



Youth Justice

Addressing the needs of the small group of young people who enter the justice system should be both a priority and an achievable goal.

Youth justice statistics in WA

- Western Australia is home to 557,790 children aged 0 to 17 years which is 10.9 per cent of the national population of children and young people.¹
- The number of WA young people in detention continues to increase – between 2008 and 2012 the average daily population of 10 to 17 year-olds in detention grew from 157 to 168 people. Over the same period, Victoria's population went from 76 to 63, and NSW's from 351 to 266.²
- WA's rate of youth detention is the second-highest of any Australian state or territory; in the three months ending June 2012 WA had 0.69 young people per 1,000 in detention, compared with the Australian average of 0.35 young people per 1,000. By comparison, NSW had 0.37 young people per 1,000, and Victoria had 0.12 young people per 1,000 in detention.³
- Aboriginal children and young people are around five to six per cent of the youth population of WA, but around 75 to 80 per cent of the youth detention population.⁴
- WA has the highest rate of over-representation of Aboriginal children and young people of any state or territory. For the three months ending June 2012, an Aboriginal young person in WA was 44.5 times more likely than a non-Aboriginal young person to be in detention.⁵

Young people – maintaining perspective

It is important to note in any conversation about youth justice, that the vast majority of Western Australia's children and young people are leading productive lives and contributing positively to the social and cultural fabric of our community.

Around 96 per cent of children and young people in WA have little or no contact with the justice system.⁶

The importance of youth justice

Youth justice in Western Australia is governed by the *Young Offenders Act 1994* (YO Act). The YO Act describes a number of fundamental principles, including that rehabilitation of young offenders should be a primary goal and that detention should be a last resort.

The YO Act includes the following principles:

- Encouraging police and courts to use alternative measures than judicial proceedings for dealing with a young person if it is appropriate to do so (s 7(g)).
- Detention to be considered a last resort for children and young people, and if imposed, should be for as short a time as possible (s 7(h)).
- Young people should be dealt with in ways which are appropriate to their sense of time (s 7(k)), their age, maturity and cultural background (s 7(l)).
- Young people should be dealt with in such a way as to encourage them to accept responsibility for their conduct (s 7(b)) and to develop a sense of social responsibility (s 7(j)).

In 2008 the Auditor General tabled a report in the Parliament of WA, *The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994: Performance Examination*.⁷ The report found that the strategies to minimise young people's contact with the justice system were losing momentum. Fewer young people were being diverted from the court system and police use of cautions and diversion to juvenile justice teams was declining.⁸ The report included recommended actions that are consistent with the principles of the Act and which would improve the use of existing diversion and support services for young people who come into contact with the criminal justice system.

In 2009, the Public Accounts Committee reviewed the progress of implementing the recommendations of the Auditor General's report on youth justice. The Commissioner wrote to the Public Accounts Committee, stating:

As is common with complex social policy issues, there continues to be a gap between what is known and what is done. It is my view that the following fundamental principles of youth justice still need to be further embedded into all policy and program development, to guide the way the system responds to children and young people:

- *that the distinction between young offenders and adult offenders be maintained;*
- *that detention is always a last resort, with a focus on prevention, diversion and rehabilitation; and*
- *that the overrepresentation of Aboriginal young people be addressed.*⁹

The rate of young people coming into formal contact with police is decreasing. In 2010-11, the Australian Bureau of Statistics reported that the number of young people in WA who were 'proceeded against by police' decreased to 8,196, about 20 per cent fewer than the previous year.¹⁰ In 2011-12 the number had nearly halved, to 4,448.¹¹ However, this decrease is not yet reflected in the numbers of young people in detention.

For most young people involved in the justice system, their offending is a relatively short-term and transient phase – essentially, most young people 'grow out' of offending.

In addition, for many young people, their offences are often public, attention-seeking and opportunistic.¹² That being said, there is a core of persistent and chronic offenders whose offences become more serious over time and continue past adolescence into adulthood. Strategies to address the needs of children and young people need to recognise the differences in these types of offending and the way they are influenced by various risk factors.

What the Commissioner has done

Due to the profound impact the justice system can have on young people and the vulnerability of children and young people who are coming into contact with the criminal justice system, youth justice has been a priority area for the Commissioner since the establishment of the office in 2007.

The Commissioner has made consistent representations to advocate for changes to the youth justice system to promote better outcomes for children and young people, their families and the community.

Since 2008, the Commissioner has published policy briefs relating to youth justice¹³ and has strongly advocated through submissions^{14 15 16 17} and speeches^{18 19 20} for improvements to youth justice in WA. In 2009 the Commissioner produced a research paper on youth justice in WA authored by Professor Harry Blagg.²¹

The Commissioner has worked closely with a wide range of stakeholders in government and the non-government sector to advance the interests of children and young people coming into contact with the criminal justice system.

Recent reform and initiatives

There have been a number of improvements in youth justice in WA in the last five years. For example, in 2008 the Department of Corrective Services established Regional Youth Justice Services offices in Geraldton and Kalgoorlie to better manage young people on community orders. In 2010 additional funding of \$43.4m was provided over four years to expand the services to the Kimberley and Pilbara.²²

The services include an extended-hours family support service for young people at risk of offending; an extended-hours bail service to help police locate a responsible adult for children and young people eligible for bail; emergency short-stay accommodation for young people who have been bailed but for whom no responsible adult can be located; juvenile justice teams; and psychological support.²³

The Department of Corrective Services has also implemented an expanded bail service in the metropolitan area operating 8am until 6pm Sunday to Thursday and 8am until 11pm Fridays and Saturdays. This service provides advice to, and advocacy for, young people and helps identify and locate a responsible person to assume responsibility for bail. The service can also act as a responsible person if suitable accommodation can be found. The service maintains contact with the young person to ensure they are directed to the appropriate services and facilities, and support the young person to understand the court process. The WA Police have made changes to their operational manual to direct officers to contact the bail service whenever a young person is arrested.²⁴

The Commissioner's 2011 *Inquiry into the mental health and wellbeing of children and young people* found that the absence of a mental health service located at the Children's Court was a major mental health service gap and area of need for young people.²⁵

The Commissioner noted estimates of up to 50 per cent of children and young people in detention having mental health problems. In the 2012 State Budget the Government announced funding for a two-year pilot project to establish a forensic mental health service at the Children's Court. This \$2.2 million project commenced in April 2013 and provides assessments, referrals and treatment, with the intention of diverting young people away from the formal justice system.²⁶

In 2012 the Young People with Exceptionally Complex Needs (YPECN) program was established in response to a recommendation of the Commissioner's *Inquiry into the mental health and wellbeing of children and young people in Western Australia*. This program targets young people with two or more of - a mental health issue; an acquired brain injury; an intellectual disability; a significant substance abuse problem; and in addition pose a significant risk of harm to themselves or others; require extensive support and would benefit from receiving coordinated services; and for whom the existing system is not working as it should.

In February 2013 the WA Council of Social Service, the Youth Affairs Council of WA and the Youth Legal Service produced a report arising from the 2012 Youth Justice Think Tank.²⁷ This report called for a changed approach to youth justice in WA to incorporate increased collaboration among agencies, increased funding for preventative strategies and improved detention and post-release services for young people. Halo, Outcare and Mission Australia are examples of non-government agencies providing innovative services to young people coming into contact with the justice system.

The report also recommended the establishment of a Youth Justice Partnership Forum. The Forum would promote further innovative approaches to youth justice issues, improve service delivery and facilitate co-operation and collaboration across government and non-government agencies.

What more needs to happen?

These recent changes to the justice system have the potential to improve outcomes for young people in WA. However, there remain major structural and implementation issues which require a concerted effort from all agencies related to youth justice. A key consideration is an appropriate level of investment in programs and services that can give effect to the fundamental principles of the *Young Offenders Act 1994*.

The early years of a child's life have profound influence on their lifelong wellbeing. Giving children and young people the best possible start in life, by investing in prevention and early intervention strategies for infants and children, increases the likelihood they will grow up healthy and be active participants in society.

In addressing justice issues, it must be acknowledged that chaotic lifestyles and disengagement have a detrimental effect on young people. Some social factors make it far more likely that a child or young person will come into regular contact with the criminal justice system.

For these young people, justice and welfare issues are inextricably linked. These risk factors include dysfunction at home and in the community, alcohol and drugs, violence, disadvantage and poverty, disengagement from the education system and social exclusion.²⁸ Recent research^{29 30 31} is examining these risk factors, how they can be addressed and developing responses which help young people and prevent offending behaviour.

Another factor found to have a significant link to offending behaviour is mental health. In the 2009 Young People in Custody survey in NSW, around 87 per cent were found to have at least one psychological disorder and nearly three quarters (72.7 per cent) had two or more disorders.

The most common disorders were anxiety and behavioural disorders (69.6 per cent) and alcohol and substance disorders (63.5 per cent).³² The Commissioner's 2011 *Inquiry into the mental health and wellbeing of children and young people in Western Australia* was advised that it was estimated that at any given time up to 50 per cent of children and young people in custody could be experiencing mental health issues that impacted on their safety or wellbeing.³³

What is now required in Western Australia is a whole-of-government collaborative approach to youth justice, incorporating a strategic framework which focuses on addressing the underlying causes of offending behaviour and the provision of diversionary programs, as well as addressing the offending behaviour itself. Such a framework should include culturally appropriate programs and meaningful community engagement.

Any reforms must be based on the best available evidence. Evidence-based policy and practice is critical to improving the wellbeing of young people. Across Australia there are examples of youth justice programs and services that have been evaluated and demonstrated to work. In February 2012 the Commissioner tabled in the Parliament of WA the report *Building Blocks: Best practice programs that improve the wellbeing of children and young people – Edition one*.³⁴ This report provides a selection of evaluated best practice programs and includes information and data that can assist in making informed decisions.

Early in 2013 Jesuit Social Services released a report, *Thinking Outside: Alternatives to Remand for Children*.³⁵ This report provides useful information on reforms that target the underlying causes of offending among young people by:

- intervening early and locally
- focusing on prevention
- targeting Aboriginal disadvantage
- strengthening legislative protections for children
- maximising diversion from remand in custody
- intensifying support for the most vulnerable
- developing infrastructure to build evidence.

Evaluating achievement in any area requires the establishment of a baseline and effective targets to ensure progress is measurable. In 2011 the Commissioner called for the integration of criminal justice targets into the Council of Australian Governments' (COAG) Closing the Gap agenda. To make better progress in achieving the targets in health, early childhood, education and employment, it is important that governments also address the rate of Aboriginal over-representation in the justice system.³⁶

In early 2013 the NSW government announced the implementation of the Youth on Track program, which involves government agencies working together to identify young people at risk and refer them to non-government organisation services for intensive case management and interventions. This multi-agency model recognises and responds to the role that disadvantage and entrenched dysfunction have in contributing to youth offending.³⁷

In summary, there are five key priorities to improve youth justice in WA.

Comprehensive strategic framework for youth justice in WA

- Development of a whole-of-government, collaborative approach to youth justice, incorporating a strategic framework and implementation plan. This approach needs to focus on addressing the underlying causes of offending behaviours and the provision of diversionary programs.

Diversionary programs

- Significant investment in programs that divert children and young people away from the criminal justice system.^{38 39}
- Safe houses in communities across WA where children can go when it is not safe for them to be at home.⁴⁰
- Funding for programs to address the significant over-representation of Aboriginal children and young people in contact with the justice system.⁴¹
- Significant investment in effective programs that reduce recidivism.

Bail services

- Improved resources for the provision of a state-wide 24 hour bail service.⁴²

Management of youth justice in Western Australia

- Consideration of the removal of youth justice from the Department of Corrective Services to either a stand-alone department or to the Department of Child Protection to address more appropriately the underlying causes of children and young people offending, improve accountability for outcomes, and reduce government expenditure.^{43 44}
- The establishment of a Youth Justice Partnership Forum to develop innovative approaches to youth justice issues, improve service delivery and increase cooperation and collaboration across government and non-government agencies.
- Change to youth detention facilities to ensure the separation of girls and boys and the separation of young people on remand from those who are sentenced.

Support to children and young people in contact with the youth justice system

- Rapid expansion of the forensic mental health service currently being trialled at the Children's Court to ensure that children and young people appearing before any WA court have access to appropriate, comprehensive mental health assessment, referral and treatment services.⁴⁵
- Significant improvement and focus on rehabilitation and therapeutic services in detention facilities. This would include:
 - employment and training programs
 - psychiatric and psychological services
 - drug and alcohol services
 - education programs
 - relationship and family support programs.

The Commissioner for Children and Young People developed the Wellbeing Monitoring Framework to monitor and report on the wellbeing of Western Australian children and young people. The third report *Building Blocks: Best practice programs that improve the wellbeing of children and young people – Edition One* provides examples of a number of evidence-based parenting programs. The report is available at ccyp.wa.gov.au

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