



Central Australian Youth Justice

CAYJ advocates for fair and equitable justice processes and outcomes for young people in Central Australia.

CENTRAL AUSTRALIAN YOUTH JUSTICE COMMITTEE

YOUTH JUSTICE SYSTEM REVIEW SUBMISSION

15th July, 2011

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BACKGROUND TO SUBMISSION

1. The Central Australia Youth Justice (CAYJ) committee appreciates the opportunity to make this submission to the NT Youth Justice Review. This submission will examine the limited capacity of young people to gain fair outcomes from the justice system. It will also identify the key factors necessary for a fair and effective youth justice system.
2. CAYJ commends the NT Government for providing an opportunity for the community service sector to comment to this review, and the implicit recognition of the important role the sector plays in this field. CAYJ supports the government's policy of full consultation with the community sector in the development of an effective youth justice system.
3. CAYJ endorses the *Northern Territory Youth Justice Act 2006* (YJ Act) and recognises the progressive nature of this legislation. The revised YJ Act identifies a number of examples of best practice in dealing with young people in the criminal justice system.
4. Currently, the criminal justice system in the NT operates in accordance with some of the provisions of the YJ Act. However some practices clearly fall short of these legislative requirements, particularly in Central Australia. There are also a number of standards and agreements, to which Australia is signatory, that are not being met, such as the Australasian Juvenile Justice Standards and the UN Convention on the Rights of the Child (Beijing Rules).
5. Targeted spending on community diversion in the youth justice system provides better value for public money than spending on the operations of courts and prisons. This paper offers a range of options exploring opportunities for the NT Government to simultaneously increase community safety and save money by investing in diversionary rather than punitive measures.
6. Spending on early intervention can reduce the long-term social and economic costs of crime. Promoting positive behaviour instead of merely punishing negative behaviour is being 'tough on the causes of crime'.
7. Research has shown that Indigenous Australians and young people are over-represented in detention. While this submission focuses on all young people in Central Australia, it acknowledges that the overwhelming majority of youth involved in the justice system are Indigenous. This over-representation is directly linked to the extreme levels of disadvantage experienced by Aboriginal people in the critical areas of health, education, employment, and housing.
8. In order to be successful, a Youth Justice system needs to be built on the principles of therapeutic jurisprudence, engagement with the Aboriginal community, and a long-term vision for young people which goes beyond the three or four year terms of federal and territory governments. The success of such a system requires a commitment from the NT Government to comply with the Youth Justice Act, and with the UN Convention of the Rights of the Child (Beijing Rules) and the Australasian Juvenile Justice Administrators Standards.

PRINCIPLES

9. Therapeutic jurisprudence

An enormous paradigm shift away from punitive measures and towards therapeutic and restorative justice, particularly when dealing with young people, is necessary in every stage of the justice process. 'Positive spending' is required to address the underlying issues which contribute to the high rates of youth offending in the Northern Territory. Detention should only ever be considered as a last resort.

Justice reinvestment has as much in common with economics as social policy. It asks the question: is imprisonment good value for money? The simple answer is that it is not, given the high levels of recidivism and negligible impact on crime rates.¹

10. Engagement with communities

Finding real solutions will require meaningful engagement between policy-makers, Aboriginal people, and young people, in order to foster the healing process and promote positive ways of dealing with challenging behaviour.

11. Focus on long-term change with interests of young people as primary motivation

Real change cannot be achieved within the constricted timeframe of a single electoral cycle. The NT Government's commitment must reach beyond the next election, and recognise that significant benefits may not be realised for many years.

CAYJ supports the submission of the NT Council of Social Service (NTCOSS). NTCOSS' detailed report on the youth justice system gives a thorough overview of the Northern Territory context. To avoid duplication, this submission will refer to the NTCOSS submission where appropriate.

¹ Australian Human Rights Commission Submission to the Senate Legal and Constitutional Affairs Committee, *Inquiry into Access to Justice*, 20 October 2009, accessed 7/6/11 at http://www.hreoc.gov.au/legal/submissions/2009/20091020_access_justice.pdf

RECOMMENDATIONS

KEY RECOMMENDATION 1: That Youth Corrections be transferred to a newly created Division or Branch of Youth Justice; Youth Policy co-ordination and development needs to be brought under one whole-of-government umbrella, to avoid duplication, competition and wastage. The NT remains the only jurisdiction in Australia that has not established a system of justice for young people which is separate and distinct from the adult criminal justice system.

KEY RECOMMENDATION 2: That a separate court for all Youth Justice matters be established in Alice Springs and regional areas; CAYJ considers that a holistic, resourced, and coordinated Youth Justice Court should be implemented in the NT as part of a system which aims at reducing young people's involvement in the criminal justice system. The establishment of a distinct and independent court for all youth justice matters (and children's matters), and processes that ensure separation from adult proceedings, should be a high priority in Alice Springs and other regional centres in the NT.

RECOMMENDATION 3: That training for youth workers be established to ensure they can provide effective court support, advocacy, provide support as a responsible adult and understand diversion matters.

RECOMMENDATION 4: That the recommendations from the Youth Camps evaluation be implemented, including the development of a matrix of which Youth Camps are available and who funds them

RECOMMENDATION 5: That those police officers who deal with young people or who are primarily engaged in the prevention of youth crime should be specially instructed and trained.

KEY RECOMMENDATION 6: That a pre-sentence Youth Justice Conference program be implemented; CAYJ supports conferencing as a meaningful restorative justice initiative and considers it an important diversionary program which has the potential to foster positive social engagement, socially responsible development and strong family relationships. Pre-sentence, post-court diversion conferencing is widely used to great success in every Australian jurisdiction apart from the NT.

KEY RECOMMENDATION 7: That there are improvements made to services in order to provide effective bail support to young people; To effectively prevent crime in the long term it is necessary to break the cycle of reoffending that may occur. Programs which help young people who are on bail gain positive control of their lives and avoid cycles of offending make the whole community safer. They are not soft options but smart and cost-effective ways of preventing reoffending.

RECOMMENDATION 8: That a comprehensive, independent review of youth services be conducted across the NT

RECOMMENDATION 9: That there be significant reinvestment in intensive case management and family support for at-risk young people and their families

RECOMMENDATION 10: That access to programs is improved across regional and remote NT for young people (particularly under 16) with behavioural issues, including alcohol, drug, or substance abuse problems.

DISCUSSION

1. YOUTH JUSTICE MODELS

1.1 Are there other youth justice models that could or should be adopted by Government, or examined in this Review?

1. The NT remains the only jurisdiction in Australia that has not established a system of justice for young people which is separate and distinct from the adult criminal justice system. There is no separate department administering youth justice and therefore no specialist juvenile justice workers.
2. This current approach does not recognise the special needs and issues relating to young people who come into contact with the criminal justice system. This means that young people within the criminal justice system in the NT are unable to access the same level of support that is available to young people in other jurisdictions.
3. Juvenile Justice Departments in other jurisdictions utilise a youth specific approach in working with young people as compared to working with adults within the system, including greater consultation with youth, increased contact with the young offender's family and support persons and recruitment of employees with youth specific training. For example, in Victoria, juvenile justice comes under the health department in recognition of the fact that many of the causal factors for offending behaviour are linked to social and care and protection needs.

1.2 What are some emerging issues affecting youth justice in the Northern Territory? (You may want to comment on social changes in society, new or existing laws and government policy or general community concerns).

4. The issues raised in this paper are not new, and while there are ongoing factors that change the social and political landscape, CAYJ's concern is that best practice models and approaches are not being applied to help deal with the issues affecting youth justice. While Central Australia is unique in many ways, these best practice approaches should nonetheless inform our response to these challenges, and be adapted to suit the context.

1.3 What aspects of service delivery within the youth justice system in the Northern Territory require improvement and why?

5. **Government coordination;** Youth Policy co-ordination and development must be brought under one whole-of-government umbrella, to avoid duplication, competition and wastage. In mid-2009, it was announced in the NT Government Youth Justice Strategy that Juvenile Community Corrections would be transferred from the Department of Justice to the Department of Health and Families in December 2009. This is yet to occur.

What would a new Youth Justice Division or Branch entail?

A new Youth Justice Division or Branch ('entity') must sit within a Department which operates from a professional staffing stream and has a sound policy development structure. The Department would require a cultural approach of therapeutic and restorative practices. This is vital to the success of a new Youth Justice entity.

A specifically Youth Justice entity would need to be entirely separate, including having its own budget, accountability and output measures. This entity must also have its own Minister. Logistically, there are significant difficulties in having Ministers across four ministerial areas, particularly in streamlining processes and improving systems that need to go through a complex web of ministerial responsibilities, as is the current case.

Wherever such an entity ends up sitting, the accountabilities of a Youth Justice entity would have to be separate from those of any other Division or Branch. For example, if the Youth Justice entity were to sit within the Department of Children and Families, given the current reform agenda in response to the Child Protection Board of Inquiry report, Youth Justice must be kept separate from these reforms, as bringing two such major reforms together would only serve to dilute the impact of both, and youth justice could lose out to a bigger agenda.

CAYJ would recommend that the Youth Justice entity would include the following areas: youth corrections, youth diversion, youth detention, bail, and court support. This would require a dedicated youth workforce, with the appropriate set of competencies and expertise.

KEY RECOMMENDATION 1: That Youth Corrections be transferred to a newly created Division or Branch of Youth Justice

12. CAYJ considers that a holistic, resourced, and coordinated Youth Justice Court should be implemented in the NT as part of a system which aims at reducing young people's involvement in the criminal justice system. The establishment of a distinct and independent court for all youth justice matters (and children's matters), and processes that ensure separation from adult proceedings, should be a high priority in Alice Springs and other regional centres in the NT. This would bring the NT in line with the YJ Act and would also satisfy recommendation 111 of the *Growing them Strong, Together* Inquiry into the NT Child Protection System.²
13. These facilities would have far-reaching benefits, such as the impact on improving the timeliness of processing young people, minimising the alienating nature of court process, allowing for more client-focussed advocacy, and compliance with court orders through a greater understanding of the court system.
14. **Court waiting areas;** The overwhelming majority of court facilities in the NT do not have a separate waiting area to ensure children and young people are kept separate from adults, (e.g. in remote areas, Tennant Creek and Alice Springs). This also contravenes the Youth Justice Act (S26), and has the potential to allow for escalating situations with young people becoming increasingly agitated with long waiting periods. It also allows for the very real prospect of exposing young people to advanced criminal elements. The Youth Justice Court needs to be physically located in a court room separated from the regular courts.
15. **Court holding cells;** Young people in detention, who attend court, are required to be kept in court cells while they wait for court. A young person cannot be kept in the same cell as an adult. Even if there is just one young person in a cell it can lead to overcrowding of adults in the other court cells.

² Report of the Board of Inquiry into the Child Protection System of the Northern Territory, 2010: *Growing them Strong, Together (Summary Report)*, accessed at http://www.childprotectioninquiry.nt.gov.au/_data/assets/pdf_file/0009/49779/CPSR_Summary.pdf on 21/06/2011; p.81

In addition, young people in custody are not prioritised over adults. This issue underlines the importance of a separate facility for youth court matters with separate holding cells for young people.

16. **Efficiency;** Section 27 of the YJ Act states that arrested youths must be brought before the court as soon as practicable. CAYJ has been advised by the Youth Justice Advocacy Project (YJAP) coordinator, and other youth-specific practitioners, that this is often not adhered to (See Case Studies in Annexure). The introduction of separate areas, an understanding of the importance of prioritising young people, and more rigorous accountability systems would help the system better meet this need.
17. **Youth-specific practitioners;** Best practice Youth Justice models include provision of youth-specific practitioners i.e. Magistrates, prosecutors, police, and legal aid lawyers. There is an absence of specifically trained practitioners in regards to administering the Youth Justice Act in particular regions of the NT (e.g. Alice Springs, Tennant Creek and bush courts). The lack of such practitioners is in breach of the Convention on the Rights of the Child (Beijing) Rules, and is inconsistent not only with the rest of Australia, but in some cases, Darwin.
18. **Continuity of representation;** There is an overall shortage of lawyers, particularly at bush courts, which can result in a young person having to deal with a different lawyer every time their matter is brought before the court. This lack of continuity of representation often results in multiple adjournments due to the new lawyer not having enough time to discuss the previous instruction with their colleagues. There have even been concerns raised by a Darwin magistrate about defendants on remote NT communities about people facing serious charges in bush courts without legal representation³.
19. **Use of interpreters;** While there are interpreters being used in the courts, there are difficulties with the current system, particularly in relation to long waiting time and availability of interpreters. Furthermore, education is required on how to use interpreters, and skilling interpreters up to work in the court system. Central Australian Aboriginal Legal Aid Service (CAALAS) has begun legal training with interpreters but this should ideally be properly resourced by the Government. Waiting for interpreters can often result in delays and unnecessary periods in custody. Recommendations 24 and 25 of the *Doing Time- Time for Doing* report make particular reference to this issue.⁴
20. **Corrections orders;** Youth Corrections should come under a new separate Division or Branch of Youth Justice, to ensure a youth-specific correctional service established for the NT. Currently, there is no capacity to genuinely case manage and supervise young people on supervision and community work orders. They are often treated like 'mini' adults, unless there is involvement from an appropriate youth service, which places considerable pressure on services for whom this is not their core function.
For example, the Youth Development Unit (YDU) in Tennant Creek case manages young people to ensure they adhere to their correction order conditions, especially education and alcohol and other drug awareness programs. These programs are tailored to the needs and issues of the young person. YDU ensures that young people that are on community work orders spend a third of their hours in education/training or counselling (this is available under these orders). The rest of the hours the young person provides supervision of other young people at YDU as well as cleaning. In

³ 'Defendants left without lawyers in bush courts', ABC online 22 November 2010 accessed 7/6/11 at <http://www.abc.net.au/news/stories/2010/11/22/3073399.htm>

⁴ House of Representatives Standing Committee enquiry into Indigenous juvenile incarceration, *Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System* report, June 2011, <http://www.aph.gov.au/house/committee/atsia/sentencing/report.htm> accessed on 24/6/11

the past some of these young people have gained employment because of successful completion of their order and skills gained whilst on the order.

21. **New facility in Alice Springs;** CAYJ believes that there is an opportunity for Youth Justice matters to sit at the same site as the new AOD Tribunal in Alice Springs. If this is the case, the same principles and practices must apply. Additionally, two specific days per week are needed to hear young people's matters as a priority. Waiting areas and holding cells would also have to be separate to adults.
22. **Responsible adults;** Many young people do not understand criminal proceedings, including bail conditions and their related responsibilities, which need to be explained to them. Access to responsible adults, where it is not possible for a family member to be present or where a young person prefers not to have a family member present, must be improved, as often this task falls to youth workers.

KEY RECOMMENDATION 2: That a separate court for all Youth Justice matters be established in Alice Springs and regional areas

23. **Court Support;** Court support for young people and their families is critical. The justice system can appear alienating and intimidating, and having effective court support in place not only helps those unfamiliar with the system to engage more fully with it, but can also improve timeliness of proceedings. Currently, there is no consistent approach to court support.
24. The **YJAP** with CAALAS is the only specific court support role for young Aboriginal people in the NT. This position is federally funded by the Attorney General's Department. It not only provides court support to young people and their families, but also supports young people pre-, during and post-release.
25. Given that youth matters tend to be heard one day a week, court support roles do not need to be full-time, and could be integrated within an agency delivering pre-sentence Youth Justice conferences (or Victim Offender Mediations). Ideally, there would be a male and female court support worker, with the aim to broker the assistance of Aboriginal community members as support workers/conference conveners.
26. **In-kind support from youth agencies;** CAYJ is aware that in the past there has been a push for agencies working with young people to provide support in court, on a rotating roster basis between youth workers. This model of in-kind support from youth agencies could be effective at fulfilling this need. However, facilitation of this roster, appropriate training for youth workers and a capacity to deal with ongoing retention challenges needs to be considered. Agencies are often stretched to capacity and this can impact on their ability to commit to such a scheme.
27. **Youth workers;** Training for youth workers to ensure they can provide effective court support is crucial as well as training in youth advocacy, being a responsible adult and diversion matters. Training for youth workers in specialist Children's Court Assistance Scheme is available using the Macquarie Legal Centre Court Support Training Manual as a resource.

RECOMMENDATION 3: That training for youth workers be established to ensure they can provide effective court support, advocacy, provide support as a responsible adult and understand diversion matters.
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1.4 Do you think a coordinated response by government and non-government agencies, and communities, are necessary to achieve a reduction in youth offending?

28. Addressing anti-social behaviour amongst young people is everyone's responsibility, including business, sporting bodies, schools and the young people themselves;

Addressing the youth issues in [Central Australia] requires more than funding specific programs. It requires more than extra police on the streets or harsher sentences. It requires the community to rally behind young people. It requires the community to be vocal and active in supporting young people. It requires the community to seek out young people's contribution.⁵

29. The NGO sector in Alice Springs continue to highlight the need to appropriately engage young people in the decision making process in terms of addressing issues, in particular youth boredom. It has been recognised that many young people who enter into the criminal justice system in Central Australia are often disengaged from family and community and are socially disadvantaged, and can quite often feel alienated from services. There is also a growing body of evidence that suggests that youth participation in the development of youth specific programs can lead to greater participation from young people in terms of producing positive outcomes.

1.5 In what ways could the Youth Camp Intervention Strategy be improved in order to better service youths who have made contact with the criminal justice system?

30. Youth camps in the NT are a unique way of engaging disadvantaged young people. Youth camps have recently been evaluated and been found to have had an impact on their target cohort.⁶ The evaluation has provided strong support that individual youth camps have the capacity to engage youth-at-risk (including Aboriginal young people) who are at high risk of future or offending behaviour, within a therapeutically conducive environment that translates to both attitudinal and behavioural outcomes, at least in the short term.

31. It is proposed that youth camps be strengthened by implementing the recommendations of the evaluation, which are due to be released by the Department of Children and Families in the near future. CAYJ is also aware that the Youth Justice Advisory Committee will be endorsing the recommendations made in that report. The recent evaluation drew the following conclusions about the youth camps:

- The replication of the analysis with a suitably matched control group
- A robust evaluation methodology should be embedded within the future funding and application of the youth camp model
- It is only through the provision of large-scale, longitudinal (and therefore expensive) and multifactorial research that the direct impact of youth camp interventions, as it relates to other interventions, can be adequately quantified
- The results provide optimism for the efficacy of the youth camp model, in particular for high risk young people – as well as well as the efficacy of the broader NT Justice Strategy, and its different components, with the youth camps being one component of that strategy

32. In addition the Evaluation noted that program outcomes can be maximised if the following occurs:

- The providers develop conceptual models to guide their practice which examines program inputs (intervention processes) as it related to purported outcomes (e.g. develop a clear "program logic").

⁵ Information from Alice Spring Youth Services paper, *Better Strategies to Deal with Youth Issues in Alice Springs*, report from Youth Sector meeting, 14/3/2011

⁶ Raymond I Lappin S, 22 January 2011, Summary Report Northern Territory Youth Camp Intervention Strategy

- Cognitive-behavioural models (e.g., problem solving skills training, anger management training) guide the skill-development intervention process;
 - A participant's skill and reflective learning occurs intensively enough, and for long enough, to support the young persons' capacity to observe the skill, practice the skill, receive adult feedback on the skill and then rehearse the skill to the point of consolidation;
 - Young person's after-program environment, and supported through multi-systemic interventions.
33. To facilitate better integration of services, matching of young people and interventions, and future evaluation, it is suggested that strong consideration be given to dividing the current youth camp model into two separate models of intervention which reflect the length of the intervention – i.e. Therapeutic Camp Programs (TCP) and Therapeutic Residential Programs (TRP)
34. The authors of the evaluation also made the comment that future work should focus on the development of strong follow up support to assist in maintaining change.
35. While the above evaluated camps have been run as part of the NT Justice Strategy, at the same time other Youth Camps have been in existence, and have been evaluated previously, such as Bushmob's Adventure Therapy Camps (Horse/culture Treks evaluated in 2009/2010). Further programs run by other agencies and remote communities include Mt Theo/Barry Abbotts and other Outstation programs. It would be helpful to have a matrix of what is available and who funds them – to ensure that all stakeholders have a clear picture of all of the programs happening in this area.

RECOMMENDATION 4: That the recommendations from the Youth Camps evaluation be implemented, including the development of a matrix of which Youth Camps are available and who funds them.

2. CONTACT WITH POLICE

2.1 What legislative or other support can be provided to Police to assist them to work with youth?

36. CAYJ recognises the difficult role that Police fill in youth intersections with the criminal justice system.
37. The NT Government has an opportunity to broaden the expectation of the Police force to engage with the young people of our community, and to better resource the police to help them to work more positively with young people when leading them to take responsibility for their anti-social behaviour.
38. The UN Committee on the Rights of the Child ⁷ identify standards of practice in dealing with young people and police relationships. For example, Rule 12 of the Beijing Rules provides that in order to best fulfil their functions, police officers who deal with young people or who are primarily engaged in the prevention of youth crime should be specially instructed and trained. Given that the police are the young person's first point of contact with the youth justice system it is important that they act in an informed and appropriate manner.

⁷ The Committee on the Rights of the Child 'General Discussion Day on Juvenile Justice' reported at UN Doc CRC/C/37

39. **Police training;** Police need ongoing training in dealing with young people and their powers under the relevant legislation, such as the YJ Act and the Police Administration Act. This training is particularly needed in the areas of understanding offending behaviours, interviewing young people, and cross-cultural communication.
40. **Hearing loss;** Recommendation 13 in the *Doing Time – Time for Doing* report makes particular mention of Police training to identify hearing loss.⁸ The Review is advised to be aware of this issue, as issues of undetected hearing loss amongst children and young people has been well-documented in recent years, to limited effect.
41. **Police Youth Liaison Officers;** In addition to special instruction and training for police who work with young people, there is a need for dedicated police youth liaison officers in the major regional centres, to promote positive relationships with young people in order to solve issues before they become serious, and to keep young people out of the criminal justice system. Such staff could be involved in operational work, and mentoring police officers in providing youth friendly practices. They would complement the role of school-based constables by also working with young people outside school age.

RECOMMENDATION 5: That those police officers who deal with young people or who are primarily engaged in the prevention of youth crime should be specially instructed and trained.

2.2 Are the current range of diversionary options offered by the NT Police sufficient? What improvements can be made?

42. CAYJ believes young people have a right to learn from their behaviour and that the diversionary program offered by the NT Police could be expanded and improved to make current Central Australian diversion practices more sufficient. For example, more appropriate staff resourcing could help expand operations. While diversion practices are rooted in therapeutic justice principles and there are positive outcomes that come from NT Police diversion, there are various factors that contribute to the overall NT Police diversion system being insufficient.
43. **Community;** Diversion and Youth Justice conferencing has greater potential for impact with increased community involvement and acceptance. With increased community 'buy-in', community service orders could be redefined as more than digging holes and picking up rubbish, as is the frequent reality, as such activities do little for managing the problematic behaviours of young offenders. Effective community service encourages positive adult engagement. Relationships formed in these contexts are outside many young people's usual experience of adults, which is often largely disciplinary.
44. **Conferencing is not a 'soft' option;** Government has a responsibility to positively promote to the broader community diversion, and other interventions that seek to work therapeutically with difficult behaviours of young people. Youth justice conferencing, whether it be pre- or post-court, is not a 'soft' option, as the offender is likely to feel great shame and stress in coming face to face with their victim. In this case, going through the standard court process might appear easier for young people.

⁸ *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, House of Representatives, Standing Committee on Aboriginal and Torres Strait Islander Affairs, Canberra, June 2011; p. 108

45. **Impact;** There is a significant time lag between an offence being committed and the assessment process and the acceptance of young people on to diversion. At times, the process has taken up to 8-12 months, by which time diversion loses its impact. In Tennant Creek, for example, the Youth Development Unit (YDU) completes the assessment for diversion within a two week time frame. However, it can take at least three months for police to initiate the diversion program after the conference. In certain cases, the whole diversion process can take up to eight months to complete since the offence was committed. Practitioners have quoted young people saying that they would rather take their chance in court because diversion takes too long.⁹
46. **Diversion program before conference;** It may be possible within the police diversion system to adjust procedures and allow for young people assessed as suitable for diversion to commence their programs prior to the Youth Justice conference convened by Police. Conceivably, a young person could have demonstrated a pro-active engagement in the process by the time the victim and police review the progress. This would also diminish the possibility of the young person failing to complete their program due to lag in implementation.
47. **Process;** Part 3 of the YJ Act specifically prescribes that a police officer must divert a young person, except in certain circumstances as prescribed by the Legislation. However, young people on diversion are still unnecessarily facing court processes. It appears that many young people are not being diverted as the investigating officer does not consider them an appropriate candidate, however, CAYJ is concerned that investigating police officers are in effect acting as the 'gate keepers' of diversion. There is a consistent need for Police to be rigorous in ensuring that no young person who could be diverted goes to court.
48. Furthermore, training for magistrates in relation to diversion would assist in improving the system, as it would make diversion a more legitimate pre-sentence option, and progress beyond any misunderstandings between stakeholders.
49. **Maintaining change;** Diversionary processes could improve by having scope and resourcing to work with young people as they return to their communities to maintain the behavioural change they have worked on through the diversion process. Having families included in the diversion process would also support this process.

2.3 What improvements can be made to diversion programs and policies in order to reduce youth re-offending?

50. The NT is the only jurisdiction in which the Police are the diversion agents. CAYJ suggests that a review of the effectiveness of diversion across the Territory be conducted, to better inform this important process.
51. The definition of youth, in relation to eligibility for youth diversion, could be expanded beyond 17, up to 24, in recognition of the unique difficulties young people continue to experience beyond the legally-recognised age of adulthood.
52. **Conferencing (see 2.4);** Investment in diversion is considerably more cost-effective than investment in detention. Diversionary options should be expanded, but with the appropriate support, training and agents to ensure its success.

⁹ CAYJ submission to Submission To The House Of Representatives Standing Committee Inquiry: Indigenous juveniles and young adults in the criminal justice system, 16/01/2010

2.4 What improvements can be made to improve Youth Justice Conferences? Should the requirement that an admission or indication of guilt be made before a conference can be convened be retained?

53. Restorative and therapeutic justice techniques can assist young offenders to take responsibility for their offending. There is a need to strengthen and expand restorative justice options available to young people in the NT when they commit an offence.
54. When someone commits a criminal offence it is important that he or she take responsibility for that offending. This is explicitly recognised by the YJ Act which states as an object of the YJ Act, “to ensure that a youth who has committed an offence is made aware of his or her obligations (and rights) under the law and of the consequences of contravening the law”.¹⁰ Similarly, the first principle of the YJ Act states, ‘if a youth commits an offence, he or she must be held accountable and encouraged to accept responsibility for the behaviour’¹¹ and a principle of sentencing under the YJ Act is that the Court must take into account efforts by the youth to make amends with victims¹².
55. **Minister Delia Lawrie correspondence;** In a letter to the CAYJ Chairperson Jonathan Pilbrow, dated 2/5/11, the Minister for Justice and Attorney-General Delia Lawrie gave details of the NT’s Victim Offender Conferencing program. Minister Lawrie stated:
- Since the establishment of the Community Justice Centre (CJC) in 2004, 12 Victim-Offender Mediation Conference (VOMC) referrals from Darwin magistrates have been made pursuant to section 84 of the Youth Justice Act... Feedback from the participants (both victims and offenders) suggests that it has been overwhelmingly positive and had therapeutic value.*
56. It must be noted that 12 referrals in 7 years is a low statistic considering the number of young people involved with the criminal justice system. Further, these mediations have occurred in Darwin only. CAYJ is pleased to know that these conferences received positive feedback. It is a matter of urgency that the capacity for youth conferences be expanded, that magistrates be encouraged to see this as a legitimate pre-sentence option, and that a well-resourced program be rolled out to the rest of the NT.
57. **Magistrates;** The Youth Justice conference process relies on the willingness of Magistrates to engage and believe in the effectiveness of such a process to restore positive behaviour. Magistrates must be included in the establishment of such a program, and any barriers to engagement be identified.
58. If implemented effectively, the benefits of restorative and therapeutic justice approaches include:
- they can reduce reoffending and re-entry to the criminal justice system and so are cost effective.
 - by reducing reoffending they prevent crime and make the community safer.
 - they allow for the underlying causes of the offending to be addressed and help the offender to change their behaviour and lead a productive life.
 - they give the victim a voice and an opportunity to communicate directly to the offender how the crime impacted on them (victims often say this human element is missing from the criminal justice system).
59. The YJ Act is supportive of restorative justice principles and practices as demonstrated by provisions for pre-sentence conferencing to be available where appropriate. Unfortunately this has not been

¹⁰ Subsection 3(d) of the YJ Act

¹¹ Subsection 4(a) of the YJ Act.

¹² Subsection 81(5) of the YJ Act.

resourced and thus section 84 of the YJ Act is not being implemented in the Youth Justice Court in Central Australia.

60. There are a number of examples of programs that have had great success in this area, for example, the Community Justice Group Conferencing at Jesuit Social Services in Victoria. Details of the Jesuit Social Services program are below. The implementation of such a program would enable section 84 of the YJ Act to effectively commence, which in turn will provide a viable pre-sentence option to the Youth Justice Court which would engage with young offenders and support the principles of the YJ Act.
61. **Trained practitioners;** Restorative justice practitioners require special skills and training to ensure appropriate engagement with the offender, victim and other stakeholders. The success of restorative justice practices and programs are often reliant on the skills and experience of facilitators and mediators involved in programs such as Community Justice Group Conferencing. The requirement for these specialist skills dictate that restorative justice roles not be assigned to police officers who are not appropriately trained and qualified but rather that appropriate recruitment occur to maximise the potential benefit of the programs for the community. Based on the current context of offending in Central Australia, CAYJ considers that restorative justice approaches could be successfully adopted in relation to the high number of driving offences and property offences involving young people.
62. CAYJ supports conferencing as a meaningful restorative justice initiative and considers it an important diversionary program which has the potential to foster positive social engagement, socially responsible development and strong family relationships. Youth Justice conferences are widely used in every Australian jurisdiction, apart from the NT, with great success. It is recommended that an appropriate Youth Justice conference program, based on a program such as the Jesuit Social Services model, be funded in the NT.

KEY RECOMMENDATION 6: That a pre-sentence Youth Justice Conference program be implemented

Example Model: Community Justice Group Conferencing

Jesuit Social Services (JSS) in Victoria have run a program known as Community Justice Group Conferencing. The aim is to bring together the young person who has offended, their family, community members and the victim of the crime in order to discuss ways for the young person to make amends for the harm done by the current offending behaviour. It provides an alternative pre-sentencing option with the aim of diverting young people from further or more serious offending.

A Group Conference provides a safe environment for all people affected by an offence to come together and:

- talk about what happened
- discuss how they were affected
- decide how to make things better

The young person is provided with an opportunity to apologise. The young person and their supports prepare a proposed plan about what should happen to make amends for some of the harm to the victim and to prevent further offending.

The JSS program is for young people aged between 10 and 18 years, who have:

- Pleaded guilty or have been found guilty of offences that do *not* include homicide, manslaughter, sex offences or serious crimes of violence; and
- Committed offences serious enough to warrant a probation or youth supervision order to be considered by the court; and
- Consented to participate; and
- Been assessed as suitable by a Department of Human Services Youth Justice Officer.

This program was evaluated by KPMG in 2010 and it was found that the experience of Conferencing has a strong and lasting effect. The differential effect of Conferencing and of other interventions is clear after one year, and even clearer after two years. While 57% of young people involved in other interventions had not reoffended after two years, over 80% of young people involved in a Conference had not reoffended, more than *halving rates of reoffending*. The KPMG evaluation also noted the importance to the program of its highly skilled and competent convenors.

Further information, particularly around costing, can be made available. A number of programs following the same principles have been employed in other Australian states, to great success.

63. For positive behaviour to be restored, there must first be an admission of guilt and a willingness by the offender to engage in the process. For this reason, CAYJ believes the admission or indication of guilt should be retained.

2.5 Should youth offenders be separated from adult offenders when being held in police watch houses, in Court cells, and in Correctional services facilities? Are existing facilities satisfactory?

64. Existing detention facilities in Central Australia are not satisfactory, as youth offenders should be kept separate from adult offenders at all times, and for the shortest possible period of time.
65. Section 26 of the YJ Act requires that as far as practicable, youths be separated from adult detainees during periods of detention and transportation. This is also required by the Convention on the Rights of the Child¹³ (to which Australia is a signatory). While it is true that youths are held in a separate holding cell to adults in both the Alice Springs Police holding cells and Alice Springs Court holding cells, they are often in clear view and hearing of adult detainees which can be distressing and intimidating and, in CAYJ's view, is unsatisfactory.
66. Young people in detention, who attend court, are required to be kept in court cells while they wait for court. A young person cannot be kept in the same cell as an adult. However, if there is just one young person in a cell it can lead to overcrowding of adults in the other court cells, which slows down the entire process.
67. **Alice Springs Juvenile Detention Facility;** CAYJ acknowledges detention is a necessary part of any youth justice system, where it is used as a last resort. We are concerned, however, about the placement of the new youth detention centre in Alice Springs alongside the adult correctional facility, and the fact that the facility effectively comes under the control of the adult system. This does not meet best practice standards, and as Australia is a signatory to the UN Convention on the Rights of the Child, it has a responsibility to ensure that we follow best practice principles in all matters involving children and young people, which involves the separation of young people from adults in the criminal justice system. Best practice also extends to the appropriate training of staff in working with young people. This current site should be a stop gap measure only, and further

¹³ UN Convention on the Rights of the Child: Article 37 (c)

consultation is required with the youth sector about a more appropriate approach to the detention of young people.

68. A youth should only be kept in custody for an offence (whether on arrest, in remand or under sentence) as a last resort and for the shortest appropriate period of time. It is therefore a matter of urgency that a separate Youth Justice court be established, including youth holding cells, located and staffed separately to those of adult offenders. This would enable young people to be dealt with quickly and suitably.

2.6 What changes in policy, practice or bail conditions might reduce the number of youths presently held on remand in the Northern Territory?

69. As stated above, the YJ Act stipulates that custody should always be a last resort and only occur for the shortest possible period of time. However, due to the social circumstances which surround the lives of many young people in Central Australia, bail is often opposed. Many young offenders do not have stable and safe accommodation and have little support to develop the life skills and experience to obtain and maintain such accommodation independently. Consequently, young people repeatedly return to volatile home environments that directly or indirectly encourage offending behaviour.
70. There is a lack of sentencing and bail options in relation to alcohol and other drug treatment services for young people in the criminal justice system in the NT. At times onerous bail conditions are imposed on young people for relatively minor offences. However the strict conditions (e.g. curfews) are often unfeasible leading to young people having to face court for a breach of bail - and possible detention – when the initial offence they are alleged to have committed was only minor and may not normally lead to a custodial sentence.
71. Interventions which help young people charged, or convicted of a crime, to get their lives back on track (by providing accommodation, support, employment, education, assistance to achieve behavioural change and other important supports) therefore play a critical role in reducing the risk of further offending by young people. The model of the Youth Bail and Accommodation Support Service in Queensland has been a successful example of such an intervention.
72. It should be noted that CAYJ does not believe that more accommodation for young people on bail is required rather than support programs to work with this particular cohort of young people be implemented. Such a model could involve a number of youth-specific agencies that working in housing (for example, Alice Springs Youth Accommodation and Support Service (ASYASS), Bushmob and Tangentyere) to receive funding to work with young people on bail, with specifications around a maximum caseload and other functions.
73. Programs which help young people gain positive control of their lives and avoid cycles of offending make the whole community safer. They are not soft options but smart and cost-effective ways of preventing reoffending.
74. In light of the current situation and inequalities in the youth justice system in the NT, it is necessary to improve the provision of bail support and access to accommodation. It is proposed that this be given priority as a means of implementing the principles of the YJ Act and helping reduce reoffending through the provision of assistance to young people.

KEY RECOMMENDATION 7: That there are improvements made to services in order to provide effective bail support to young people.

Youth Bail Support Service: Example model¹⁴

The Youth Bail Accommodation and Support Service (YBASS) in Queensland provides an intensive support program for young people on bail. YBASS targets young people who are homeless or at risk of homelessness, and provides referrals and financial support for the young person to secure appropriate accommodation. This program works on a brokerage style funding model, giving it the flexibility to respond to individual needs and requirements. The program has been evaluated and has demonstrated success in diverting a significant number of young people from remand. Data shows that between 2004 – 2008, only 16% of participants breached bail and 84% had accommodation needs met by YBASS.

The YBASS model:

- Provides accommodation support to young people on bail;
- Provides support directly or indirectly related to accommodation stability;
- Does not directly provide accommodation; and
- Does not deal directly with offending behaviour.

Success factors:

- Voluntary involvement – improves engagement of young people
- Two worker staffing model – complementary skills, age and experience – allows for effective engagement with young people and their families
- Not a crisis service – uses a planned, case management approach
- Dedicated brokerage budget that can be used in to enable a flexible individualised response for young individuals
- Reputation for quality service delivery
- Positive sector relationships – Government staff, legal professionals, youth accommodation services.

CAYJ recommends government support for the introduction of a bail support and accommodation program in the NT including funding for:

- Two full-time qualified youth workers to case manage participants;
- Administrative resources to support program model; and
- Dedicated brokerage budget to respond appropriately to participant needs in order to assist young offenders avoid unnecessary periods in custody and future offending.

3. Indigenous Youth Offenders

3.1 What types of services, resources or programs should be established or delivered in order to reduce offending rates amongst Indigenous youth offenders?

3.2 Can the justice system be more responsive to the needs of Indigenous youth offenders? If so, how?

3.3 How can better outcomes be delivered in areas of education, health and welfare for young indigenous Territorians?

75. While there is no question that young people of all backgrounds come into contact with the criminal justice system, the overrepresentation of Indigenous people in the system indicates that any solution aiming to improve the system must take into account the specific needs and contexts of

¹⁴ *Better Strategies to Respond to Youth Issues in Alice Springs Youth Sector Meeting, 14 March 2011*

Indigenous people. All solutions and discussions in this paper are consistent with best practice approaches with Indigenous people.

76. The reviewers are no doubt aware of the June 2011 Standing Committee on Aboriginal and Torres Strait Islander Affairs inquiry report, *Doing Time - Time for Doing*: Indigenous youth in the criminal justice system. This timely report gives extensive information, on a national level, of where Australia is currently failing young Indigenous people. CAYJ recommends the NT Youth Justice review pay particular attention to the recommendations around:

- a) Justice targets;
- b) Indigenous mentors;
- c) Foetal Alcohol Spectrum Disorder;
- d) Hearing tests;
- e) Improving effectiveness of transitioning from education to the workforce;
- f) Police training;
- g) Court services;
- h) Alternative sentencing options;

3.4 What types of services should be made available to youth offenders from other cultural groups in the Territory? Are there particular considerations which should be given to achieve better outcomes for this cohort of young Territorians?

See 3.4 in NTCOSS submission

4. Sentencing Options

4.1 Are Community Courts effective, and what can be done to improve them?

77. Community Courts in other jurisdictions have proven to be effective, and CAYJ recommends the NT Government commit to adequately funding and resourcing appropriate models across the major centres. Such models promote restorative justice practices and must be given appropriate levels of support and funding to ensure they can be effective, and lead to a reduction of young people re-entering the criminal justice system. Such a model would see the court sitting more informally, and include considerations such as addressing the young person by their first name, requesting family sit at the bar table, and not standing when counsel makes submissions.

78. Models such as Queensland's Murri Court and Victoria's Neighbourhood Justice Centre should be examined as part of this Review, as having potentially useful practices.

4.2 Are the sentencing dispositions contained in S83 of the Youth Justice Act sufficient?

79. CAYJ believes that the Youth Justice Act is a sound example of progressive legislation. To this end, the sentencing dispositions contained in S83 are sufficient, but must always be underpinned by the principle that detention is a last resort.

4.3 Should alternative detention be used more by the Courts?

See 4.3 in NTCOSS submission

4.4 How can the transition of a youth from a detention setting back into the wider community be improved?

80. Currently there are no post-release programs for young people from Central Australia who are released from the Alice Springs Juvenile Detention facility, nor have there been in the past for youth returning from Don Dale. This means those returning from prison are once again disconnected from education due to a lack of supports. CAYJ is aware, however, that some recent progress has been made towards an education service being provided by Centralian Senior Secondary College.
81. There is a pre- and post-release service in the Top End, the Throughcare Program, provided by NAAJA which seeks to reduce re-offending by supporting Aboriginal prisoners and juvenile detainees (from the Darwin Correctional Centre and Don Dale Juvenile Detention Centre) in the period immediately before and after their release from prison or detention. The program provides case management and referral services for individual prisoners to help them access opportunities upon release and address their diverse transitional needs including rehabilitation, accommodation, employment, education, training, health, life skills, reconnection to family and community and social connectedness.

5. Safe youth, safe families, safe communities

5.1 Do you think the operation of Part 6A is an efficient way to approach the reduction of youth crime in the Northern Territory?

5.2 Should the operation of Part 6A of the Youth Justice Act be expanded? If so, how and why?

5.3 How can services be improved to better target at risk children, either before they make contact with child protection services, or before they make contact with the criminal justice system?

Refer to NTCOSS submission and 5.4 below

5.4 What early intervention strategies can you recommend in the Northern Territory context?

82. CAYJ accepts that there are those juvenile offenders who, given the inherent criminality of their offending, should face court and serve time in detention in the interests of community safety. However, interaction with the criminal courts should always be the last resort. Best practice research suggests that early intervention therapeutic strategies are far more effective than detention both in social and economic terms and at reducing recidivism. Criminal behaviour amongst young people is generally indicative of unmet health and wellbeing needs, which are likely to be heightened by inappropriate and unnecessary involvement in the criminal justice system.
83. There is little evidence to suggest that any early intervention programs have been implemented in Central Australia which addresses the reason why so many Aboriginal young people are entering into the criminal justice system.
84. **After-Hours Programs;** Young people accessing the CBD after hours continue to be an ongoing issue. However, there continues to be limited after-hours programs aimed at diverting young people from the criminal justice system and as a result, Aboriginal young people continue to enter into the criminal justice system at alarming rates.
85. Punitive approaches to anti-social behaviour should be replaced with provision of more safe, friendly places for young people, and the creation of structured activity programs. Social recovery from

distress and community engagement towards positive futures can only come in positive supportive environments. The implementation of restorative practices and social and emotional wellbeing programs in every community and school in the NT could help create a holistic program of social support and positive intervention at the whole-organisation and whole-community level, thus providing truly preventive health.

86. A comprehensive, independent review of youth services across the NT would be of considerable value in mapping existing services and identifying service gaps. This issue has been highlighted by the NT Council of Social Service (NTCOSS) in its 2009-10 Pre-Budget Submission to the NT Government. Such a review would also assist in identifying existing inefficiencies and duplications, and allow scarce resources to be used most effectively. A review of this kind would provide an evidence-base to ensure that policy making is transparent and governments are fully accountable.

RECOMMENDATION 8: That a comprehensive, independent review of youth services be conducted across the NT.

87. **Intensive case management;** The solution listed below involves the provision of intensive case management and family support for young people and their families. A voluntary early intervention program could be established to help prevent young people from entering the child protection and criminal justice systems and it will reduce the number of families who need family responsibility agreements/orders. It will help families provide an environment for young people to have positive futures.
88. This program would build on a number of good but under-resourced programs already in operation, (for example, in Alice Springs, the Congress Targeted Family Support Service) and programs that have proved successful in WA and NSW

RECOMMENDATION 9: That there be significant reinvestment in intensive case management and family support for at-risk young people and their families

Example Model: Multisystemic Therapy Program¹⁵

Central Australia Youth Justice: Submission to the Youth Justice Review 2011

Multisystemic Therapy (MST) (Henggeler et al 2009, Day et al 2010) is an intensive family-and community-based treatment program that focuses on the entire world of chronic and violent juvenile offenders — their homes and families, schools and teachers, neighbourhoods and friends. MST works with the toughest offenders. They are adolescents, male and female, between the ages of 12 and 17 who have very long arrest histories

- MST clinicians go to where the child is and are on call 24 hours a day, seven days a week
- They work intensively with parents and caregivers to put them in control
- The therapist works with the caregivers to keep the adolescent focused on school and gaining job skills
- The therapist and caregivers introduce young people to sports and recreational activities as an alternative to hanging out

MST has been proven to work and produce positive results with the toughest kids. It blends the best clinical treatments—cognitive behavioural therapy, behaviour management training, family therapies and community psychology to reach this population.

After 30 years of research and 18 studies, MST repeatedly has been shown to:

- Keep kids in their home, reducing out-of-home placements up to 50%
- Keep kids in school
- Keep kids out of trouble, reducing re-arrest rates up to 70%
- Improve family relations and functioning
- Decrease adolescent psychiatric symptoms
- Decrease adolescent drug and alcohol use

Evidence has shown that this type of approach will not be effective unless it is sufficiently resourced to enable it to work quite intensively and long-term with young people and their families. However, it has the potential to make considerable savings for government by saving of police, court, corrections, child protection resources and a general reduction in crime and anti-social behaviour. It also has capacity to deal with trauma and violence within families to stop that cycle continuing. It is recommended that the program be independently evaluated and a cost-benefit analysis be undertaken.

Critical considerations for implementation include:

- that the work with young people and families is to be intensive and long term and based on a positive therapeutic relationship which takes trust and time
- the program should be delivered by agencies with a track record and with an emphasis on co-ordination and collaboration across agencies
- that the workers be qualified and experienced with access to professional development and regular professional supervision (recruitment and retention of staff is critical)
- that there is community ownership of the program in both the development and ongoing implementation phase through appropriate consultation and governance models involving Indigenous leaders and young people.

¹⁵ *Better Strategies to Respond to Youth Issues in Alice Springs Youth Sector Meeting, 14 March 2011*

6. Crime Prevention

6.1 Is it preferable to concentrate the provision of youth justice services Territory wide with one government department or non-government agency, or should services be spread across a broad range of government and non-government agencies?

89. CAYJ endorses that government provision of youth justice services become an independent Division or Branch of Youth Justice, as per Recommendation 1.

90. It is inevitable that the provision of youth justice services needs will be met by a range of Government and non-Government agencies. To this end, effective coordination of interagency case management is of critical importance.

6.2 What early intervention strategies work best? Should these services be offered outside the context of the criminal justice framework, or closely to that which presently exists under Part 6A of the Youth Justice Act?

Refer to 5.4.

7. Education and Employment

7.1 Given that youths in the Northern Territory must now be enrolled in an approved training program until they attain the age of 17 years, what other strategies can you suggest to reduce re-offending, when combined with formal schooling or skills development?

7.2 Can you suggest further specialist or alternative education, training, employment programs or mentoring programs which could be implemented for youth offenders?

7.3 Do you agree that referral to Family Support Centres (under part 6A of the Youth Justice Act) is appropriate should a child continually fail to attend school? What other strategies for early intervention can you suggest?

Refer to 7.3 in NTCOSS Submission and 5.4 above

Alcohol and other Drugs

8.1 Of the intoxicating substances you know are available in your local area, which of these you do believe are most likely to generate youth contact with the criminal justice system?

8.2 Of the intoxicating substances you know are available in your local area, which of these you do believe are most harmful to youths?

8.3 Do you believe there is a nexus between mental health issues in young people and substance abuse?

91. Evidence suggests that many young people in the criminal justice system have never had access to appropriate alcohol and drug treatment programs. It is critical that young people with alcohol and drug problems have access to treatment and rehabilitation options that focus on young people's unique needs and supports young people to re-engage with life and learn new life skills. Without such supports, mental health issues in young people will continue to be exacerbated.

92. Recent evaluations of AOD services have taken place such as the NTG AOD Audits, and NTG Review of AOD Services, and Bushmob's AOD National Minimum Data Set Reporting. The NTG Review of AOD Services recommended the Bushmob service (which provides an AOD residential service and adventure therapy) be further supported and expanded. CAYJ welcomes the additional funding for the Bushmob expansion from 5 to 20 beds.

93. It is essential that all youth specific alcohol and drug service providers have built in monitoring and evaluation processes to ensure that key stakeholders (including client participation feedback) is analysed to assist in influencing the service practice and directions to meeting the needs of young people with AOD issues.

94. There is an urgent need for longer term rehabilitation facilities for young people with drug and alcohol problems. Statistics collated by the Central Australian Aboriginal Legal Service Youth Justice Advocacy Project (YJAP) clearly demonstrate that a high number of young people who have youth offending records have continued to engage in criminal activity which is linked to their substance misuse issues, and many have been involved in the criminal justice system from an early age.¹⁶ In particular cases there exists a long history of substance misuse, starting at the age of 11 which included volatile substance abuse (VSA), marijuana and alcohol misuse. Most of the crimes committed are done so whilst the young person is intoxicated and in pursuit of a substance of choice.

95. Despite the fact that a number of these young people have either been in the care of the minister or have come to the attention of Government departments, a significant percentage of young offenders with AOD issues have never received any form of structured treatment or rehabilitation for substance misuse. There appears to be no clear care plan specifically addressing the need for appropriate residential treatment programs for young people with long term substance misuse issues, who have repeatedly entered into the criminal justice system.

96. Although a range of programs exist in Alice Springs and Tennant Creek, there are no specialised programs currently funded to address the social and emotional needs of young people with the following ongoing issues (Note The young people who have re-entered the system generally have the following in common):

¹⁶ Report from the Youth Justice Advocacy Project coordinator, February 2008

- Ongoing substance misuse issues;
- High levels of sexually transmitted infections;
- Experienced long term family breakdown;
- YP who have not accessed any form of treatment or rehabilitation;
- YP who have not accessed any form of formal or alternative education programs; and
- YP who have not had appropriate care and protection case management structures implemented.

97. For many young people there have been little or no supports in terms of addressing the underlying offending behaviour and that many young people have demonstrated time and time again that they are not emotionally equipped in terms of addressing the raft of issues that can lead them into criminal activity.

98. It is notable that in other jurisdictions, for example, in NSW, when a young person has committed a crime and it is established that there are substance misuse issues, they can be referred to the **Youth Drug and Alcohol Court (YDAC)**¹⁷. This is a program that can run for up to 12 months. YDAC has been described as intensive court supervision and an example therapeutic jurisprudence when dealing with substance misuse. It only works if there are intensive resources in the community to support the young person in a range of areas. If accepted on to the program they are referred to the drug and alcohol support program which is made up of a multi case management team – including Drug and Alcohol supports; Education and training supports; Department of Children’s Services; Health ; Accommodation supports.

99. **Substance Misuse and Referral for Treatment (SMART) Court**; CAYJ welcomes the establishment of a SMART Court in Alice Springs. It is anticipated that this court will see a number of young people. It must be noted that the same court conditions for young people that have been advocated for throughout this submission be engrained in any new processes. The resourcing available to the court to effectively manage young people is unclear.

100. Programs need to be created which are holistic with education/training, life skills, anger management, sport and recreation and access to counselling and other health services. There is a need to replicate programs of best practice available here in the Territory and Australia-wide. There is an immediate need for both short-term crisis accommodation and longer term rehabilitation facilities for young people with drug and alcohol problems.

Intersections between youth suicide and detention

Suicide is the leading cause of death of young people (aged 15 to 24 years)¹⁸. Approximately 10 people under the age of 15 years die by suicide in Australia each year. Many go unreported as those under 15 are not listed as suicides. Young people are the least likely demographic to seek professional help for a mental health problem. This is due to self-reliance, the inappropriateness of the services, stigma, financial constraints and geographic constraints. Indigenous youth have a higher risk of suicidal behaviour (3 times the rates of non-indigenous youth) – this can be compounded by incarceration. In Alice Springs, suicide has occurred over last three years following

¹⁷ See http://www.lawlink.nsw.gov.au/lawlink/drug_court/ll_drugcourt.nsf/pages/ydrgcrt_index for more information about the NSW Youth Drug and Alcohol Court

¹⁸ ABS Catalogue 3303.0 Causes of Death Australia, 2009

immediate release from prison, usually triggered by reconnecting with their lives, mixed with alcohol.

Among young people who have died by suicide¹⁹, the second most frequent event preceding death was contact with the justice system. The link of suicide among those in contact with the juvenile justice system is not only a result of the distress related to the proceedings and possible incarceration, but also the link between suicide, substance misuse and untreated mental illness.

There is a scarcity of specialised practitioners and services for young people at risk of suicide or showing early symptoms of mental ill-health in Central Australia that might also support those young people involved in the criminal justice system. Headspace is established in Alice Springs as a one stop shop for young people experiencing mental health and drug and alcohol related problems. However, its capacity to provide a wide range of educational and preventative measures that might incorporate assistance for those young people in the criminal justice system is limited. Mental Health Association Central Australia (MHACA) has a client group that is mostly over 25 years old. The NT Government currently has one staff member working in the Child and Youth Mental Health team. Central Australian Aboriginal Congress provide a Social Emotional Well Being service as does NPY Women's Council. There is a lot of other related work being done in this area that possibly could be better co-ordinated.

RECOMMENDATION 10: That access to programs is improved across regional and remote NT for young people (particularly under 16) with behavioural issues, including alcohol, drug, or substance abuse problems.

Membership of CAYJ is represented by the following non-Government organisations:

- Alice Springs Youth Accommodation Support Service (ASYASS)
- Bushmob
- Central Australia Aboriginal Legal Aid Service (CAALAS)
- Central Australia Youth Link-Up Service (CAYLUS)
- Congress Youth Outreach Team
- Gap Youth Centre
- Jesuit Social Services
- Julalikari Youth Diversion Unit
- Mental Health Association of Central Australia
- NPY Women's Council
- NTCOSS
- Relationships Australia
- STEPS (Barkly and Central Australia)
- Tangentyere Youth Services
- Waltja Reconnect

¹⁹ J. Cooper et al., *Life events preceding suicide by young people*, (2002) School of Psychiatry and Behavioural Sciences, Withington Hospital, UK

ANNEXURES

ANNEXURE A: CASE STUDIES

Case Study– Police breaching YJ Act

CAYJ members have witnessed police breaches of the YJA take place. For example, there was a recent situation in Alice Springs of a young man held in custody all day for his first breach of bail (which was given to him two days prior). He was granted bail again, but there was no responsible adult present to explain the conditions, which was the reason he breached his bail the first time.

Case Study – Young People experience while held in detention²⁰

On the 23rd of April 2007 I was supporting a young woman who was detained in the court holding cells. The young woman was sitting alongside six male police personnel and one female, four of whom were consuming hot toasted sandwiches, the chair in which the young woman sat was opposite two holding cells which were at full capacity with older men. One man was crying and screaming. I asked the young woman's if this was upsetting her:

She said it was making her very sad as he was crying for his baby, and she was worried for him, she said she felt really shamed sitting with all these blokes and the men in the cells were looking at her, she also said she was getting hungry looking at the police men eating.

The above observation was promptly relayed to the young person's lawyer, who immediately asked that the young woman be placed in an area that is less visible to the male detainees. Although, the police personnel staff complied with the wishes of the lawyer by moving the young woman, the task was undertaken reluctantly and there did not seem to be any acknowledgement that it was inappropriate for the young woman to be placed in that position in the first place.

*

On another occasion a 16 year old man was wearing sun glasses in the holding cell; he was instructed in a very abrupt manner to remove the glasses by a police personnel. The youth justice project worker had to explain to the police personnel that the young man had recently been assaulted and as a result had lost his eye; this was a very sensitive issue for the young man, who stated to the police person:

I'm waiting to be flown to Adelaide to have a glass eye put in then I won't have to wear the glasses.

I then had to opportunity to speak to the young man alone, who was visibly upset about the above interaction and was clearly grieving the loss of his eye.

²⁰ From Youth Justice Project report, February 2008

Case Study: Court Waiting Times²¹

NM²² has been to court three times in six months for the same matter. On each occasion he had a different lawyer, and this meant that he had to tell his story of the alleged incident three times. Due to the lack of consistent legal supports NM and his mother became very confused and frustrated with the court process. On all court appearances NM and his mother were present and waited at court for lengthy periods. The last two court appearance lead to NM's mother abusing the Magistrate and storming out of court. NM became very distressed and emotional, fearing that he was now going to be sent to Don Dale. The offences that NM was charged with were minor. Prior to NM's court matters NM had spent a period of 16 hours in the police holding cells. He was detained at 4.30am. The Youth Justice Project (YJP) worker visited NM at 3.15pm the following day. NM had not been interviewed nor had any responsible adult been contacted to participate in a record of interview. The YJP worker asked the CIB inspector in charge if anyone had contacted NM's mother. She was told that the CIB were very busy and hadn't got around to it. NM's mother was finally contacted at 4.30pm; she was extremely distressed and worried for her son. She sought advice from the CAAALAS duty solicitor who advised her that NM should wait to speak to a lawyer and not to discuss any of the alleged offence on tape. NM was released at 8pm with no charges against him.

The above is just one example; however, there are others that could be cited where the time a young person has waited for court has been excessive – and does not comply with the NT Youth Justice Act s. (4)(c)

Case study – Police Holding Cells²³

Members of CAYJ have reported examples of instances that demonstrate more must be done to ensure compliance with these statutory standards.

Young people have often reported that they have spent hours in police holding cells before any contact has been made with a family or legal representative. Young people in Alice Springs are often taken into custody in the early hours of the morning, and in many cases it has been recorded that the young detainees were intoxicated. They are then placed in detention in the police holding cells. The mere fact that police holding cells are also being use as sobering up shelters for young people is, at best, inappropriate.

There have also been a number of cases reported where a young person has been held in the police holding cells for between fourteen and sixteen hours. Their court matters were then heard very late in the afternoon which meant they were also detained in the court holding cells for a lengthy period prior to their matter being heard. In these cases it is clear that every effort was not made to meet the relevant standards and to treat each young person detained with respect for their dignity, culture and human rights.

²¹ From Youth Justice Project report, February 2008

²² Name withheld

²³ From Youth Justice Project report, February 2008