are going to clean all this up so here's your first lot to make an example of.. Please keep your word." That word, of course, also featured on Facebook with a statement by the Chief Minister pertaining to his proposed Bail amendments that "Nobody wants to see a kid in jail, but nobody wants to see our cars getting smashed up and our houses broken into. That's it. Had enough"

When you have your Chief Minister publicly linking increased incarceration with a reduction in crime it's a difficult task to get the public to understand that that is simply not the case. The key is of course education – educating the general public, the media and sadly the Government that these kids do not come from functioning, loving backgrounds (for the majority), that the issues are so complex and the offending is simply a symptom. Informing them of the evidence behind the rationale applied by the Courts and promoting in all we do that an evidence based approach must be used. We all have a role to play in educating, our experience is that people take a far different view when provided with a measured explanation of how best to deal with these issues.

Reducing youth offending

There are two types of approaches – preventative and interventionist.

Prevention is always better than cure and similarly preventative approaches to youth justice are more cost effective and have more positive effects on the community.

Whatever approach is taken the NSW review of effective practice in Juvenile Justice highlights six key principles to support the implementation of effective practice in juvenile justice, they are gleaned from evidence taken from around the world ; Evidence-based policy formulation, avoidance of youth incarceration wherever possible, comprehensive and complementary programming, tailored strategies for Indigenous and other culturally diverse groups, whole-of-government collaboration and whole-of-community collaboration.

All of the above have great merit, one in particular is of utmost importance – the whole-of-Government approach. The NT could benefit hugely from a whole of government approach to our young people, an area with low educational outcomes, in particular in our Indigenous population, where a large number of our children are beginning their formal education behind the national standard, the NT has an overstretched child protection system, with the majority of

reports being those of neglect. It is interesting to note that second to poor parenting, engagement with education is the next most prevalent factor in determining whether someone is likely to have a criminal record as an adult (followed by employment) utilising a whole of government approach could greatly improve the levels of offending. If Education, Police, Department of Children and Families and Corrections worked collaboratively the results could be far reaching and hugely effective. Rather than viewing interaction with Correctional Services as the time when these offenders should be rehabilitated, identifying those at risk of offending as early as pre-school is a far more cost effective and beneficial model.

What works?

- Developmental crime prevention
- School safety initiatives
- After-school activities
- Situational crime prevention
- Therapeutic interventions, including multi-systemic therapy, family functional therapy and aggression replacement training
- Mentoring
- Targeted policing of high risk youths and of areas where they are known to commit crimes
- Restorative justice

What doesn't work?

- Juvenile curfews
- Scared straight programs
- Probation
- Incarceration
- Boot camps
- Trying juveniles in adult courts

NT – what could work?

- A whole of government approach – Education, Police, DCF, Corrections, Health is the number one way of taking a positive and effective approach to prevention. The most pressing is the need for coordination between DCF and Youth Justice.

- Early intervention evidence based programs – this is critical in particular for indigenous families given the extensive risk factors for offending experienced by those families.
- Family Group Conferencing – as used in NZ, this involves the indigenous community in taking a culturally appropriate approach to youth offending, whilst its benefits are not hugely evident, attempts to involve the community must be commended and adequate resources invested to ensure that they have the best chance of being effective.
- There are a wide variety of alternative programs, the OCC would always support those programs that have been evaluated and measured. One such program, which can be used as an example, in particular due to our demographic is:
 - Aggression Replacement Training – aims to reduce anti-social behaviour by targeting cognitive, behavioural and emotional aspects of juvenile aggression. Deals with both the external factors – parental and peer influences and internal-cognitive problems believed to underlie aggressive behaviour. Specific interventions of this consist of ‘skill streaming’ which teaches pro-social skills, as well as ‘anger-control training’ and ‘training in moral reasoning’. This can be done in small groups and have proven effective for juvenile offenders. It has proven effective in outcomes and cost. Given the fact that much of the behaviour is impulsive in particular the lower level crime area, this is something that could not only prevent future offending but also aid a positive experience in detention in providing coping mechanisms and behavioural change.

Looking Forward – Effective Practice (NSW Report)

- To continue to educate and promote the need for Evidence-based policy formulation – policy makers should take into account “what works”. While get tough approaches may be politically attractive (our new Bail legislation) evidence indicates they are not effective Therefore policy should be guided by scientific research and cost-benefit analyses rather than political convenience.
- To promote community based programs rather than incarceration, with the goal of reducing population of juveniles in custody, in the first instance by reducing offending.

- Promote a public health approach to address delinquency across the entire developmental lifecycle. ie early age intervention, school, family and community based prevention programs.
- If custody is absolutely necessary effective programs during detention and after must be provided.
- Adequate culturally appropriate strategies – many programs downfall in addressing indigenous offending is the manipulation of mainstream programs for indigenous young people rather than indigenous specific programming.
- Whole of Government / Community collaboration – as discussed above.

Materials Referenced

“Arresting Incarceration – Pathways out of Indigenous Imprisonment” – Weatherburn, Don 2014

“Review of Effective Practice in Juvenile Justice” - Noetic Solutions Pty Limited, 2010

“The Dangers of Detention : The Impact of Incarcerating Youth in Detention and Other Secure Facilities” – Justice Policy Institute

“Behaviour management and human rights standards in Australian Youth Justice facilities: Use of restraint, seclusion, segregation and strip searching” ACCG, April 2016

Facebook – Northern Territory Police, Fire and Emergency Services

Facebook – Chief Minister Adam Giles