

MISSION AUSTRALIA POLICY STATEMENT 2013

Youth Justice

I. The issue

It's not uncommon for young people to engage in some type of anti-social behaviour but relatively few go on to become persistent and prolific offenders.

Most young people don't require formal intervention; they simply grow out of offending.

However, those young people who are caught up in a persistent cycle of offending and re-offending face a very bleak future. Detention, in particular, is a critical event in a young person's life that makes the transition to adulthood very difficult.

These young people are much more likely to move into the adult criminal justice system, they are less likely to find long-term sustainable work, and they are much more likely to be disconnected from family and the community around them.

Vulnerable young people, including those who have been abused or who have a cognitive disability are also much more likely to be incarcerated.

In short, this group of young people risk becoming our most marginalised and disadvantaged adults. We will see them in our homeless shelters, in hospital emergency wards being treated for acute mental illness and in our gaols.

Nationally the rates and number of young men and women in detention rose steadily from 2004 to 2008 but have remained stable since.

Just over half the young people in detention were on remand (in detention awaiting the outcome of their proceedings), even though the vast majority of those on remand will not receive a custodial sentence.

To what end have we locked up these young people?

Incarcerating young people is ineffective – it increases not decreases rates of recidivism. The cost is also high when compared with other approaches, both in Australia and internationally. There has to be another way.

2. Our blueprint for reform: what needs to be done?

i. Prevention

Offending behaviour can be averted. Doing so will yield a ripple effect of social and financial benefits.

The risk factors for youth offending are well established and include substance abuse, unstable home life, poor work and school attendance and a family history of incarceration.

Improving the capacity of key individuals and institutions, like teachers, nurses, counsellors, schools and hospitals to identify these signs so that swift action can be taken to address them will considerably reduce the likelihood of offending.

Some of our most vulnerable young people are significantly over-represented in the justice system and our efforts to prevent offending behaviour need to reflect this reality.

2. Our blueprint for reform: what needs to be done? (cont)

i. Prevention (cont)

Offending behaviour can be averted. Doing so will yield a ripple effect of social and financial benefits.

These groups include: Aboriginal and Torres Strait Islander (ATSI) young people; some Culturally and Linguistically Diverse (CALD) groups; young people with history of child abuse, and out-of-home care; and young people with a cognitive disability and/or mental illness.

Addressing the deep social disadvantage amongst these groups is at the heart of reducing their over-representation. This is a problem for the whole community, not simply these groups.

More specifically, we urge State and Territory governments to implement the National Indigenous Law and Justice Framework 2009–2015, which has been endorsed by the Standing Committee of Attorneys-General Working Group on Indigenous Justice.

Fostering young people's spiritual, enriching and complex cultural traditions needs to be recognised as an important component of any strategy designed to lower the number of young people coming into contact with the criminal justice system. This is of particular importance to ATSI and CALD groups.

The rates of child abuse and neglect in Australia are unacceptably high and there are strong links between childhood trauma and criminal behaviour. Preventing child abuse and increasing investment in the promotion of children's emotional, mental, physical and social development should be a key prevention strategy.

Preventing over-representation also requires improvements in both the quality and consistency of policing practices.

ii. Opportunities for early intervention

The earlier a young person comes into contact with the criminal justice system, the poorer the short and medium-term reoffending outcomes and the worse their prospects for long-term wellbeing.

Intervening before young people become entrenched in this downward spiral is essential.

Just as our prevention strategies should target high-risk and over-represented groups, proper screening and assessment processes need to be built into the transition points in the justice system to identify cognitive disabilities, mental health and drug dependence.

This screening should be used to direct young people out of the youth justice system and into mental health and/or drug treatment services when and where appropriate.

If young people are found to have been the victims of abuse and trauma, specialist treatment needs to be provided.

We strongly urge governments to fully fund these rehabilitative services so that detention ceases to be a holding pen for young people needing health care and social interventions.

It is also necessary to significantly increase the investment in culturally-responsive support services for young people.

These services would deal with the root causes of offending behaviour and promote protective factors like community participation and improved support networks to mitigate the effect of those risks that can't be reduced, such as a parent having been incarcerated.

2. Our blueprint for reform: what needs to be done? (cont)

iii. Diversion

When young people have entered the justice system there is strong evidence that diversionary programs are effective in reducing further involvement in crime at a vastly reduced cost to incarceration.

Like early intervention programs, diversionary programs are designed to address the root causes of offending behaviour and provide holistic support to young people.

In a study of Mission Australia's Pasifika program from 2005-2009, rates of reoffending were cut by half in the six months post referral at an average cost of just \$2500 per case with clients involved for three to six months.

In comparison, the real net operating expenditure per prisoner per day was nationally averaged at \$240 in 2005-06 or some \$87,000 per annum.

Pasifika also showed promising outcomes for young people in reducing substance use, improving family connections, personal and social skills. As young people who come in contact with the justice system may come from a background of generational unemployment, Pasifika also supported parents to access employment, training and education.

We recommend increased investment in evidence based diversionary programs.

iv. Justice reinvestment

Each Australian jurisdiction should adopt a justice reinvestment policy in which money is redirected from detention facilities to diversionary services.

Internationally, justice reinvestment has been shown to provide better value for money and long term economic benefits to the community through reduced costs associated with recidivism, incarcerations and property damage, as well as reduced health care costs and greater tax revenue as young people move into employment.

v. A restorative justice framework

Mission Australia believes there is no place for retribution in the youth justice system.

Young people who offend should be encouraged and supported to take responsibility for their actions but this should occur within a restorative framework.

This includes opportunities for the involvement of victims (such as in youth conferencing) to ensure young people can reflect on their actions and the consequences of those actions while also emphasising rehabilitation and diversion and providing access and referrals to appropriate support services.

Restorative justice programs should be in line with Australia's international obligations concerning children and young people and recognise the special status of children and young people in our society and the importance of making decisions with their long-term interests in mind.

Current restorative justice practices and programs vary across Australia and we encourage the development of national guidelines to support the relevant state and territory legislation.

2. Our blueprint for reform: what needs to be done? (cont)

vi. Detention as last resort

Although detention is required for some offenders and offences, it is over-utilised, costly, does not act as a deterrent and leads to poorer long-term outcomes both for the individual and the community.

Arrest, detention or imprisonment and remand of young people should be seen as a last resort, in conformity with the law and for the shortest appropriate time.

State and Territory Governments must commit to viewing detention as a last resort, reducing the number and rate of young people in detention and on remand and set targets to enable this to be annually monitored.

Reform of bail laws is also necessary to ensure there are separate bail laws for young people; that bail conditions are used sparingly to reduce the number of young people incarcerated for trivial breaches and that any conditions imposed are for the purpose of ensuring that a young person attends court.

Where bail conditions are necessary, young people should be supported at the earliest point of contact with the criminal justice system to ensure they are fully aware of the conditions of their bail and the implications of any breach of those conditions.

Bail support programs should address the main barriers faced by young people in regard to meeting the conditions of bail; these include a lack of access to appropriate accommodation, the absence of a responsible adult/guardian, and lack of access to after-hours support services.

vii. Addressing barriers to rehabilitation

Effective evidence-based rehabilitation programs and services that support young people should be located both inside and outside the criminal justice system (pre and post release) and made available at the earliest possible point.

A transition support model approach such as ‘through the gate’ (or ‘through care’) programs for young people in detention, should be implemented in partnership with public, community, and private sector organisations.

These programs provide a range of pre- and post-release services including accommodation, employment search and help in reintegration.

In all but the most extreme cases, young people who offend should be able to progress towards rehabilitation without the lasting stigma of a criminal conviction and should not be discriminated against on that basis.

3. Our vision for a fairer youth justice system

A system that prevents harmful behaviour and keeps society safe is essential for any state that seeks to enable its citizens to lead productive, fulfilling lives.

Mission Australia's vision for a fairer youth justice system is based on an approach to achieve better outcomes for both young people and the broader community. We believe that a fairer youth justice system should include:

1. A focus on preventing offending;
2. Measures to reduce the over-representation of particular groups of young people;
3. Tailored, culturally-responsive support services to deal with root causes of offending behaviour;
4. Partnerships between governments, the community and private sectors to develop a coordinated youth justice strategy focused on early intervention, prevention and rehabilitation;
5. A nationally consistent restorative justice framework;
6. Detention only as a true 'last resort', with governments setting targets for reducing the number and rate of young people incarcerated;
7. Implementing a justice reinvestment policy; and
8. Removal of barriers to rehabilitation.

Mission Australia recognises the unique status of Aboriginal and Torres Strait Islander peoples as the original owners and custodians of Australia's lands and waters and we are committed to addressing the cultural, social and economic needs of Aboriginal and Torres Strait Islander communities.