



Orange Paper 2

A ten-point evidence-based plan for investment to address youth offending

Executive Summary

YAC's 10 point plan for investment is based on the need to do as much as possible to keep children out of, or prevent them coming back into, the youth justice system, addressing both the issue of effective and responsible use of taxpayer dollars and also that of community safety:

- 1.** Support families early but also throughout adolescence
- 2.** Address housing and homelessness issues for families and children and young people
- 3.** Keep children and young people engaged in education: in particular, look for alternatives to suspension and exclusion
- 4.** Increase provision of mental health services for children and young people with moderate to high mental health needs
- 5.** Increase provision of detox and rehab facilities for children and young people
- 6.** Enable access to mentors
- 7.** Enable access to youth appropriate activities and space
- 8.** Support local communities to develop responses to address local issues which are putting their young people at risk of breaking the law
- 9.** Provide an intensive, individualised therapeutic response for those in detention
- 10.** Give priority support to those most vulnerable: Aboriginal and/or Torres Strait Islander children and young people and children in the care of the State.

YAC seeks an all-party approach to youth offending and youth offenders which is evidence-based, balanced and provides consistent, long-term policy and practice for the benefit of the young people concerned and the community overall.

The Issue

As we near another State election, it is important that both voters and those seeking election have a good understanding of the facts and evidence in relation to issues which are likely to be of interest to the community and may well have a bearing on how people vote.

It is the responsibility of those seeking election that they have policies which are grounded in fact and evidence, and that they can produce such information to support their preferred approach.

An area which is consistently a battleground in the war of words in any election, is that of youth offending. At a time when, more than ever, we need to spend the taxpayers' money as effectively as possible, responding to youth offending in a way which has a positive outcome for young people and the community must be a key driver.

The Context

There is much mythology and misinformation about youth offending. To respond effectively, we need to understand “*the problem*”.

- **Children are not simply smaller versions of adults** and the child and teen brain is not the same as the adult brain. The brain does not fully develop and mature before 25 years of age.
- **Less than 1% of children aged 10-17 in Queensland had a proven court offence in 2018-19.** Youth crime is not – and has not been – out of control, even allowing for “hotspots” where there are localised issues and responses may need to be more concentrated for a period.
- **Research shows that youth offending has fallen across most Australian jurisdictions** in the past decade with a decrease of 36 per cent in the rate of young people proceeded against by police. This is consistent with other jurisdictions such as Canada, England and Wales, and the USA. There has been a corresponding decrease in the number of young people coming into youth justice systems – a decline of 22% over 10 yearsⁱ.
- **In line with this, Queensland has experienced a 30.8% drop in the number of 10 to 17-year-olds with a proven offence** over the last ten yearsⁱⁱ and the Department of Youth Justice reports:
 - in the year to 30 June 2020, a 23% drop in the number of 10 to 17-year-olds with a proven offence
 - in the year to 30 June 2020, a 9% drop in the number of charges preferred against 10 to 17-year-olds
 - a 17% decrease in the number of young people in detention over the last 12 monthsRegional variances will apply, but the trend line existed prior to COVID-19.
- **Crime is not confined to children.** In both 2017-18 and 2018-19 unique adult offenders accounted for 89% of all unique offenders.ⁱⁱⁱ

The age distribution of unique offenders has shifted towards older age groups since 2009-10. In 2018-19 unique offender numbers had decreased in all age groups where the offender’s age was under 30 years but increased in all age groups 30 years and over.^{iv}
- **Some young people will come into conflict with the law simply as a result of being a teenager:** a time of physical, emotional, brain and social development which leads to greater risk taking and less thought for the consequences. This group will generally have limited contact with the system and “age out” due to their ongoing connection with family, school, work etc which enables them to get back “on track”.

Evidence shows that a youth justice response is not the reason that children and young people who offend for the first time do not return to the youth justice system. Instead it is family and community supports and the child and young person’s natural and developing understanding and acceptance of their behaviour and personal responsibility that contributes to this change.^v

- **The very small group of persistent offenders** (0.09% of Queensland’s 10-17 year olds - who are responsible for around 45% of offences committed by young people) is not only dealing with the confusion of the normal maturing process but their lives are also characterised by a range of environmental and personal circumstances which put them at greater risk of going and staying “off track”. It is certainly the case that not everyone who has a challenging childhood will be an offender - but for persistent offenders, it is highly likely that they will have had a challenging childhood. For example, while only around 4% of children in care will offend, 83% of young offenders and their families were known to Queensland Child Safety Services in 2014.^{vi}
 - **Young people who enter youth justice systems**, especially those who serve some period in detention, frequently present with an array of vulnerabilities and complex needs. These vulnerabilities might be exacerbated by spending time in custody, especially in segregation and isolation. This is particularly the case for Aboriginal and Torres Strait Islander young people, who continue to be over-represented in youth justice systems across Australia.^{vii}
- Complexity of young offenders in Queensland in 2018-19:

80% have used at least one substance

39% of young people in youth justice custody have used ice or other methamphetamines

63% have experienced or been impacted by domestic and family violence

56% have a mental health and/or behavioural disorder (diagnosed or suspected)

53% are disengaged from education, training or employment

33% have at least one parent who spent time in adult custody

21% are in unstable and/or unsuitable accommodation

16% have a disability (assessed or suspected)^{viii}

- **Simply imposing more and/or harsher punishment on this cohort will not prevent further offending** and will have no impact on community safety.

Research into specific deterrence shows that imprisonment has, at best, no effect on the rate of reoffending and often results in a greater rate of recidivism. Possible explanations for this include that: prison is a learning environment for crime, prison reinforces criminal identity and may diminish or sever social ties that encourage lawful behaviour and imprisonment is not the appropriate response to many offenders who require treatment for the underlying causes of their criminality (such as drug, alcohol and mental health issues).^{ix}

[Reviews of youth detention centres in Australia] highlight the potentially criminogenic nature of youth justice detention centres which entrench young people further in disadvantage (Baldry et al. 2018; Cunneen, Goldson & Russell 2016), especially for those on remand (ie unsentenced).^x

[In 2018-19 84% of children in youth detention in Queensland were on remand.]

- **Detention is also costly** - it costs around \$1500 per day per child held in detention.^{xi}

The Response

*There comes a point where we need to stop just pulling people out of the river.
We need to go upstream and find out why they're falling in.*

Archbishop Desmond Tutu

Preventing or diverting persistent offenders requires a broad human services response: the Department of Youth Justice alone cannot deliver what is needed to get these children on track for positive and productive lives. If we turn the situation around and start from the perspective of child and family wellbeing and giving children and young people the best start in life, then the role of other human services becomes apparent. That is, we need to do as much as possible to keep children out of, or prevent them coming back into, the youth justice system. It is not about excusing bad behaviour: it is about doing what is most likely to result in the desired outcome of preventing (further) offending.

This is why the Youth Advocacy Centre, a specialist youth legal and social welfare service, provides lawyers who understand the law and process as it applies to those aged 10-17 and can properly represent them, but also delivers family, homelessness, youth, bail and court support services. These services seek to address the reasons why young people are coming into (ongoing) contact with the criminal law and break that cycle.

1. Support for families

This is not limited to the early years, although that is a critical time for positive development. Family-based interventions can assist with effective parenting skills and strategies to improve family relationships generally. Supporting parents who are themselves struggling through poverty, mental health issues or domestic and family violence is important in enabling them to support their children and young people. Parents may not be well equipped to help their children with their education for a variety of reasons. Parents may not have had good parenting models themselves.

The finding that family support improved children's social relationships and capacities for self-regulation (or the management of negative emotions) further strengthens the argument that family support should have a more central place in youth crime prevention. As Beelman and Lösel (2006) observe, a lack of social competencies is a common characteristic of aggressive and delinquent children and adolescents.

The finding that the strongest effects on child outcomes were achieved through lower levels of Pathways involvement suggests that prevention strategies based on family support need not be excessively prolonged or expensive...^{xii}

Witnessing or being a direct victim of family and domestic violence has a lasting impact on children. In 2016-17 26,706 Family and Domestic Violence Protection orders were made in Queensland with 13,518 defendants convicted of breaching an order.^{xiii}

2. Housing and accommodation

Action is needed urgently in relation to the critical shortage of housing and accommodation for young people and for families. Homelessness is both a cause and effect of offending behaviour but also contributes to breakdown in family relationships and greater risk of domestic and family violence or the inability to escape violence. It is a challenge to go to school, keep a job, parent your children well, etc if you do not have somewhere safe and stable to live.

Homeless young people typically come from disadvantaged and dysfunctional families, and maltreatment is often the impetus for a young person to leave home.

Young homeless people are often unable to support themselves, ineligible for benefits, and unlikely to find employment. Consequently, they may engage in survival behaviours—begging, theft, drug dealing and prostitution—to earn income for food and shelter...

Experiences of trauma—both prior to leaving home and a result of being homeless—lead to poor self-regulation and coping skills (exacerbated by substance abuse), placing the young person at high risk for serious illegal behaviour.^{xiv}

3. Education

Every effort needs to be made to keep children in school or a form of education that is suitable to their needs and circumstances. Dis-engagement from education or training is also known to be a significant risk for involvement in the youth justice system (and, in due course, greater risk of unemployment and/or poverty, potentially continuing the cycle).

Evidence of an association between school suspension and a range of negative behavioural outcomes has grown during the past decade. As well as contributing to academic failure and dropout, school suspension is a key element of what is known as the ‘school-to-prison’ pipeline, which sees marginalised and excluded young people at an increased risk of juvenile and eventually, adult incarceration.^{xv}

In 2019, 1,500 prep students were suspended^{xvi} which should be a key and early signal that something is wrong, and interventions should be identified and offered for the benefit of the family and/or child. On average, more than 400 Queensland students were suspended or expelled each day last year.^{xvii} Schools and teachers should be provided with the necessary supports (such as a school-based social worker) and strategies to manage problem behaviours with alternative responses to suspension and exclusion, neither of which have been shown to be useful in this regard.

4. Mental health services

More and greater supports are needed for children and young people in relation to their mental health. Mental health issues are often associated with traumatic experiences in earlier childhood which may or may not be ongoing and may also lead to the use of alcohol and other substances to self-medicate. It is YAC’s experience that current services are also not willing or able to assist those with moderate to high needs in this regard.

There is significant crossover between young people who engage in, or who are at risk of, offending behaviour and young people with mental ill-health. Orygen’s Policy Think Tank has highlighted the pressing need for preventive forensic, early intervention and community-based and residential mental health services for potential young offenders, as well as continued dedicated mental health care to rehabilitate young people in detention or on remand, in order to improve their life prospects as members of the community.^{xviii}

5. Detox and rehabilitation services

There is very limited opportunity in Queensland for detox or alcohol and drug rehabilitation for children. Some young people turn to alcohol and other drugs as a means of escape from the issues in their lives – again, both a cause and effect of offending behaviour.

Young people who received an alcohol and other drug treatment service were 30 times as likely as the Australian population [of the same age] to be under youth justice supervision.

Young people who received an alcohol and other drug treatment service for volatile solvents or amphetamines were the most likely to also have youth justice supervision.^{xix}

6. Mentors/role models

Having someone in your life who you trust and who will support you in learning life skills and making choices has made the difference for many who have had childhood problems but been able to overcome them. This could be a teacher, a football coach, another member of their family. More formal mentoring programs have been found to be beneficial through engagement in developmentally appropriate activities that develop communication and relationship skills and support positive decision-making. Linking children and young people with older, possibly retired members of the community could support intergenerational understanding and be a positive for both mentor and mentee.

There has been a great deal of international research carried out on the benefits of mentoring to a young person. Research by Joseph P. Tierney and Jean Baldwin Grossman (Making a difference: an impact study of Big Brother/Big Sisters) and David L Dubois et al ('Effectiveness of mentoring programs for youth: A meta-analytical review', American Journal of Community Psychology), has shown that young mentees are:

- Less likely to become involved in criminal activity,
- Less likely to become involved in drug taking and alcohol abuse and
- Less likely to leave school early
- More likely to have improved academic performance
- Have better relationships with their teachers and family compared to their peers who are not mentored^{xx}

7. Access to activities and spaces in community

For some children and young people, being able to engage in sports or other activities may be compromised by club fees or the cost of uniforms etc. Being engaged in positive activities not only gives young people something to do or strive for, but potentially provides opportunities for success they may not otherwise experience, giving a sense of self-worth and belonging in a positive environment. It can also provide mentoring and role modelling opportunities. Groups should be encouraged to make their activity accessible and support those who are unable to join because of disadvantage. There should also be places in communities where young people can just “hang out” and feel safe and welcome, particularly in the evening and on weekends.

8. Local responses to local problems

The situations of different communities mean that levels of offending will vary across the State – as do issues of poverty, homelessness, child abuse and neglect, domestic and family violence etc.

Children are a product of their environment. While personal characteristics will come into play, children are not born wicked or evil. It is the adults in their lives and the broader community which provide the environment in which children grow and who make the choices and decisions which will impact on children and the direction their lives take. Each community will need to assess the challenges within it and identify where the risks might be and seek to work with government and non-government agencies to put the relevant resources and services in place to provide an environment where children can grow up in positive and healthy ways. There is still an opportunity to change behaviours and turn young lives around because of the very fact of their youth - and failure to take that opportunity will only be to the community's detriment.

9. Detention centres and therapeutic support

Where detention is imposed as a last resort, we must negate the criminogenic impact of detention and use the time as an opportunity to engage and provide individualised intensive support and services to address the reasons which are bringing that particular child into contact with the justice system. A failure to do so not only does not address concerns about community safety – the child will be released back into the community at some point – but also means that significant monies have been spent to no effect. Carefully planned transition from detention is critical to positive re-engagement with community when the young person is released. This may include working with families prior to release so that they can contribute to a positive reintegration to the community. Preparation for transition out must begin on the day the young person goes into detention.

10. Prioritise those who are most at risk of engagement with the system

Last, but most importantly, all of the above must be considered particularly in the context of those most vulnerable to engagement with the youth justice system.

Aboriginal and/or Torres Strait children who are over-represented in the youth justice system. Compared to non-Indigenous young people, Aboriginal and Torres Strait Islander young people in Queensland in 2018-19 were:

9 times as likely to have a proven offence

17 times as likely to receive a supervised order

28 times as likely to be held in custody on an average day

27 times as likely to be on remand on an average day^{xxi}

The historical and ongoing effects of colonisation, broken connection to country and community, and the ensuing cycle of intergenerational trauma and exclusion from mainstream culture cannot be understated (Armytage & Ogloff 2017b: 174). The RCPDCNT [Royal Commission into the Protection and Detention of Children in the Northern Territory] emphasised how the 'destabilisation' and 'history of control' of Aboriginal communities has resulted in 'chronic disadvantage' relating to Aboriginal people's levels of physical and mental health, disability, employment, housing and education).^{xxii}

The concentration of Indigenous children is even greater when we look at those aged 12 years or younger. Nationally, some 76 per cent of children placed in detention and 74 per cent of children placed on community-based supervision in the 10-12 year-old age bracket (inclusive) were Indigenous children during the period 2015-16 (AIHW 2019: Tables S78b and S40b)^{xxiii}.

Responses must be informed and led by Aboriginal and/or Torres Strait Islander agencies and communities with access to appropriate supports and resources.

Children in the care of Child Safety: The State has a direct responsibility for these children and there must be a greater focus on this cohort. As noted above, there is a strong link between involvement in youth justice and child safety issues. An AIHW report compared a total of 58,193 child protection and youth justice records between July 2014 and June 2018 across seven Australian jurisdictions [including Queensland] and found that young people who had contact with child protection services were nine times more likely than the general population to be under youth justice supervision (AIHW 2019a: 13).

The link between child maltreatment (abuse and neglect) and adolescent offending is well establishedWhile the message about intervening in the “early years” has quite rightly had considerable influence, adolescents are often neglected and seen as a low priority in terms of child protection and the provision of mental health services. When children and adolescents move from being “troubled” to “troublesome” when they are in out-of-home care and commit offences, their needs are often neglected as they fall through the gap between the child protection and juvenile justice systems.^{xxiv}

In conclusion

Children and young people cannot vote but they are members of our community and, as such, those elected to Parliament have a responsibility to represent their needs and interests as well as those of the adult population. Arguably parliamentarians have a greater responsibility because of the limited voice available to children and young people and the limited control they have over their lives and life situations.

YAC seeks an all-party approach to youth offending and youth offenders which is evidence based, balanced and provides consistent, long-term policy and practice for the benefit of the young people concerned and the community overall.

End notes

- i Clancey, Wang and Lin Oct 2020 Trends and Issues No 605, Australian Institute of Criminology Youth justice in Australia: Themes from recent inquiries
- ii Queensland Government Statistician's Office Crime Report 2018-19
- iii Ibid
- iv Ibid
- v Queensland DJAG Youth Justice Reform Discussion Paper (2016)
- vi Atkinson B 2018 Report on Youth Justice
- vii Clancey, Wang and Lin Oct 2020
- viii <https://www.youthjustice.qld.gov.au/resources/youthjustice/resources/pocket-stats-18-19.pdf>
- ix Ritchie D 2011 Sentencing Advisory Council Victoria Sentencing Matters Does Imprisonment Deter? A Review of the Evidence
- x Clancey G, Wang S & Lin B 2020
- xi <https://www.youthjustice.qld.gov.au/resources/youthjustice/reform/strategy.pdf>
- xii Homel R et al. 2015. Preventing the mentor and youth engage in developmentally appropriate activities that enhance communication skills, develop relationship skills and support positive decision-making and criminal justice no. 481. Canberra: Australian Institute of Criminology. <https://www.aic.gov.au/publications/tandi/tandi481>
- xiii Ibid
- xiv Child maltreatment, homelessness and youth offending, 4 October 2017 <https://aifs.gov.au/cfca/2017/10/04/child-maltreatment-homelessness-and-youth-offending> Footnotes in article can be found on the website
- xv Hemphill SA, Broderick DJ, Heerde JA, Trends & Issues in crime and criminal justice, No 531 June 2017, Australian Institute of Criminology
- xvi Education Qld data
- xvii Ibid
- xviii <https://www.orygen.org.au/Policy/Policy-Areas/Youth-justice>
- xix <https://www.aihw.gov.au/reports/youth-justice/overlap-youth-justice-supervision-and-aodts/contents/summary>
- xx <https://aymn.org.au/mentors/what-is-mentoring/>
- xxi <https://www.youthjustice.qld.gov.au/resources/youthjustice/resources/pocket-stats-18-19.pdf>
- xxii RCPDCNT 2017b: 116 as reported in AIC paper cited at Footnote 1
- xxiii Cunneen C 2020 Arguments for raising the minimum age of criminal responsibility Footnotes in article can be found on the website
- xxiv <https://aifs.gov.au/publications/family-matters/issue-89/link-between-child-maltreatment-and-adolescent-offending>

Acknowledgement

YAC affirms that the Aboriginal and Torres Strait Islander peoples are the Traditional Owners of Australia and acknowledges their unique relationship with their ancestral Country. In particular, we acknowledge the Turrbal and Jagera peoples, the Traditional Custodians of the land in and around Brisbane, and pay our respects to their Elders, past, and present. We acknowledge our Aboriginal and/or Torres Strait Islander staff and the insight they bring to YAC and their support for it to continue to develop as a culturally competent organisation.

YAC is proud to support its Indigenous clients and staff, its LGBTIQ+ clients and staff and welcomes diversity in all its forms.



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Contact

Youth Advocacy Centre
Level 4, 16 Peel Street,
South Brisbane QLD 4101
(07) 3356 1002

www.yac.net.au
admin@yac.net.au