

COMMUNITY LEGAL CENTRES TASMANIA

Animal Welfare Community Legal Centre • Environmental Defenders Office • Hobart
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15 July 2013

A Continuum of Care to Prevent Youth Offending and Re Offending
Children and Youth Services
Department of Health and Human Services
GPO Box 125
Hobart TAS 7001

By email: youthjusticereform@dhhs.tas.gov.au

Dear Michelle O'Byrne MP,

Re: Consultation into Prevention of Youth Offending and Re Offending

Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to respond to the Minister for Children's consultation on measures to prevent youth offending and re offending.

CLC Tas is the peak body representing the interests of eight community legal centres located throughout Tasmania. We are a member based, independent, not-for-profit incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

CLC Tas strongly supports the implementation of measures that will reduce youth offending and re-offending in Tasmania. Young people are our future and as such our failure to effectively prepare them for the future will result in significant long-term costs for both the individual and the Tasmanian community. Expressed in another way, the prevention of offending and re offending by young people will guarantee a safer community as well as providing individuals with opportunities to fulfill their potential.

THE TASMANIAN STATISTICS

Research carried out by the Australian Institute of Health and Welfare notes that in Tasmania on an average day in 2010-2011, there were 353 young people under juvenile justice supervision in Tasmania, of which 327 were under community-based supervision, and 26 were in detention.¹ More recent research demonstrates that in comparison to other Australian States and Territories, Tasmania has the highest rate of young people aged 10-17 under supervision but the lowest rate in detention.² Pleasingly, between 2008-09 and 2011-12 the rate

¹ Australian Institute of Health and Welfare, *Juvenile Justice in Australia 2010-11* (2011).

² Australian Institute of Health and Welfare, *Youth Justice in Australia 2011-2012: an overview* (Bulletin 115, April 2013) at 11, 14.

of young people aged 10-17 under supervision on an average day decreased notably in Tasmania from 47 to 40 per 10,000.³ As well, Tasmania has the lowest rate of Indigenous young people aged 10-17 under supervision and the lowest level of Indigenous over-representation.⁴

THE CAUSES OF YOUTH OFFENDING

There is a wide body of research demonstrating the overlap between long-term family dysfunction, substance abuse, homelessness and criminal activity.⁵ Youth offending is more likely to lead to adult offending meaning that prevention and early intervention programs⁶ targeted at-risk children and youth and focused on socialization, healthcare and education provides the most cost effective ways to reduce crime.⁷

THE DETENTION OF YOUTH IN TASMANIA

The Ashley Youth Detention Centre is Tasmania's only youth custodial facility accommodating both male and female offenders aged between 10 and 18 years. It currently accommodates around 22 young people per day and has a 51-bed capacity. It also absorbs \$10,000,000 of Tasmania's annual youth justice budget of \$14,200,000.⁸ In other words, more than two-thirds of Tasmania's youth justice budget is spent on detention. According to some reports Tasmania has the most expensive youth justice system in Australia.⁹ However, detention does not reduce re offending with a large body of research finding that the most effective treatment for children and youth at risk is to minimise their contact with the criminal justice system.¹⁰

CLC Tas strongly recommends the adoption of a youth justice system in which funds are directed primarily towards prevention and early intervention

³ Australian Institute of Health and Welfare, *Youth Justice in Australia 2011-2012: an overview* (Bulletin 115, April 2013) at 17.

⁴ Australian Institute of Health and Welfare, *Youth Justice in Australia 2011-2012: an overview* (Bulletin 115, April 2013) at 10.

⁵ See, for example, Australian Institute of Health and Welfare, *Children and young people at risk of social exclusion* (2012). This is also demonstrated in research carried out of Tasmania's Ashley Detention Centre which found that most detainees have past involvement in the child protection system, a high proportion have psychiatric difficulties and problems associated with drug and alcohol abuse: Department of Premier and Cabinet, Problem-solving justice systems http://www.dpac.tas.gov.au/divisions/cdd/policy/agenda_for_children_and_young_people/18 (Accessed 10 July 2013).

⁶ Early intervention programs have been defined as aiming 'to prevent or lower the incidence or prevalence of specific problems or issues in a population or sub-population': Report for the Minister for Juvenile Justice, *A Strategic Review of the New South Wales Juvenile Justice System* (April 2010) at 89.

⁷ Don Weatherburn, *Law and Order in Australia: Rhetoric and Reality* (2004) 190-197.

⁸ See, for example, *Ashley Youth Detention Centre – The Last Resort*, Issues Paper No. 2 (December 2011) at 4.

⁹ Mission Australia, *Cutting funds to our U-turn youth justice program disappointing and short-sighted*. As found at <http://www.missionaustralia.com.au/daily-news/2822-cutting-funds-to-our-u-turn-youth-justice-program-disappointing-and-short-sighted> (Accessed 10 July 2013).

¹⁰ Ian O'Connor and Margaret Cameron, *Juvenile Justice in Australia*, in Adam Graycar and Peter Grabosky (eds). *The Cambridge Handbook of Australian Criminology* (Cambridge University Press, 2002).

programs and services for local communities and detention remains a last resort. A re-prioritisation from detention to prevention and early intervention through the creation of a justice reinvestment policy will provide long-term solutions to youth offending and re offending.

- Justice Reinvestment

The Australian Human Rights Commission has described 'justice reinvestment' as:¹¹

Justice reinvestment is a localised criminal justice policy approach that diverts a portion of the funds for imprisonment to local communities where there is a high concentration of offenders. ... Justice reinvestment ... shifts the culture away from imprisonment and starts providing community wide services that prevent offending. Justice reinvestment is not just about reforming the criminal justice system but trying to prevent people from getting there in the first place.

Given that Tasmania currently has the highest rate of young people aged 10-17 under supervision but the lowest detention rate it is clear that more funding must be allocated to prevention and early intervention programs including effective rehabilitation, parole supervision and after-prison support.

Recently, a review of justice reinvestment policies by the Senate Legal and Constitutional Affairs Reference Committee found that they have a "proven track record in achieving successful outcomes through both lowering incarceration rates and targeting the drivers of crime".¹² The Committee concluded that justice reinvestment provides economic benefits, including through reduced incarceration costs, but also improved economic participation, decreased use of the welfare system and improved health outcomes.¹³

It is of concern to CLC Tas that there are currently only a limited number of programs available to young offenders. Some of the programs offered such as the alcohol and other drug programs for offence related substance abuse have "delays in access to and long waiting lists for the limited specialist services that are available",¹⁴ whilst the Tasmanian Government's own *A Continuum of Care* Report notes that there is "very limited availability" in sexual offender programs for young offenders.¹⁵ It is also strongly recommended that the Tasmanian Government introduce a program for young offenders with anger management issues and exhibiting violent behaviors.

¹¹ Aboriginal & Torres Strait Islander Social Justice Commissioner, Social Justice Report 2009, Report No 1/2010, Australian Human Rights Commission, pp9-10.

¹² Senate Legal and Constitutional Affairs References Committee, Value of a justice reinvestment approach to criminal justice in Australia, (2013) at 114.

¹³ Senate Legal and Constitutional Affairs References Committee, Value of a justice reinvestment approach to criminal justice in Australia, (2013) 111-115.

¹⁴ Anglicare Tasmania, *Response to Department of Justice Discussion Paper Breaking the Cycle: Tasmania Corrections Plan 2010-2020* (March 2010) at 3.

¹⁵ Department of Health and Human Services, *A Continuum of Care to Prevent Youth Offending and Re Offending* (2012) at 31.

Finally, it is of grave concern to CLC Tas that the U-Turn program managed by Mission Australia was recently abolished. It is strongly recommended that the Government inject urgent funds into this program to ensure its survival. A failure to do so will prove shortsighted with the failure to fund such programs likely to result in an increased likelihood of re offending and increased expense. The U-Turn program's 10-week automotive training course for example costs approximately \$130 per day for a young offender as opposed to the estimated \$600-\$900 per day it costs to detain a young offender at Ashley Youth Detention Centre.¹⁶

CLC Tas submits that the Tasmanian Government should adopt a justice reinvestment approach in the design of appropriate and effective solutions to address youth offending in Tasmania.

- Alternative Accommodation and Detention Options

As well as the lack of funding for prevention and early intervention programs CLC Tas is also concerned at the limited accommodation options for young people, exiting treatment services.¹⁷ Housing must be available to children and young people unable to stay at home either because of abuse, neglect or their parents' behaviors and where the scarcity of public housing and the reluctance of real estate agents to rent to persons under the age of 18 means few alternatives exist.

The provision of stable alternative housing for at risk children and youth is exacerbated with the limited remand options available to young people. That is, young people who have been refused bail or are unable to comply with the bail conditions imposed on them. In such instances one community organization recently observed that there are "...a lack of alternative placement options",¹⁸ a view reinforced at a consultation in Launceston in May 2013 where a number of Bench Magistrates noted their reluctance at having to send young people to Ashley Youth Detention Centre because "there is nowhere else for them to go".¹⁹ This view has been tacitly acknowledged by Michelle O'Byrne the Minister for Children who has confirmed that around 66 percent of young people housed at Ashley Youth Detention Centre are there on remand.²⁰

¹⁶ Mission Australia, 'Cutting funds to our U-turn youth justice program disappointing and short-sighted'. As found at <http://www.missionaustralia.com.au/daily-news/2822-cutting-funds-to-our-u-turn-youth-justice-program-disappointing-and-short-sighted> (Accessed 10 July 2013). Also see Lisa Cuatt, Rethink for troubled youths, *The Mercury*, June 18 2013. As found at http://www.themercury.com.au/article/2013/06/18/381707_opinion.html (Accessed 10 July 2013).

¹⁷ Teresa Hinton, *Just another manic Monday: the challenge of working with clients with alcohol and other drug issues in community service organisations* (Anglicare Tasmania: 2008) at 43-47.

¹⁸ Anglicare Tasmania, *Submission to the Consultation on a Continuum of Care* (2012) at 10.

¹⁹ Consultation Session as part of the 'A Continuum of Care' Consultation Process held at the Tailrace Centre, Launceston on 15th May 2013.

²⁰ Honorable Michelle O'Byrne Minister for Children, Parliament of Tasmania, House of Assembly, Estimates Committee (Hansard), Tuesday 28 June 2011.

It is inappropriate to hold children and young people in detention because of a lack of alternative accommodation. With studies consistently demonstrating that time spent in remand is the most significant factor in increasing the likelihood of recidivism²¹ it is imperative that appropriate alternative accommodation be made available. It is recommended that the Government review alternative models such as the introduction of 'bail houses' and 'youth hostels'.

It is also of concern to CLC Tas that offenders are removed from their families, and communities and housed at the Ashley Youth Detention Centre. Successful rehabilitation of young offenders requires continuity. Additionally, there is a growing number of studies concluding that youth offenders sentenced to custodial sentences in facilities such as the Ashley Youth Detention Centre are no less likely to re-offend than young offenders sentenced to non-custodial orders.²²

When it is recognized that custodial sentences are far and away the most expensive sentencing option and have limited effectiveness in reducing crime it is clear that alternatives need to be found. We therefore recommend the closure of the Ashley Youth Detention Centre and its replacement with smaller, community based rehabilitation units possibly in the south, north and north-west of Tasmania. It is recommended that a feasibility study be commissioned with the aim of developing a costed model for government's consideration.

Finally, it is of concern to CLC Tas that there is no requirement for young people leaving Ashley to have an 'exit plan'. Given the increased risk that young offenders will return to their former friendship groups and the influences that led to their detention it is strongly recommended that young people be required to have an 'exit plan' and adequate resources are put in place to ensure that their goals are being met. Save the Children's *Transition from Ashley Youth Detention Centre* program provides one of the few programs currently offered, although currently lacks the resources to meet demand.²³

SUMMARY

In summary CLC Tas believes that the current funding model is flawed with far too much emphasis on detention. In our opinion, this is bad policy with a large body of research clearly demonstrating that prevention and early intervention programs provide the most cost effective way to reduce crime. We strongly recommend the creation of a justice reinvestment policy which if implemented will reduce offending, ensure a safer community and provide all children and

²¹ See, for example, Report for the Minister for Juvenile Justice, *A Strategic Review of the New South Wales Juvenile Justice System* (April 2010) at 68; J Kraus, Remand in custody as a deterrent in juvenile jurisdiction (1978) 18(3) *British Journal of Criminology*, 285-289.

²² See, for example, Don Weatherburn, Sumutra Vignaendra and Andrew McGrath, The specific deterrent effect of custodial penalties on juvenile re-offending (2009) 132 *NSW Bureau of Crime Statistics and Research* 1-8.

²³ In a recent opinion piece a spokesperson for Save the Children observed: "... at present the demand for the programs is beyond Save the Children's meagre resources. We have little option but to turn away many young people who want to engage with our youth workers": As found in Lisa Quatt, Rethink for troubled youths, *The Mercury* June 18th 2013. As found at http://www.themercury.com.au/article/2013/06/18/381707_opinion.html (Accessed 10th July 2013).

young people with the ability to fulfill their potential. We also recommend the commissioning of a feasibility study looking at the replacement of the Ashley Youth Detention Centre with smaller, community based rehabilitation units.

We thank you for your time in considering this submission.

Please do not hesitate to contact us if you have any queries or would like to discuss our submission further.

Yours Faithfully,

Benedict Bartl
Policy Officer
Community Legal Centres Tasmania
