



Submission on

The Blueprint for Youth Justice in the ACT

March 2012

About ACTCOSS

ACTCOSS acknowledges that Canberra has been built on the traditional lands of the Ngunnawal people. We pay our respects to their elders and recognise the displacement and disadvantage they have suffered as a result of European settlement. We celebrate Aboriginal and Torres Strait Islander cultures and ongoing contribution to the ACT community.

The ACT Council of Social Service Inc. (ACTCOSS) is the peak representative body for not-for-profit community organisations, people living with disadvantage and low-income citizens of the Territory.

ACTCOSS is a member of the nationwide COSS network, made up of each of the state and territory Councils and the national body, the Australian Council of Social Service (ACOSS).

ACTCOSS' objectives are a community in which all people have the opportunities and resources needed to participate in and benefit from social and economic life and the development of a dynamic, collaborative and viable community sector.

The membership of the Council includes the majority of community based service providers in the social welfare area, a range of community associations and networks, self-help and consumer groups and interested individuals.

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Acronyms

ACTCOSS	ACT Council of Social Service Inc.
ANTaR	Australians for Native Title and Reconciliation
ATODA	Alcohol, Tobacco and Other Drugs Association
CYFSP	Child, Youth and Family Services Program
JR	Justice Reinvestment
YDAC	Youth, Drug and Alcohol Court

Introduction

ACTCOSS welcomes the opportunity to provide comment on The Blueprint for Youth Justice in the ACT ('the Blueprint').

The Blueprint for Youth Justice in the ACT will provide a strategic plan to reform the youth justice system over the next 5 to 10 years. The long term goals of the Blueprint are to:

1. reduce the number of young people who come into contact with the youth justice system
2. progress key elements of a quality youth justice system as identified by the Human Rights Commission in its report *The ACT Youth Justice System 2011: A Report to the Legislative Assembly* (also known as the Bimberi Report).

It is purported the Blueprint will have a clear focus on early intervention, prevention, and diversion for young people at risk of becoming involved in the youth justice system. It will also aim to enable young people who are already in contact with the youth justice system to achieve improved outcomes both for themselves and for the community.¹

ACTCOSS recognises Australians for Native Title and Reconciliation (ANTaR) for their contribution to this submission. ACTCOSS also notes several government and non-government agencies, including Families ACT, the Youth Coalition of the ACT, and the Aboriginal Justice Centre, are undertaking consultations with targeted community groups. These include specific consultations with:

- Children, young people and their families;
- Aboriginal and/or Torres Strait Islander children, young peoples and their families;
- The youth and community service sectors; and
- Government and oversight agencies.

ACTCOSS supports these organisations in their consultations, and this submission seeks to compliment the work being undertaken by others.

¹ Youth Justice Implementation Taskforce, *The Blueprint for Youth Justice in the ACT: Consultation Paper*, December 2011, p.3

A. What should be included in the vision for youth justice in the ACT?

ACTCOSS supports the vision for youth justice in the ACT identified by the Taskforce as including three broad themes:

- Providing children and young people with the opportunity to live good lives;
- Supporting reintegration into the community; and
- A safe community.²

However ACTCOSS would like to see another theme added to this vision: *A system which puts children and young people front and centre.*

ACTCOSS notes this theme as being one of the potential ‘principles’ of the Blueprint, but believes this value should be included in the ‘vision’ of the youth justice system in the ACT.

In taking a child and young person centred approach to the youth justice system, it is important the Blueprint include the concept of supporting young people as active players in their community, with the right to have a say in decisions which affect their future. Sometimes known as a ‘social empowerment approach’, this vision views a young person’s engagement in the criminal justice system as the consequence of wider social problems, in particular issues of inequality, oppression and social alienation.³ A social empowerment approach not only looks at involving the community in effective social change, it encourages young people to be an active part of this process and puts their views front and centre.

In addition to actively involving young people in social change, a vision of ‘a system which puts children and young people front and centre’ builds a framework which acknowledges every young person is unique, and responds to the changing circumstances in a young person’s life.

Recommendations

- Include in the vision of the Blueprint: A system which puts children and young people front and centre.

² Youth Justice Implementation Taskforce, op. cit., p.5.

³ C Cunneen and R White, *Juvenile Justice: An Australian Perspective*, Oxford University Press Australia, 1995, p.p.241, 244-45

B. What principles should be reflected in the Blueprint?

ACTCOSS is particularly interested in the example principle listed in the consultation paper of “Custody is a measure of last resort”.⁴

ACTCOSS believes an early intervention model should be the focus of a youth justice system, arising from socio-economic factors which bring people into contact with the system and the ineffectiveness of prison terms in preventing recidivism. ACTCOSS has posited this point in previous submissions.⁵ There is strong international evidence to show early intervention models are a more cost-effective strategy for society in reducing crime and lowering recidivism rates.⁶ Justice Reinvestment, an early intervention model approach, will be discussed in more detail further below.

Where early intervention and/or diversionary models have not succeeded and incarceration is unavoidable, there is a need for a holistic approach to the treatment of young people whilst they are detained. A full suite of services, programs and education needs to be made available with the focus of these programs on the welfare, wellbeing and rehabilitation of young people. Services should acknowledge the different needs and experiences of each individual.

Services should continue to engage with young people after they have returned to the mainstream community. Trust and relationship building can take significant time, particularly when engaging with vulnerable young people and communities, and as a result positive relationships forged whilst incarcerated should be continued. This model of ‘throughcare’ is inherently important in supporting young people to reintegrate into the community, and has been shown to reduce the risk of recidivism.⁷ In acknowledgement of this, ‘throughcare’ should be a principle embedded within the Blueprint.

Recommendations

- Include ‘custody as a measure of last resort’ as a principle in the Blueprint.
- Embed the principle of ‘throughcare’ in the Blueprint.

4 Youth Justice Implementation Taskforce, *The Blueprint for Youth Justice in the ACT: Consultation paper*, 2011, p.5.

5 ACTCOSS, *Canberra 2013 – Fair and Equitable: ACTCOSS Submission to the ACT Budget 2012-13*, 2012.

6 Australian Human Rights Commission, *Social Justice Report 2009*, Chapter 2, viewed 21 March 2012, http://www.humanrights.gov.au/social_justice/sj_report/sjreport09/index.html

7 NSW Department of Corrective Services, viewed 22 March 2012, <http://www.correctiveservices.nsw.gov.au/about-us/publications/throughcare>

C. What outcomes (or changes) should be achieved for children, young people and their families at risk/involved in the youth justice system?

One of the most important outcomes for children, young people and their families who are at risk or involved in the youth justice system is how intergenerational disadvantage is addressed. Intergenerational disadvantage

refers to the disadvantage induced by the attitudes, social circumstances or economic limitations of a person's parents.⁸

Usually related to poverty, intergenerational disadvantage can also include lack of education opportunities, alcohol and other drugs misuse, and mental health problems.

The Bimberi Report notes many young people involved in the youth justice system have been known to other systems, including child protection agencies, for a considerable amount of time.⁹

Intergenerational disadvantage can extend to involvement in the criminal justice system. Although there has been little Australian research conducted on this issue, the link between parental incarceration and young people engaged with the youth justice system is beginning to be understood.¹⁰ Research indicates young people who have a parent incarcerated are up to six times more likely to become involved in the youth justice system, compared to other young people.¹¹ This is further exacerbated for Aboriginal and/or Torres Strait Islander families.

Acknowledging the impact intergenerational disadvantage plays on families and communities is an important step in achieving real change for young people who are at risk of or already involved in the youth justice system. It means looking at young people in the context of their familial background, taking into account their life circumstances, and making a real commitment to ending the cycle of disadvantage.

8 T Vinson, *Social Inclusion: Intergenerational Disadvantage*, prepared for Australian Department of Education, Employment and Workplace Relations, Faculty of Education and Social Work, University of Sydney, Sydney, 2008.

9 ACT Human Rights Commission, *The ACT Youth Justice System 2011: A Report to the ACT Legislative Assembly by the ACT Human Rights Commission*, ACT, 2011, p.173.

10 J Travis, 'Prisoners' Families and Children', *Family In Transition*, 14th ed., Eds. A Skolnick and J Skolnick, Pearson Education Inc., Boston, 2007.

11 FaHCSIA, Occasional Paper No.10, *Families of prisoners: Literature review on issues and difficulties*, Australia, 2003 (updated 2009), viewed 22 March 2012, <http://www.fahcsia.gov.au/about/publicationsarticles/research/occasional/Documents/op10/contents.html>

Recommendation

- Address intergenerational disadvantage, including poverty, as a main outcome for children, young people and their families.

How can we best support families and communities to help young people at risk?

ACTCOSS notes the need for an acknowledgement of the unique issues different families and communities have. In particular, the issues facing Aboriginal and/or Torres Strait Islander families and communities cannot be ignored, and may require differently targeted approaches. This is of particular importance given Aboriginal and/or Torres Strait Islander young people are over represented in the youth justice system. Data from the Australian Institute of Health and Welfare shows on an average day in 2008-09, 37% of males and 44% of females under juvenile justice supervision were Aboriginal or Torres Strait Islander young peoples, even though as a whole they only make up around 5% of the youth population of Australia.¹² More worryingly, the level of over-representation was higher for detention than community-based supervision, where Aboriginal and/or Torres Strait Islander young peoples were 24 times as likely to be detained as other young people.¹³

Families and young people of Aboriginal and/or Torres Strait Islander descent often do not access social services in the same way as other groups, or have needs which are not adequately addressed by the mainstream system.¹⁴ This can lead to a gap between the development of support for Aboriginal and/or Torres Strait Islander families, and other families. To effectively support Aboriginal and/or Torres Strait Islander families and young peoples, their issues must be understood, acknowledged and respected. The long-lasting impacts of the Stolen Generation on the family unit; the disempowering of Aboriginal parents by successive Australian governments; and the continued over-representation of Aboriginal and/or Torres Strait Islander children and young peoples in the custody and out-of-home care systems are all factors which need to be taken into account when working with families.

ACTCOSS recommends the Blueprint reflect a commitment to effective and appropriate engagement with Aboriginal and/or Torres Strait Islander families and communities, so they may be supported in an appropriate way suited to their needs and delivers positive outcomes for Aboriginal and/or Torres Strait Islander children and young peoples who are at risk of entering the youth justice system.

12 Australian Institute of Health and Welfare, *Aboriginal and Torres Strait Islander child safety*. Cat. no. IHW 50. Canberra: AIHW, 2011, p.8.

13 Ibid

14 Q Beresford and P Omaji, *Rites of Passage: Aboriginal Youth, Crime and Justice*, Fremantle Arts Centre Press, Western Australia, 1996, p.18.

Recommendations

- A commitment of effective and appropriate engagement with Aboriginal and/or Torres Strait Islander families and communities, which includes communities' participation in decision-making, is embedded within the Blueprint.

D. What broad strategies are needed to achieve the outcomes?

If the outcome of addressing inter-generational disadvantage is to be achieved, then a broad strategy of capacity-strengthening in families and communities needs to be in place. A way in which intergenerational disadvantage may be addressed is through the promotion and encouragement of resilience within families. This could be done through a number of ways, including the integration of services and programs across systems and agencies to fully support families in flexible ways.

In order for this to work however, there needs to be positive engagement with families and communities from the very beginning so they may have ownership of the programs being developed to support them. ACTCOSS recommends the Blueprint note the importance of involving families and communities, and empowering them in decision-making around the development of support programs and strategies from the outset.

Organisations who provides services in education, employment, health, and recreation all play a vital role in addressing intergenerational disadvantage in families, and ACTCOSS recommends the Blueprint reflect this. ACTCOSS also notes, more broadly, any strategies employed in the Blueprint to achieve desirable outcomes for young people need to acknowledge and reflect the complex inter-weaving of different issues, and the varying impacts they can have on families.

Recommendation

- Encourage and strengthen capacity-building and resilience amongst families and communities through the integration of services and agencies.
- The Blueprint acknowledges strategies need to reflect the complex interweaving of a range of issues and needs of different families.
- Empower communities by developing strategies and solutions *with* them, rather than *for* them.

E. What is needed to do to achieve change in the youth justice system?

ACTCOSS has long argued in order to achieve real change, a new approach to the justice system needs to be taken. In the 2012-13 Budget consultation, ACTCOSS called on the ACT Government to invest in an early intervention model when considering the justice system.¹⁵

Early Intervention

Early intervention is a key factor in reducing the number of young people having contact with the youth justice system. International evidence points to such models as effective strategies in reducing crime in society and lowering recidivism rates.¹⁶

Early intervention can take different forms, however one model which is beginning to take shape across Australia is the idea of a Justice Reinvestment strategy - an approach to the criminal justice system more broadly, but one which can also be applied to the youth justice system.

Justice Reinvestment

In order to truly achieve real change in the youth justice system a long-term Justice Reinvestment Strategy needs to be developed.

Justice Reinvestment (JR) is a localised criminal justice policy approach which diverts a portion of the funds for imprisonment to local communities where there is a high concentration of offenders. The money that would have been spent on imprisonment is reinvested into programs and services in communities where issues are most acute, in order to address the underlying causes of crime in these communities.¹⁷ JR has been successful in other countries, most notably the UK and the US. The principles behind JR relate to a shift in attitude towards thinking more broadly and holistically about what leads to crime and how communities may prevent it. It is also based on the economic premise it is far more cost-effective to the government and community to keep people out of prison, with the average cost per custody day at the Bimberi Youth Justice Centre at around \$1076.¹⁸

The focus of a Justice Reinvestment Strategy is on preventing people entering the criminal justice system through addressing the socio-economic factors which are often underlying causes for such contact. For young people these factors can include unemployment, alcohol and other drug misuse,

15 ACTCOSS, *Canberra 2013 – Fair and Equitable: ACTCOSS Submission to the ACT Budget 2012-13*, 2012.

16 Australian Human Rights Commission, *Social Justice Report 2009*, Chapter 2, viewed 21 March 2012, http://www.humanrights.gov.au/social_justice/sj_report/sjreport09/index.html

17 Ibid.

18 Community Services Directorate, *Annual Report 2010-11*, Vol. 2, ACT, 2011, p.148.

homelessness, poverty, mental health problems, and family dynamics. In particular, it is this last factor which can have the most profound impact on the likelihood of a young person having contact with the youth justice system. A JR approach acknowledges this issue and seeks to address it by resourcing local and natural family supports such as local health centres, community nurses, parent programs and other community based support services.

Recommendation

- A long-term Justice Reinvestment Strategy be developed.

Diversionsary Programs

Where there is unavoidable contact with the justice system, diversionsary programs should be employed, and custodial sentencing should be used as a last resort.¹⁹ This is in recognition of the fact prison sentences often do not rehabilitate, and do not reduce recidivism rates. ACTCOSS believes it is important young people are maintained in the community wherever possible.

Current diversionsary programs include community-based order sentencing, and the Youth Drug and Alcohol Court (YDAC). The YDAC is a program of the Children's Court being trialled in the ACT and is

concerned with reducing drug and/or alcohol related criminal activity by children and young people through judicial and therapeutic interventions that are designed to reduce or manage drug and/or alcohol use. It provides a pre-sentencing process that aims to divert young offenders from custody by addressing the issues related to drug and alcohol offending in a holistic way.²⁰

The Blueprint should reflect the idea of using diversionsary programs, such as the YDAC as a preferred alternative to custodial sentencing.

Recommendation

- Diversionsary programs are listed in the Blueprint as a preferred alternative to custodial sentencing where a young person has been unable to be prevented from entering the youth justice system

¹⁹ ACTCOSS, *Canberra 2013 – Fair and Equitable: ACTCOSS Submission to the ACT Budget 2012-13*, 2012.

²⁰ ATODA website, accessed 22 March 2012, <http://www.atoda.org.au/policy/youth-drug-court/>

Appropriate custodial and community-based therapeutic programs

To assist in post release transition and integration into mainstream community, appropriate custodial and community-based therapeutic and rehabilitative programs need to be developed. These programs should include education, employment, mental health support, support for instances of family or domestic violence, and relationships to prevent recidivism. It is essential young people are given the opportunity to identify what activities and services they require to engage and address their needs. It is important young people from Aboriginal and/or Torres Strait Islander backgrounds are provided access to culturally appropriate custodial or community-based therapeutic programs, which addresses behaviour within a culturally sensitive framework.

Reflection, evaluation and flexibility

Continuous reflection, evaluation and flexibility are core factors needed if change is going to be achieved in the youth justice system. Systems are not stagnant, and as things change, so too the youth justice system needs to also change to ensure it remains relevant. Constant evaluation is needed, so things may be re-worked if they are not working or situations change. Flexibility is inherently important, in acknowledgment of the notion every child, young person and family is unique, and so may need different supports or programs. ACTCOSS recommends the Blueprint for Youth Justice reflect a commitment to monitoring and evaluation from a human rights perspective, and flexibility and continuous improvement, as a means of making a real change to the youth justice system.

What measures would strengthen the government and community based workforce assisting young offenders?

Community organisations play a vital role in assisting young offenders, and as such, should be appropriately resourced in order to provide the best possible supports. Organisations that assist 'young offenders' may not look like those which are traditionally thought of as playing such a role and it is important the government understands this, and responds accordingly.

There is a need for improved interagency collaboration between 'front end' services, for example prevention and support services, and 'back end' agencies for example Justice and Corrective Services. In addition, there needs to be the development of collaborative and cultural competency skills within and across both government and non-government agencies.

It is concerning with the changes occurring in the youth sector and the transition to a new Child, Youth and Family Services Program (CYFSP), services which traditionally provided support to young people at risk or involved in the youth justice system have been cut or merged to the potential detriment of their target groups. With such changes taking place this year, there needs to be a rethink in

the ways community organisations can assist ‘young offenders’. In particular, with the significant reshaping of many youth centres, there now appears to be a lack of safe spaces in which workers may engage and build up relationships with young people. If there is to be a real commitment to helping young people who are at risk of engaging with the criminal justice system, there needs to be scope for specific early intervention programs in environments which are young-person friendly.

Taking a more focused approach, schools can play an important role in the life of a child/young person. It is there young people can have access to peer-support, support from adults, and access to resources. There are also researched links between level of education, repeat imprisonment and criminal activity.²¹ A formal partnership between schools, government and non-government agencies could make a difference for a young person who is at risk or involved in the youth justice system.

It is also concerning young people on community-based orders are required to attend meetings with their parole officers at the Community Services Directorate building. This government building is not a conducive environment to the rehabilitation of many young people, and in fact serves to stigmatise them even further. ACTCOSS recommends a new space for young people on parole be implemented as soon as possible.

Recommendation

- Community organisations who assist young people at risk or involved in the youth justice system be provided with adequate resourcing.
- Safe spaces are created where relationships with young people can be built, on their terms, such as youth centres.

How should the Taskforce further consult on the implementation of the Blueprint?

ACTCOSS commends the Taskforce on its consultation with the community to date, and looks forward to further engagement on this important topic. However, the next few steps in the implementation of the Blueprint are crucial, and due care should be taken.

It is vital the Taskforce consult with the people for whom the Blueprint will have the most impact. In particular, it is important young people, especially those already involved in the youth justice system, have their voices heard and are actively involved in the development of the Blueprint. The provision of feedback following the consultation will be vital in assuring communities their voices have been heard, and that the Blueprint is being shaped in a responsive manner.

²¹ AIHW, *The health of Australia's prisoners 2009*, AIHW cat. no. PHE123, Canberra: AIHW, 2010.

Without this feedback the implementation of the Blueprint may prove to be more difficult.

Recommendation

- Young people are consulted and engaged with in a meaningful and appropriate manner on the development of the Blueprint.

Conclusion

The Blueprint for Youth Justice in the ACT contains several positive elements, and appears to be taking a positive outlook to creating a system which will benefit both young people at risk or involved in the youth justice system, and the community more broadly.

ACTCOSS is pleased to note the clear focus on early intervention, prevention and diversion in the Blueprint, however would like to see more of a targeted approach to reducing the number of young people engaging in the youth justice system through the development of a Justice Reinvestment model.

While there is a commitment to working with families and communities to support young people, more focus on culturally sensitive, effective and appropriate engagement with Aboriginal and/or Torres Strait Islander families and communities is required. This is of particular importance in acknowledgement of the over-representation of Aboriginal and/or Torres Strait Islander young peoples in the youth justice system, and the failures of governments to rectify this.

Community service providers are an important tool in providing support to young people and their families, and hence there needs to be a definite focus on adequate resourcing of such organisations so they may continue to assist young people at risk of engagement with the youth justice system.

Finally, ACTCOSS would like to see ongoing, meaningful engagement around the implementation of the Blueprint with the people on whom it will make the most impact – young people themselves.

Reference list

ACTCOSS, *Canberra 2013 – Fair and Equitable: ACTCOSS Submission to the ACT Budget 2012-13*, 2012.

ATODA website, accessed 22 March 2012,
<http://www.atoda.org.au/policy/youth-drug-court/>

Australian Human Rights Commission, *Social Justice Report 2009*, Chapter 2, viewed 21 March 2012,
http://www.humanrights.gov.au/social_justice/sj_report/sjreport09/index.html

Australian Institute of Health and Welfare, *Aboriginal and Torres Strait Islander child safety*, Cat. no. IHW 50. Canberra: AIHW, 2011 p.8.

AIHW, *The health of Australia's prisoners 2009*, Cat. no. PHE123, 2010.

Beresford Q and Omaji p, *Rites of Passage: Aboriginal Youth, Crime and Justice*, Fremantle Arts Centre Press, Western Australia, 1996.

Cunneen C and White R, *Juvenile Justice: An Australian Perspective*, Oxford University Press Australia, 1995, p.p.241, 244-45

Community Services Directorate, *Annual Report 2010-11*, Vol. 2, ACT, 2011.

FaHCSIA, Occasional Paper No.10, *Families of prisoners: Literature review on issues and difficulties*, Australia, 2003 (updated 2009), viewed 22 March 2012,
<http://www.fahcsia.gov.au/about/publicationsarticles/research/occasional/Documents/op10/contents.html>

NSW Department of Corrective Services, viewed 22 March 2012,
<http://www.correctiveservices.nsw.gov.au/about-us/publications/throughcare>

Travis J, 'Prisoners' Families and Children', *Family In Transition*, 14th ed., Eds. A Skolnick and J Skolnick, Pearson Education Inc., Boston, 2007

Vinson T, *Social Inclusion: Intergenerational Disadvantage*, prepared for Australian Department of Education, Employment and Workplace Relations, Faculty of Education and Social Work, University of Sydney, Sydney, August 2008.

Youth Justice Implementation Taskforce, *The Blueprint for Youth Justice in the ACT: Consultation Paper*, 2011.