

To Break the Cycle:

Prevention and rehabilitation responses to serious repeat offending by young people

A Report by Monsignor David Cappo AO
Commissioner for Social Inclusion

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Foreword

There are serious needs within the Aboriginal community in South Australia that are crying out for a response in dignity and in justice. This response is needed now.

When Premier Mike Rann requested that I undertake this investigation and provide him with concrete recommendations, my initial reaction was one of anxiety. My many years as a social worker in South Australia during the 1970s had taught me about the complexities of youth justice, the history and the serious disadvantage of the Aboriginal community.

Paramount in the consultations held, and the process of this investigation, has been the importance of listening to the Aboriginal community. One of the first people I spoke to was Professor Lowitja O'Donoghue AC, whom I have known for many decades. To Ms O'Donoghue, Mr Tauto Sansbury, who has worked closely with me and who led the consultation process in this investigation, and all the Aboriginal leaders and elders of South Australia, I offer my deep respects. I hope that they will find that this report helps us all move forward.

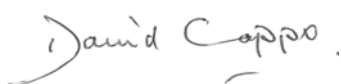
There are some serious gaps in our youth justice and other support systems that this report has identified. These gaps have contributed to the problems we now face. With the cooperation of many people in a wide range of government departments I know these gaps can be closed and a better system developed.

As well, most of the young people at the heart of this report display serious personal and family dysfunction that is not being properly addressed. This needs to change.

I am convinced that the South Australian community should have genuine hope that we can break the cycle of serious offending in the Aboriginal and non-Aboriginal community. But, we will only do this if the whole community accepts responsibility for the solution. This means being more aware of the need to avoid racist behaviour and attitudes—to not stereotype Aboriginal people in negative and degrading ways.

The South Australian community will experience true prosperity the more everyone is lifted up, encouraged, supported and given hope. No one group in our society should ever be left behind. This report is a small contribution in lifting up the Aboriginal community of this State, people who are immersed in the history of our land and who have a right to a life of economic and social satisfaction, spiritual meaning and wellbeing.

I submit this report to the Premier Mike Rann and to the Government of South Australia for consideration.



Monsignor David Cappo AO
Commissioner for Social Inclusion.

1. INTRODUCTION

In February 2007 the Premier Mike Rann sought public comment and advice on ways to address offending by people who are the focus of the South Australia Police (SAPOL) Operation Mandrake. This operation has highlighted the very significant issue of serious repeat offending by a small number of young people. As explained in section 4 of this report, the causes of this kind of offending are complex and can only be understood against the background of youth offending generally.

Context for this investigation

Operation Mandrake is an example of problem-solving policing methods. This approach to policing begins with the identification of a pattern of particular crimes. The next step is to identify people who have previously been involved in this kind of offending. Surveillance of these 'persons of interest' helps to identify the more likely suspects who then become 'targets' of the operation. Over the course of an operation the number and identity of 'persons of interest' and 'targets' is likely to change.

In the case of Operation Mandrake, a pattern of offending involving vehicle offences came to the attention of SAPOL, in particular:

- Vehicle assisted serious criminal trespass
- Illegal use
- High risk driving offences.

Particular individuals were arrested, prosecuted, found guilty and given sentences for offences of this kind over a period of about two years. SAPOL began to notice that these kinds of offences tended to reduce significantly when some of the individuals were in custody or detained and increase again when they were released. In response, SAPOL intensified the Operation. It was at this point that the Premier asked me to look at the issues and prepare a report.

From my initial briefings with SAPOL, it was evident that the number of people identified through Operation Mandrake was very small and not all were under 18 years of age. In fact, more than half are over 18, though the majority would seem to be under the age of about 22. Over the course of the Operation, the number of people being focused on continued to change, but at all times remained small. Not all of the young people that Operation Mandrake focused on are serious repeat offenders. Many, but not all, of these young people are Aboriginal.¹

It is also clear that the Operation Mandrake is not focusing on a gang. The people involved are peers or associates and do operate as a group. However, the criminal activities undertaken are

¹ Throughout this document the term Aboriginal refers to Aboriginal and Torres Strait Islander peoples.

not structured in the sense of organised crime and there is no evidence of the rituals and symbols that usually signify gang membership.² A report from the United Kingdom released in May 2007 helps to understand this issue:

- most offending by young people is group related in some way
- the young people involved in such group offending tend to have grown up together
- the use of the term 'gang' in relation to such young people can glamorise the offending committed, and inadvertently encourage the offenders to become involved in more serious offending.³

Scope and structure of the report

The context outlined above necessitates that this report considers serious youth repeat offending in general; not just the young people upon whom Operation Mandrake is focusing, and not just offending by Aboriginal young people. It is important to note that South Australian research into serious repeat youth offending tells us that, although young Aboriginal offenders are over-represented in this group, the majority of serious repeat offenders are non-Aboriginal.⁴

Accordingly, most sections of the report begin with a focus on issues under consideration as they relate to youth justice in general, then move to a discussion of serious repeat offending by young people, and then make specific comments about how these issues relate to Aboriginal young people.

The report begins with a brief outline of the consultation process. More details on this are available on the Social Inclusion Initiative website.⁵ Drawing together all of the information gathered, the report discusses the experience of:

- young people who have become involved in serious repeat offending
- victims of youth offending
- Aboriginal people in particular.

A set of very specific recommendations conclude the report. Statistical data and research findings are included in separate boxes at relevant points throughout.

As such, the report provides a current picture of the youth justice system in South Australia. There are areas of very good practice, however there are also some gaps in how services

² Youth Justice Board 2007, *Groups gangs and weapons: A summary of research into the nature and prevalence of young people's involvement in group offending, gangs and weapons*. Retrieved May 24, 2007, from <<http://www.yjb.gov.uk/publications/Scripts/prodView.asp?idproduct=341&eP>>

³ *ibid*

⁴ Skrzypiec G 2005, *Offending at 16 to 20 years of age: Identifying youth for intensive intervention*. Office of Crime Statistics and Research, Adelaide.

⁵ <http://www.socialinclusion.sa.gov.au/>

respond to these young people and their families. This report seeks to address those gaps by presenting strategies and recommendations for further action.

2. CAPTURING THE VIEWS

It has been important to hear the broader public's views on what is leading young people into becoming involved in crime and what more could be done to stop them being involved in crime again. To achieve this, a detailed consultation process was put in place that involved a variety of methods including a freecall phone-line, written submissions and an online survey.

In recognising the differing needs of local Aboriginal communities, and on advice from senior Aboriginal community members, Mr Tauto Sansbury was invited to lead a broad community consultation process with Aboriginal people across a number of regions of South Australia. Mr Sansbury is a senior Aboriginal leader, has 27 years' experience in Aboriginal justice issues, is respected in the community and has played a key role in shaping the recommendations to government.

There have also been many meetings undertaken with community leaders. This has resulted in hearing the views of the judiciary, government and non-government agencies, individual community members and members of the Aboriginal community, Aboriginal family members of young offenders and the young offenders themselves.

Common themes and messages have emerged from these consultations. Many people spoke of how youth offending touches all levels of the community, on how it impacts upon us all as members of the community, as family and as victims of crimes. A constant theme was for more investment in activities that encourage participation in family, sport and school or work, to keep our young people active, healthy and connected to community.

In addition to the extensive community consultation undertaken, the following key reports have informed the formulation of the recommendations:

- The South Australian Juvenile Justice System - A Review of its Operation (1996)
- Select Committee on the Youth Justice System - Interim Report (1992)
- Royal Commission into Aboriginal Deaths in Custody Report (1990)
- Review of Child Protection in South Australia (2003).

In particular, the recent Report of the Select Committee on the Youth Justice System (2005), chaired by the Honourable R. B. Such MP, provided a wealth of material, and is an important foundation for this report. It was extremely useful in formulating the directions and recommendations of this report and many of its recommendations are reinforced by the recommendations below. I hope that this report and its recommendations will be seen as an in-depth response to the Such Committee Report.

Consultation Process

The consultation process involved the following elements:

1. A phone-in held 12-23 February 2007 and an online survey open until 26 March 2007. A total of 139 people participated with one in every three (33%) respondents being of Aboriginal descent. Country callers accounted for 22% of all respondents. Concerned citizens (53%) and service providers (29%) accounted for 82% of respondents.
2. Written submissions from service providers and other interested parties. A total of 30 submissions were received. Service providers accounted for 63% of written submissions.
3. A series of face-to-face meetings between February and May 2007 convened by the Commissioner. Meetings involved government and non-government agencies, members of parliament, young offenders, families of young offenders and community organisations.
4. Two rounds of consultation with the Aboriginal community in both the metropolitan and country areas. Over 450 young people and adults participated in these consultations.

Common themes and messages that emerged across a diverse range of respondents:

- Youth offending touches all levels of the community.
- Youth offending is often the product of multiple complex inter-related factors which can include poverty; substance abuse; poor school outcomes; mental illness; family dysfunction; and peer and family involvement in crime.
- A joined-up approach is needed to adequately address youth offending.
- The current youth justice system is largely a reactive system intervening once an offence has occurred.
- Young offenders, their families, carers and communities affected by youth crime want a youth justice system that has a greater focus on prevention, early intervention and rehabilitation.
- The youth justice system should be more inclusive of families and carers in its processes.
- Young people need increased access to programs and services that divert them away from the youth justice system.
- Labelling of young people as offenders can work against conciliation and the rehabilitation of them.
- Repeat offending by the young person often leads to a life of social exclusion.
- Incarceration should only be used as a last resort.

3. SMALL NUMBERS OF YOUNG PEOPLE

From my initial briefings with SAPOL it was evident that the number of young people who were identified through Operation Mandrake was very small. Due to the ongoing nature of the Operation Mandrake investigation the number is not static. It was also clear to me that much of the offending being committed was opportunistic. Criminal activities by those involved were not structured in the sense of organised crime, or in the sense of an Aboriginal youth gang. In fact, at least half of the young people identified through Operation Mandrake are over the age of 18 and not all are Aboriginal.

It is important to put the issue of youth offending into perspective. There is no youth crime wave. The rate of youth offending in South Australia is falling. In 2005 there were 6,127 police apprehension reports, this was 5.5% lower than the number of reports in 2004 and the lowest in the twelve years⁶. For example, police apprehended 25.1%⁷ of young males born in 1984 before they turned 18 years of age. However, the majority of cases involve petty, often one-off offences, many of which were dealt with by the police without the matter going to court. That is, many of these young people 'wake up' to themselves and grow up to be productive and law abiding citizens. At the other end of the spectrum, there is a small number of young people who repeatedly break the law. This is the area for real concern and is the focus of this report.

Public perception and the reality of the situation are not running in parallel to each other. Comments made by members of the public and media reports of 'Adelaide's youth gang crisis'⁸ and 'gang of 49 Aboriginal youths'⁹ have raised the profile of the activities of a small number of offenders and have increased community focus and concern over the issue of youth offending. Recent events are leading the general community to over-estimate the true level of youth crime and can increase the level of fear within communities, especially of young Aboriginal males. This is particularly true for vulnerable groups such as the elderly.

It appears that the activities of a few could be fuelled by their desire to raise their notoriety in the media. It is believed by some that this could be leading to a number of young people on the fringes of offending to join in. Some members of the community have speculated that these media reports have fostered a game of one-upmanship and have led to an escalation in the type of offending. This notion is consistent with recent research carried out in the United Kingdom which argued the use of terms such as 'gang' glamorise offending and actually encourage young people to become involved in more serious offending.¹⁰ With this escalation,

⁶ Office of Crime Statistics and Research 2006 *Crime and justice in South Australia, 2005: Juvenile justice*, no. 42(2), South Australian Department of Justice, Adelaide.

⁷ Skrzypiec G & Wundersitz J 2005, Young people born in 1984 – Extent of involvement with the Juvenile Justice System. Office of Crime Statistics and Research, Adelaide.

⁸ 'Legislation to tackle crime gangs MINORS FACE ADULT LAWS', *The Advertiser*, 23 January 2007.

⁹ 'Inside the gang terrorising our suburbs: THEFT, PAIN, RAIDS', *The Advertiser*, 10 January 2007.

¹⁰ The Youth Justice Board for England and Wales (2007) op. cit.; White R, 2007 *Youth gangs, violence and antisocial behaviour*, Australian Research Alliance for Children and Youth, Perth.

these young people's actions are needlessly placing the public, police officers and themselves at greater risk.

Youth offending in South Australia

In South Australia only a small number of young people repeatedly break the law. In any one year around 10% of the male offending population is responsible for over half of all crime. This figure is consistent with both interstate and overseas research findings.¹¹

Recent information available on young people born in South Australia in 1984 indicates 3,489 (16.8%) were apprehended on at least one occasion. Of the young people apprehended, 86.0% were apprehended on less than five occasions. Only 111 (3.2%) of these young people were apprehended on ten or more occasions.¹²

Studies consistently find that a small subgroup are likely to continue offending into their twenties and thirties. Many jurisdictions acknowledge that the only way to protect the community from this group of offenders is to remove them and place them in detention.

Each day the number of young people who are under Youth Court ordered supervision is small. In 2004-05 there were on average 547 managed daily. Of these young people 65 were in secure care and 481 managed in the community.¹³

The investigation into serious repeat offending has highlighted that overall there is a small number of offenders, both Aboriginal and non-Aboriginal, and that every day the youth justice system is managing a very small number of young offenders. We also know that a large proportion of all offences are being committed by an even smaller subgroup of these young offenders. These offenders present a small but significant problem. Through a joined-up approach this problem is manageable.

¹¹Halsey, M 2006, 'Negotiating conditional release: Juvenile narratives of repeat incarceration', *Punishment and Society*, vol. 8, no. 2, pp. 147-81.

¹² Skrzypiec G & Wundersitz J (2005), op. cit.

¹³ Australian Institute of Health and Welfare 2007, *Juvenile justice in Australia 2004-05*. AIHW cat. No. JUV#2, AIHW, Canberra.

4. YOUNG PEOPLE'S EXPERIENCES

As part of growing up many young people will at some stage come into contact with the youth justice system. For the majority of young people this contact will be limited to a one-off experience. However, there is a group of young people who will go on to have repeated contact with the youth justice system and will engage in serious repeat offending. This group of young offenders has been the subject of much research. As a result, there is now a body of knowledge that focuses specifically on the characteristics of these young offenders, and the underlying causes that lead them into offending. Operation Mandrake has brought a new focus to the issue of serious repeat offending by young people, however, not all of the young people identified through Operation Mandrake are serious repeat offenders.

Antisocial behaviour by young people identified through Operation Mandrake, grows out of the society in which it occurs and therefore can only be understood in its social context. Like other young people who have repeated contact with the criminal justice system, some of the young people identified through Operation Mandrake will typically have multiple problems and troubled histories. Through the consultation it became apparent to me that the only things that seem to distinguish young people identified through Operation Mandrake from other repeat young offenders is the depth of their alienation, sense of hopelessness and lack of self-worth, and the associated proliferation and acceleration of their offending behaviour.

The visit that I made to a group of these young people being held at Cavan Youth Training Centre¹⁴ has furthered my understanding into the causes of their problems and my thinking about how to intervene to change their behaviour and that of other young people with similar problems. The adverse factors affecting these young people involved in repeat offending include:

- generalised poverty
- overcrowding or lack of an adequate home
- low income
- a family environment marked by chronic and sometimes severe alcohol and drug consumption
- illiteracy
- failure to connect to positive role models due to a variety of reasons.

Overwhelmingly, these young people presented as having no sense of purpose in their lives. For the Aboriginal young people among them, the constant experience of racism in their contact with non-Aboriginal society and the omnipresence of death and the funerals of kin and friends compounded this situation.

¹⁴ Cavan Training Centre is one of two youth detention facilities managed by Families SA, the other being Magill Training Centre. Young persons who are refused bail or are detained by order of the Youth Court either on remand or to serve an Order for Detention are held in Families SA secure care facilities.

We know that there are risk factors that increase the likelihood of offending or re-offending. Through the science of criminology our understanding of the causes of youth offending and characteristics of young people who typically offend has been significantly improved in recent times. Research tells us that these common risk factors include:

- characteristics of the individual (e.g. lack of impulse control, poor social skills, lack of self-esteem)
- family (e.g. poor parental supervision and monitoring, family violence, criminal behaviour by parents or other family members)
- school (e.g. poor attachment to school, school failure)
- community (e.g. socioeconomic disadvantage, neighbourhood violence and crime).

Most recent Australian research has highlighted the positive outcomes that can be achieved through the use of a developmental approach. This approach focuses on how young people's relationships, their peers and their social environment can interact in ways that produce negative outcomes, and that the provision of intervention at critical transition points in young people's lives can change their life course.¹⁵ It is this body of research that I have drawn upon in the analysis of the information captured through my investigation; this includes the experiences of young people that have been presented to me.

Family problems

In speaking with young people, many identified as coming from backgrounds where their family had 'problems'. They commonly spoke of families that moved around a lot while they were growing up. Some young people had grown up in families that involved violence. Many spoke of growing up in homes where drug and alcohol use was the norm. Some also spoke of parents, siblings and other close relatives who had gone to jail.

It was evident through the consultation that young people were aware that these family experiences helped shape their behaviour. Many young people spoke of escaping the chaos of the family home—chaos shaped by substance abuse, gambling, overcrowding and violence. Those who had siblings spoke of strong attachments to them. They spoke of being left unsupervised from a very young age and of siblings 'growing each other up'. This can often produce, from a very early age, an independence of spirit and physicality in interacting with other children, as well as producing attachment disorders.¹⁶ When escaping the chaos of home, some young people spoke of taking younger siblings with them to protect them. This often

¹⁵ Homel, R et al 1999, *Pathways to prevention: Development and early intervention approaches to crime in Australia*. National Crime Prevention, Attorney-General's Department, Canberra.

¹⁶ Tatz C 2001, *Aboriginal suicide is different: A portrait of life and self destruction*. Aboriginal Studies Press, Canberra.

resulted in very young children becoming involved in petty crime with older siblings and other relations.

Through the consultation it became clear that a number of young people often felt that they did not have anyone other than their peers to turn to. Some of these young people felt responsible for running the home and looking after their younger siblings—in some cases, a seemingly overwhelming responsibility.

With regard to Aboriginal children, the problem was not always that no one cared but that the 'care' people are so numerous that there was a dilution of responsibility. It was not uncommon for grandparents or other family members to be the primary carers for their children due to a range of reasons. These grandparents are responsible for keeping things together, however, they are becoming increasingly fatigued, stressed and overwhelmed with this responsibility.

A few young people in secure care spoke of what it was like to be a parent, of being locked up and away from their own children. They expressed their hopes and desires for their children and how they wanted more for them. These young offenders told stories of not being able to have physical contact with their visitors whilst in secure care, not being able to hug and touch those they loved, and in some cases preferring loved ones not to visit due to the pain and reminder of alienation that such physical disconnection brought with it.

Complex underlying factors

Criminal activity on the part of a young person often represents difficult social conditions, such as poverty, unemployment, family conflict and violence, for which there are no simple solutions.¹⁷

The risk of involvement in crime is increased by factors such as neglect and abuse, parental and peer involvement in crime, impulsivity, drug and alcohol abuse, mental impairment and illness and gender.

Many repeat young offenders will have experienced neglect and abuse as children and young adolescents, suffer substance abuse problems, commonly report lower self esteem and sense of self worth, and experience emotional and psychological functioning problems.¹⁸

The link between child maltreatment and youth offending is well established. Children who have been subject to maltreatment are more likely to offend as adolescents. Many young offenders, particularly repeat young offenders, have extensive histories involving maltreatment as children and young adolescents. Males, Aboriginal children, children whose maltreatment extended into adolescence and those who were victims of either neglect or physical abuse are most likely to offend.¹⁹

¹⁷ Hoge, R 2001, *The juvenile offender: Theory, research and applications*. Kluwer Academic Publishers, Massachusetts.

¹⁸ Dembo, R 1990, 'A longitudinal study of the relationships among alcohol use, marijuana/hashish use, cocaine use, and emotional/psychological functioning in a cohort of high risk youths', *International Journal of Addictions*, vol. 25, no. 11, pp. 1341-82.

¹⁹ Stewart A, Dennison S & Hurren E 2005, *Juvenile offending trajectories: Pathways from child maltreatment to juvenile offending and police cautioning in Queensland: Final Report*. Griffith University, Brisbane.

Of the young people admitted into secure care in South Australia during 2005 seven in ten young people had a previous notification for abuse. Of those who had a notification for abuse, just over half were reported in the two years prior to their incarceration. Similarly, of the young people placed in secure care, just under half had been subject to an Adolescent at Risk Assessment.²⁰

Simply put, many young people who go on to become serious repeat offenders have come from circumstances that have involved neglect and abuse. This experience has not gone unnoticed by our child protection systems, but the child protection systems have not been able to intervene effectively to bring about its cessation. Consequently, the lives of these young people have continued on a trajectory toward hopelessness, criminality, violence, endangering the lives of others and, sometimes, self-destruction.

Didn't fit in school, didn't like it

School featured prominently in the comments made by young people. Many young people throughout the consultation indicated that they 'didn't fit in school' or 'didn't like school'. The reasons for this lack of attachment to schooling are varied.

Children who have been 'grown up' by other children come to school with a pseudo independence²¹ that makes it hard for them to settle in from day one. These are the students who are most often suspended and excluded. They are also the young people whose truancy can too easily be ignored or missed, especially if they are moving schools because of the transience of their families.

Truancy, suspension, exclusion and offending

Truancy is a strong predictor of youth offending, often the causes are complex and varied. Young people failing to attend school may be influenced by a number of different factors. These can range from parents keeping the children home to hide abuse, through to the children finding school boring. As such, strategies to address a young person's truancy require careful assessment of the young person's circumstances.²² Research indicates that high school students who were regular truants were between two and four and a half times (depending on the type of offence) more likely to be involved in crime.²³

Young people who are excluded from school are at an even greater risk of involvement in crime than regular truants. Young people excluded from school are around four and a half times more likely to commit crime during school hours than regular truants.²⁴

²⁰ Information provided by Families SA. This figure represents reports received and does not represent the number of notifications that were later substantiated.

²¹ Pseudo independence refers to the false sense of independence

²² Weatherburn D 2004, *Law and order in Australia: Rhetoric and reality*. Federation Press, Leichhardt.

²³ Baker, J 1998, *Juveniles in crime – Part 1: Participation and risk factors*. NSW Bureau of Crime Statistics and Research, Sydney.

²⁴ *ibid*

Anecdotal evidence provided by the Youth Education Centre²⁵ supports these links. Of the young people admitted into secure care, a significant proportion have admitted to previously skipping school and have been identified as having been previously suspended or excluded from mainstream schools, with a number of young offenders indicating that they had been suspended or excluded on multiple occasions.

A number of young people believed that they had been treated unfairly by teachers and relayed stories of bullying by teachers and other students. Others said that they found school boring and didn't like the lessons being taught. Many expressed feelings that there was no one there to support them through difficult situations at school. In their conversations it was evident that the majority recognised that poor school engagement posed a significant risk factor for them becoming involved in offending.

The need to better engage these young people is critical. Through my discussions with young people it has become clear that the mainstream approach to schooling is not the most effective way to encourage young offenders to participate in learning. There is now a growing body of evidence that indicates through the use of more flexible learning approaches we can engage these young people in learning and have an effect on their involvement in offending.

Through implementation of the Social Inclusion Board's School Retention Action Plan we have been able to demonstrate that by adopting a more flexible approach to learning we can successfully engage, and in some cases, re-engage young people in learning. However, a flexible approach does not mean the creation of alternative schools. What it means is that mainstream schools have to change the way they are doing things. Since the implementation of the School Retention Action Plan, many schools have been able to trial innovative approaches to learning, and I am most encouraged by the large number of young people who have benefited as a result of these innovations. Nevertheless, the School Retention Action Plan has also confirmed that there is still much to be done to close the gap in learning outcomes between Aboriginal young people and non-Aboriginal young people.

EXAMPLES OF SUCCESS

Implementation of the ICAN programs within Pt Pirie has enjoyed considerable success. Implementation of the program has correlated to a 39% reduction in youth offending over a two-year period from the end of August 2004 to the end of August 2006. This equates to a reduction of 69 offences from the 181 offences for the period recorded in 2004 to 112 offences committed in 2006.

Critical to this achievement is said to be the improved diversion options created for young people in the area through a shared approach. Young people in the area identified as at risk of offending, truanting or leaving school early are diverted into crime prevention and youth engagement programs developed and delivered by police and their partners.

²⁵ The Youth Education Centre provides education to young offenders in secure care at the Magill and Cavan training centres and young offenders in the community and youth at risk at the Flexicentre as an alternative to other education facilities.

Most of the young people who have engaged in the Pt Pirie programs have not re-offended. Many of the young people who have participated have opted to remain connected to learning.

DECS 2006

Overwhelmingly consultation participants felt truancy, suspension, exclusion and school disengagement were critical in shaping a young person's future opportunities. The need to develop transparent, consistent, family (and carer) inclusive processes to manage such issues was considered important for early intervention and necessary to a holistic response. These sentiments were particularly strong in the consultation with the Aboriginal community, with members calling for such issues to be addressed on a systemic level to ensure equitable outcomes for Aboriginal young people.

Whatever the cause, the outcome of poor school engagement, truancy, suspension, or exclusion is that the young person gets behind in their schooling and then is likely to drop out. They are therefore almost certain to be functionally illiterate in later life, and illiteracy creates its own frustration and anger. Incomprehension alienates, as does being inarticulate, especially when our entire service systems are predicated on literacy. So too, poor health impacts upon young people's ability to learn—undiagnosed conditions such as hearing impairment impact upon a young person's ability to learn. Emotional and physical outbursts can too easily become the only means of expressing feelings. These outbursts, of whatever kind, can be a substitute for a lack of ability to comprehend or verbalise their views.

Poor school outcomes

The link between educational outcomes and employment is well known. So too the link between poor educational outcomes, school disengagement and youth offending is well documented. Young offenders on average leave school earlier when compared with the general youth population. National research indicates that 76% of young offenders had stopped going to school prior to detention. Average school leaving age was 14 years.²⁶ Nationally the highest grade completed by young offenders in detention was most likely to be grade eight, compared with grade twelve for the majority of Australian young people.²⁷

Young offenders typically have lower levels of numeracy and literacy than that of the general youth population. Numeracy and literacy testing conducted by the Youth Education Centre of young people in secure care revealed the overwhelming majority were neither numeracy nor literacy age appropriate.

Of the 153 young people under the age of compulsion, 114 were tested for numeracy and literacy. Of these young people tested, seven were identified to be both numeracy and literacy age appropriate. For Aboriginal young people entering South Australian secure care the statistics are poorer. Of the 64 Aboriginal young people under the compulsory school leaving age of 16 years who were tested, not one had age appropriate numeracy and literacy skills.

²⁶ Prichard J & Payne J 2005, *Key findings from the Drug Use Careers of Juvenile Offenders Study*. Trends and Issues in crime and criminal justice no, 304, Australian Institute of Criminology, Canberra.

²⁷ *ibid*

Just as better school outcomes were a key theme, so too was a greater focus on vocational education, particularly young people's involvement in vocational education that has direct links to real employment opportunities. Participants felt that information available to young people relating to employment opportunities was limited. Aboriginal young people and community members, throughout the consultation, indicated their support for events such as the recent Aboriginal Youth Employment Expo and Crocfest. It was felt that such events both provided an opportunity for young people to access up to date employment information as well as developing links to future employers.

Lack of constructive activities

One of the most common things young people had to say to me during the consultation was that they were bored and felt frustrated at the lack of opportunity to participate in activities that fostered the development of positive relationships and social skills. They believed that if they and other young people were given access to programs and interesting things to do many wouldn't be out on the street attracting the attention of police.

This was a strong message from Aboriginal young people in regional areas. Many of the young people advised that there were not enough things to do in their local areas. Activities and programs that they could engage or participate in outside of their home environment were described as limited. In areas where sporting groups existed, many indicated that often they could not participate in the sports they liked due to the fees involved, cost of equipment required and access to transport to enable travel to and from practice and events.

Young people wanted more after-school and holiday-based activities (that are affordable) to help them learn about themselves and develop skills and build upon their strengths. It was said to me that this lack of things to do resulted in boredom and frustration during these periods, and made them look for alternatives. Many felt that it was at these times that they were most vulnerable to involvement in crime. Many young offenders involved in the consultation indicated that if they and their friends had been given the opportunity to participate in recreational activities, many might not be in the situation that they were in. The comment made by one young person continues to resonate with me: 'Only reason Nunga fellas get involved in crime is there's nothin to do'. Whilst this is not the only reason it was a common theme put forward by young people.

When speaking about recreational opportunities the young people often talked about the need for positive role models. They seemed to be looking for someone to look up to, someone who could help them and show them how to do things right, someone to lean on in tough times, someone that would help them stay on track and feel comfortable saying no to negative influences.

From research we know that involvement in well-structured sport and physical recreational activities can have a positive impact on a young person's development and reduce their

involvement in antisocial behaviour. Through providing a safe and engaging environment in which young people can mix with one another and participate in team-based activities, young people can develop positive personal and social skills. In supporting sustainable change we also know that these programs work best when they are integrated with health, welfare and other support services.²⁸

EXAMPLES OF SUCCESS

Operation Flinders is a wilderness-based program. The program is designed to help young people who have a history of offending, or are at risk of offending, to develop their personal attitudes and values of self-esteem, motivation, teamwork and responsibility through participation in wilderness-based activities. The program has undergone two evaluations, the most recent in 2003. The evaluation concluded that the program was:

- *impacting positively on psychological and behavioural outcomes for at-risk youth*
- *lowering young people's risk of future criminal behaviour*
- *lowering the risk of marginalisation within the school system*
- *providing a medium by which youth can be engaged in a manner and style that is conducive to future positive outcomes.*

The sense of young people not having an opportunity to 'have a say' was also prominent. It was reported that there were limited opportunities to participate in meaningful discussion on issues that directly affected them. This sense of a lack of a voice featured prominently in discussions with Aboriginal communities. Some highlighted that there was little consultation or engagement with young Aboriginal people when service providers were developing programs or initiatives for their local communities.

From the consultations it was evident that Aboriginal young people and community members wanted to be included in the formulation of solutions and development of programs at the local council level.

Relationship with police

In my briefings from SAPOL during this investigation I was impressed by the knowledge and concern senior police had of the difficult life circumstances of some of the young people identified through Operation Mandrake. It was evident that police were frustrated at the fact that there are a number of young people who are cycling through the system and they are committed to developing solutions that ensure a balance between community safety and the needs of young people. In my discussions, the commitment of SAPOL staff to developing solutions that bring about the best possible outcomes for all, including the young offenders, was noteworthy.

²⁸ Morris L, Sallybanks J, Willis K & Makkai K 2003, *Sport, physical activity and antisocial behaviour in youth*. Research and Public Policy Series, no. 249, Australian Institute of Criminology, Canberra.

SAPOL

South Australia Police report that there are over 200 staff trained in youth justice matters. Of these staff, 100 are employed at any one time in one of the 14 Local Service Area Community Programs Sections. It is reported that these staff members are responsible for:

- administration of the youth justice system
- involvement in the diversion of matters away from the Youth Court
- involvement with the administration of informal and formal cautions
- referral of matters to family conferencing, and the subsequent attendance.

SAPOL estimate that in 2006 over two-thirds of all cautions administered were informal cautions. Informal cautions enable police to deal with minor or nuisance matters involving young people in an informal way without the incident attracting a record against the young person. Under the current legislation no official record can be kept in relation to informal cautions administered by police.

It has been reported that this not only prohibits the collection of accurate statistical information, but also inhibits the sharing of information that would enable provision of early intervention for youth at risk. It is argued that this is causing a tension between the intentions of the *Young Offenders Act 1993*, and the operational practicalities.

Although problem-solving policing practices bring benefit to the community through reduced crime rates, they can also have some unintended consequences. Young people felt that they were under continued surveillance for no apparent reason on their part, and said that this created mistrust and negative relationships with police. Young people in the Cavan Training Centre felt that they had been harassed which, they argued, made them more aggressive toward law enforcement. This led many to have the attitude that if police are going to try to catch them for a technical breach of bail conditions—say arriving home ten minutes late—they might as well ‘go all out’.

Aboriginal community members indicated a level of frustration at not having more open lines of communication with police and felt discouraged at the perceived lack of acknowledgement of the help that community members had provided during investigations. Some in the community felt that the complaints process wasn’t as transparent as it could be, and as a result, some in the Aboriginal community were reluctant to make a complaint when they felt a situation warranted one.

An increased focus on community-based policing methods can, overcome some of these issues. This approach to policing actively promotes partnerships between the police and the community to address local law and order issues. Neighbourhood Watch programs and the use of community constables are examples of a community-based policing approach. Primary to this approach is community ownership and involvement in the development of solutions to both prevent and address crime. The establishment of open relationships between the police and members of the community is key to this approach. It is evident that SAPOL have been committed to the implementation of community-based policing methods, and further effort in this area should deliver the outcomes that the Aboriginal community is looking for.

In some areas, Aboriginal young people reported a good relationship with local community constables. Overall, young people reported relationships with community constables as being

better than that of the relationship with mainstream police officers. From my investigation it is evident that the police are working on enhancing their relationship with the community, and are doing a good job in often-difficult circumstances. Police know that the current problems being faced cannot be solved through the policing of incidents alone, they also need assistance from the Aboriginal community.

Alcohol and drugs, poor health

From research we know that childhood abuse and early substance use can affect a young person's risk of developing ongoing emotional, psychological and drug use problems.²⁹ There have been numerous studies undertaken exploring the relationship between drug use and offending. It is well documented that many of the factors that influence drug use also have been identified to influence criminal activity.

There is little doubt that substance abuse exacerbates youth offending. Almost all young offenders in detention will have used drugs or alcohol at some stage prior to their detention. A large proportion of these young people will have committed their crimes whilst they were under the influence. Similar to other jurisdictions throughout Australia illicit drug patterns change as a result of the emergence of new drugs and subsequent changes to drug preferences. With new drug patterns come a number of associated behaviours and challenges.

Changing Drug Use Patterns

The Drug Trends Report 2006, through a sample group of 100 intravenous drug users, found that:

- the median age of first injection was 18 years
- the drug most commonly first injected was amphetamine (49%), followed by heroin (39%).

Although heroin was the drug of choice (63%), methamphetamine remained the drug most commonly injected.

The report also found that all forms of methamphetamine were considered 'easy' to 'very easy' to obtain in 2006. Furthermore, the report showed a three-fold increase in the rate of amphetamine as a substance-related hospital admission (primary diagnosis³⁰) in South Australia from 1996/97 to 1999/2000. Hospital admissions relating to heroin peaked in 1999/2000 with a large drop in 2001/2002 and has slowly increased to 2004/2005, still remains the highest substance related admission at approximately just over 250 admissions per million, with amphetamines just over 175 admissions per million.³¹

²⁹Dembo (1990) op. cit.

³⁰ Primary diagnosis of people aged 15 - 54 years of age—was given to those admissions where the substance was considered the primary reason for the patient's episode of care.

³¹ White N, Vial A & Ali R 2006, *SA Drug Trends 2006: Findings from the Illicit Drug Reporting System (IDRS)*.

NDARC Technical Report no. 267, National Drug and Alcohol Research Centre, Sydney

In 1999 to 2001 heroin dependence and harmful use ranked in the top five conditions of Aboriginal 'Years of Life Lost' in both males (ranked 5) and females (ranked 3) in SA. Comparatively, it ranked lower with non-indigenous males (ranked 20) and non-indigenous females (ranked 38).³²

Substance misuse in the Aboriginal population has very different origins, motives and patterns to those pertaining to the non-Aboriginal population.³³ For example, there are a greater proportion of Aboriginal people who do not drink at all, than is the case in the general population, but there is also a greater proportion of instances of extreme substance abuse. There is strong evidence that in these circumstances alcohol and drugs are often being used to obliterate past and present experiences. For many of the young people involved in this pattern of behaviour, to become conscious of the neglect and cruelty that permeates their home, school and street lives without supports would be disastrous.

Willingness to access treatment

When compared to the general youth population, young offenders have higher rates of substance use, use a wider range of substances and start using substances at an earlier age.³⁴ Even though a significant number of young offenders believe that their substance use is influencing their offending, they do not seek treatment for it.³⁵

An overall analysis of findings of 69 United States studies of programs concluded offenders assigned to programs were 41% more likely to show a reduction in criminal behaviour than non-treated groups, with treatment more effective for youth offenders when compared with adult offenders. Similar to recent Australian research the study found that young offenders do not actively seek out treatment. It also found that once in treatment young offenders were difficult to keep engaged.³⁶

In the consultations, young people connected problems in their lives as leading to the development of antisocial behaviour and drug or alcohol misuse. When speaking about drugs and alcohol it was apparent that this was not just an issue facing young people, but in many cases an issue that consumed whole families. There was substantial concern that whole generations are being lost to substance abuse, which was having dire consequences on younger people living in such circumstances.

In speaking to families, it was clear that they wanted to break free from the cycle of substance abuse but often poverty and lack of opportunity contributed to maintaining their addictions.

³² Banham, D 2005, Indigenous population health: Burden of disease in South Australia 1999-2001. SA Department of Health, Adelaide.

³³ Hunter, E 1993, *Aboriginal health and history: Power and prejudice in remote Australia*. Cambridge University Press, Cambridge.

³⁴ Prichard J & Payne J 2005, *Alcohol, drugs and crime: a study of juveniles in detention*. Research and Public Policy Series, no. 67, Australian Institute of Criminology, Canberra.

³⁵ *ibid*

³⁶ Kenny, D T, Lennings, C J & Nelson, P 2007, 'The mental health of young offenders serving orders in the community: Implications for rehabilitation', *Journal of Offender Rehabilitation* (in press, forthcoming).

When speaking to young people, the sense of hopelessness over drug use in the family was most evident and provided a bleak view of their future prospects in life. Young people said that some of their friends and relatives had problems with alcohol and drugs and believed that there needed to be greater access to drug and alcohol rehabilitation programs and early intervention programs, particularly for young people on the cusp of addiction.

It was obvious that many had experimented with alcohol and drugs. Marijuana and alcohol seemed to be the most commonly used and were perceived as harmless drugs. They were not viewed as something that could lead to the use of hard drugs later on. Even though it was obvious to me that many of these young people were on a potential road to longer-term addictions, very few recognised this, and as a result they were unlikely to seek help for something that they did not see as a problem.

Given that there are inequitable health outcomes for young offenders, I was astonished to find that young people entering secure care do not undergo a standard general health assessment. Rather, health checks are only carried out to ensure there is no immediate high-risk health concerns. Conversely, all adult offenders entering the prison system are required to have a health assessment that ensures the appropriate and safe management of health conditions.

General health

Young offenders suffer from poorer health compared to that of the general youth population. A recent study conducted in New South Wales³⁷ young offenders on community-based orders were asked to rate their health. Over 75% of young offenders rated their health as good, very good or excellent³⁸. Findings from this study indicated:

- 33% of males and 35% of females had been diagnosed with asthma³⁹ (as compared with 10% for the general population⁴⁰)
- 26% of males and 40% of females had been diagnosed with ear infections⁴¹
- 5% of males and 11% of females tested positive for Chlamydia⁴²
- 3% of males and 12% of females tested positive to Hepatitis C antibodies⁴³ (as compared with an estimated 1-2% for the Australian general population⁴⁴)
- 81% were smokers⁴⁵ (as compared to 5% for young people aged 12-15 years and 15% for young people aged 16-17 years⁴⁶)

³⁷ Kenny, D T, Nelson, P., Butler, T, Lennings, C, Allerton, M & Champion, U 2006, *NSW young people on community orders health survey 2003-2006: Key findings report*. University of Sydney, Sydney.

³⁸ *ibid*

³⁹ *ibid*

⁴⁰ *Asthma facts* 2007. Retrieved 12 June, 2007 from

http://www.nationalasthma.org.au/html/management/spec_topics/st001_facts.asp#t1

⁴¹ Kenny (2006) *op. cit.*

⁴² *ibid*

⁴³ *ibid*

⁴⁴ Information provided by Hepatitis C Council of South Australia, 12 June 2007.

⁴⁵ Kenny (2006) *op. cit.*

⁴⁶ Information provided by SA Quitline, 12 June 2007.

- 89% had used cannabis⁴⁷ (compared to 15% of students reporting having ever used cannabis in 2005⁴⁸)
- 40% reported severe symptoms on the Adolescent Psychopathology Scale consistent with a clinical disorder⁴⁹ (compared to around one in five for the general adolescent population⁵⁰).

Aboriginal Young People

As with the Indigenous population as a whole, young Aboriginal people suffer poorer health than non-Indigenous young people (9% compared with 7%) and were less likely to report excellent or very good health (59% compared with 70%).⁵¹

Adolescence is a time of dramatic change, physically, socially, and psychologically—a time that is often confusing and uncomfortable. It is a period between childhood and adulthood, where young people test boundaries and feel the need to develop their own sense of identity. It is also a time when a young person's psychological and emotional wellbeing are put to the test, and it is during this period that young people are at a particularly high risk of suffering a mental health disorder. For young offenders the risk of suffering from a mental health disorder is even greater. Post Traumatic Stress Disorder and depression in young people who are regular offenders can often be the manifestation of childhood traumatic experiences.

Early diagnosis and treatment is key to ensuring that such disorders do not become lifelong burdens for these young people. However, our current youth justice system is not geared up to systemic assessment, diagnosis or treatment of young offenders with mental health disorders. As a consequence many young offenders go undiagnosed, and therefore do not get treatment or access to services required to help them manage their conditions. The combined issues of substance abuse and mental illness (dual diagnosis) are something that many young offenders face. The Social Inclusion Board's *Stepping Up* Report has highlighted the need to provide specialised services to those in the community who present with a dual diagnosis. The Department of Health recognises the issue and is addressing it as part of the implementation of the Social Inclusion Board's recommendations.

Get caught, get locked up, get let out

Some of the young people spoke of getting caught up in the cycle of offending and getting trapped in it. They acknowledged the loss of freedoms that come with offending; the loss of relationships; the loss of seeing their children growing up; the loss of opportunity to make something of themselves; and the loss of opportunity to do something positive with their life.

⁴⁷ Kenny (2006) op. cit.

⁴⁸ New South Wales Chief Health Officer 2006, *Health-related behaviours: Cannabis use in secondary school students*. Retrieved 12 June, 2007, from http://www.health.nsw.gov.au/public-health/chorep/beh/beh_illicannastud.htm

⁴⁹ Kenny (2006) op. cit

⁵⁰ New South Wales Health Department 1999, *NSW strategy: Making mental health better for children and adolescents*. NSW Health Department, Sydney. Retrieved 12 June 2007, from <http://www.health.nsw.gov.au/policy/cmh/publications/MakingMentalHealthBetter.pdf>

⁵¹ Australian Institute of Health and Welfare 2007, *Young Australians: their health and wellbeing*. AIHW, Canberra.

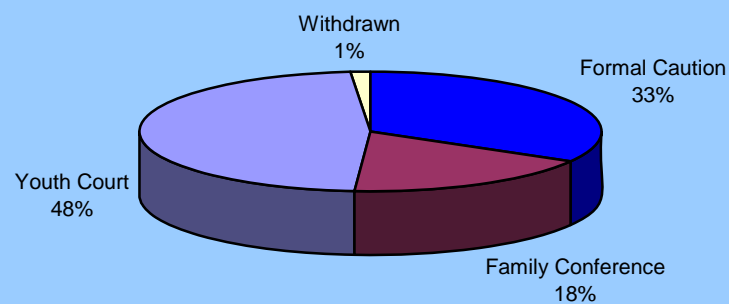
The *Young Offenders Act 1993*, governs the administration of the South Australian youth justice system. This Act was introduced on the premise that 90% of young people would be diverted at the pre-court level. The remaining 10% of young people, considered as serious offenders or long-term recidivists, would be referred to the Youth Court.

Apprehension numbers and actions

In 2005 there were 6,127 police apprehension reports⁵² involving young people, representing a decrease of 5.5% from the previous year.⁵³ This is the lowest figure recorded in twelve years. Individual apprehensions also fell.

In 2005 there were 4,049⁵⁴ discrete young people apprehended, the lowest figure in nine years. During 2005 a higher than expected proportion of matters were referred to the Youth Court. Of those apprehension reports where information regarding subsequent actions was available, just over half of all matters were dealt with by way of diversionary processes for which information is recorded. Figure 1 provides a breakdown of actions following apprehension. Actions taken following apprehension are represented in Figure 1.⁵⁵

Figure 1: Actions Following Police Apprehension Report



This forecast did not eventuate. As a result, the whole youth justice system is out of balance and insufficient attention is being given to the supervision and management of the 48% of matters coming before the Youth Court.⁵⁶

⁵² It is acknowledged that apprehension reports are an under-estimate of actual crimes committed. This is due to citizens deciding not to report crimes to police. The decision to report crimes is based on a complex set of factors which include but are not limited to: personal attributes of the victim i.e. gender, age, etc; relationship to offender; seriousness of the crime; and previous experience with crime.

⁵³ OCSAR (2006) op. cit.—information for actions taken not available for 763 of the 6,127 apprehension reports.

⁵⁴ This represents 2.5% of South Australia's 2005 estimated youth population aged 10-17 years.

⁵⁵ OCSAR (2006) op. cit.—Informal cautions have not been included.

⁵⁶ This figure does not take into consideration informal cautions. SAPOL indicate that formal cautions represent one third of all cautions administered by police, inclusion of the estimated informal cautions result in: 60% of all matters being managed through either formal or informal caution process; 28% of matters referred to the Youth Court; 11% of matters referred to family conferences; and 1% of matters withdrawn.

Although the youth justice system is working well for the majority of young people who come into contact with it, the fact cannot be ignored that the youth justice system is not working well for around one in every five young people who come into contact with it. The concerning thing is that these young people for whom the system is not working are likely to be those who are cycling repeatedly through the youth justice system. We must do things differently and better for these young people involved, if we are to deliver the outcomes the community, victims, young people and their families are looking for, as well as delivering opportunities to young people to enable them to break free from offending.

Investigation of the youth justice system has exposed many issues that are hindering the planned management of young offenders, and in doing so preventing them from addressing the underlying causes of their offending. I was surprised to find that apart from those young people entering the *Breaking the Cycle* program, there is no process in place that enables the systematic assessment and individual case management of young offenders. Through the Social Inclusion Board's *Breaking the Cycle* program, Families SA has been able to trial the *Victorian Offending Needs Indicator for Youth (VONIY)* criminogenic⁵⁷ assessment. This tool enables the comprehensive assessment of the young person's offending history; family circumstances; accommodation and finance; health and substance abuse; education, training and employment; peer relationships and community linkages; and attitudes and behaviour. Information gained through this assessment highlights the young person's future risk of offending and forms the basis on which to develop the young person's management plan. I am most encouraged by this planned approach to the management of program participants and the early achievements of this program.

Monitoring and supervision of young offenders in the community is not based on the level of risk of re-offending. Access to structured therapeutic programs is limited with long waiting periods for access to many services. Transitional planning for young people exiting secure care to better equip them to return to the community and not re-offend is poor.

The lack of connection between agencies and duplication of activities that have occurred as a result of the introduction of the *Young Offenders Act 1993*, and subsequent resourcing decisions based on outdated ideology is apparent. Community service is an example of this. Under the *Young Offenders Act 1993*, SAPOL and the Courts Administration Authority can impose community service for young offenders. When the legislation was introduced a decision was made to split the responsibility for the administration of community service. It was envisaged that this would prevent first time young offenders from mixing with young offenders who were more entrenched in the youth justice system. The result is that community service is managed independently by three agencies—SAPOL as an outcome from a formal caution, Court Administration Authority resulting from an agreement through family conference and Families SA as an order by the Youth Court. In theory, a young offender can be serving multiple community service obligations at the one time, managed by different agencies.

⁵⁷ Criminogenic is defined as those producing or tending to produce crime or criminality.

Also striking is the limited support and opportunity for families or carers to be involved in the case planning and development of solutions to their child’s involvement in crime. All of these issues are compounding the dysfunction in the youth justice system and work against young people entering this system. All of these issues are surmountable; with a commitment by agencies to work together to address these systemic problems things can be substantially improved.

Families SA

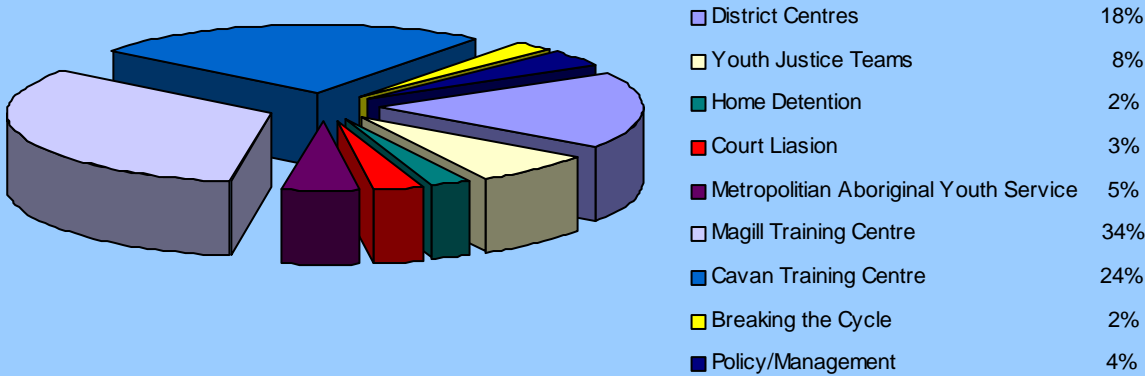
Families SA is responsible for the management of all Youth Court Orders which include bail, community service, obligation, suspended detention and detention (remand and sentenced). Currently there are just over 285 staff employed to undertake functions directly associated with youth justice. The management of these staff is shared between the Youth Justice Directorate and the 19 individual district centres.

Youth Justice Directorate staff include:

- a Policy Unit which is responsible for the setting of strategic directions and development of policy
- Integrated Youth Services which includes home detention, court liaison and supervision of community orders within the metropolitan area
- two secure care facilities at Magill and Cavan
- Metropolitan Aboriginal Youth and Family Services which comprises a Youth Justice Team, the Panyappi mentoring program for at-risk youth and young offenders, Taikurtinna Maltorendi (a tier 3 program) and Tirkandi (a school retention program)
- *Breaking the Cycle*, an intensive case management program which targets young offenders who are at high risk of re-offending.

District centre staffing responsible for the management of youth justice varies considerably between sites. Most, but not all, district centres employ an OPS 4 Senior Youth Worker as a team leader. OPS3 classification staff are responsible for carrying out the majority of community-based youth justice functions. OPS2 classification staff are generally responsible for the management of Community Service Orders, however some centres use OPS1 classification staff. In a small number of district centres social workers are employed to case manage youth justice orders. In some district centres teams are multi-disciplinary, consisting of social work and youth work staff. Figure 2 provides a breakdown of staff distribution across Families SA for staff responsible for youth justice functions.

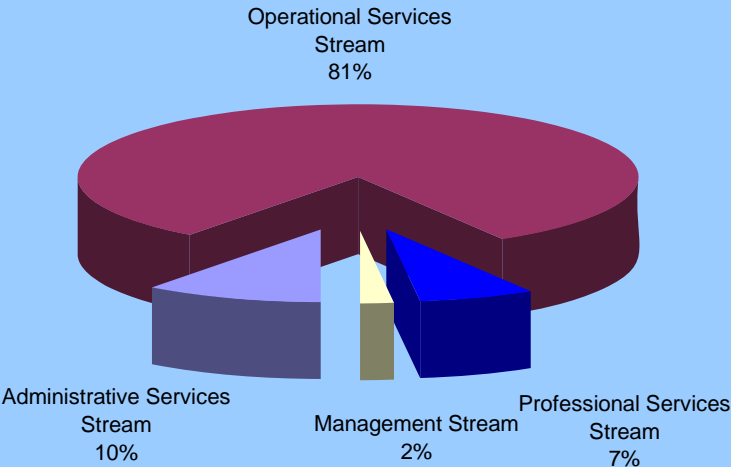
Figure 2: Families SA Youth Justice Staffing Distribution



The Director, Youth Justice is responsible for the management of Youth Justice staff. District centre staff report to their respective district managers. District managers report to one of three regional directors, dependent on their location. This division of responsibility leads to an inconsistent approach to the management of young offenders. Inconsistency relates to issues such as geography, assessment and supervision between the different regions. The current structure also means that no one director within Families SA is wholly accountable for the performance of youth justice.

The overwhelming majority of these staff are employed under the Operational Services Stream (OPS) of the *Public Sector Management Act 1995*. Therefore, they are not required to hold a professional qualification relating to youth justice or youth development.

Figure 3: Families SA Youth Justice Staffing Employment Streams



Throughout the consultation young people were clear that they did not think that longer sentences do anything to stop young people’s engagement in crime. I am inclined to agree with them. But this further underlines the need to have a clear focus on rehabilitation.

Going nowhere

Although many young people spoke to me of hope, few could articulate a vision for their future. There were a number of young people who could not understand the value of education or what employment opportunities may lay ahead for them. Rather than seeing the potential, many pointed to the lack of opportunity. This lack of real and meaningful opportunity featured as a common thread throughout my consultations and was a loud message coming from the Aboriginal community. The statement made by an Aboriginal woman who participated in the consultation rings loudly: ‘young fellas not getting opportunities, where are the black faces at the checkouts?’. This is representative of the call for more Aboriginal young people to be visible in employment in the community.

This situation is all the more alarming because it arises in a time of economic growth in a materially wealthy, stable society that has embraced the principles of equity, fairness and social justice. The land of the 'fair go' and the 'level playing field' is clearly not a reality for these young people. However, when people are told they live in a society that is premised on equal opportunity, the expectation is that all will enjoy those benefits that come from prosperity, especially those who have had to bear the brunt in times of economic hardship.

It is during such time of economic prosperity that concepts of fairness and equity can be revisited. We are living in unprecedented times where there is a chance to provide fresh hope and opportunities to communities that have been overlooked—a chance as a society to make up for some of the unfairness and inequity that has crept in during years of tighter economic times, but has been longstanding for the Aboriginal community.

5. VICTIMS' EXPERIENCES

The consultation challenged views held by many people as to who the victims of youth offending were. From my many meetings, particularly discussions I had with Aboriginal families and community members, and the broader South Australian community, it was obvious that there were many victims of youth offending, affecting people from all cultural backgrounds. These victims included:

- the person whom the offence was committed against
- the family of the person whom the offence was committed against
- the young person who had committed the offence
- the family of the young offender
- the community in which the young offender lived or came from
- the community where the offence was committed
- the broader South Australian community.

Recently I have been impressed by the level of commitment given to improving the position victims of crime have in the criminal justice system in South Australia. The proposed Administrative Agreement, being led by the Commissioner for Victims Rights, to advance the interests of victims of crime is a testament to this commitment. The development of this agreement has involved extensive consultation with key stakeholders and highlighted victims in the criminal justice system.

System is slow

A common criticism that I have heard from victims is the time it takes for an offender to be brought to justice; that is, it is taking too long between the commission of a crime and the sentencing of an offender. I have been told that the court process itself involves far too many opportunities for adjournment and that this is a major factor that delays the whole process. The delays created through the process also contribute to a victim's ongoing stress and suffering and impacts on their healing.

Magistrates too have indicated to me that they are frustrated at the level of case adjournments, indicating that adjournments are granted as the result of not only defence requests but also prosecution requests. It has been suggested that these delays are a combination of defence tactics to slow the process and overcharging by police prosecutions and subsequent failure to have evidence to support those charges when appearing before the courts.

Court delays

For serious matters appearing before the Youth Court, the estimated median timeframe from the first appearance to finalising of the matter with a sentence is 118 days. Although this compares favourably with the median 297 day delay in the adult system, this 118 day delay for serious matters creates a disconnection between the actions of the young person and the consequences, which works against the young person taking responsibility for their actions.

In 1996 the British Government made a pledge to reduce the delays between arrest and finalisation of the matters before the courts for persistent young offenders from 142 days in 1996 to 71 days. Through continuous system improvements and regular monitoring of performance against targets, the court delay has been substantially reduced for this group of offenders. In February 2007 the average time taken from arrest to sentence for persistent young offenders in England and Wales was 70 days.⁵⁸

Many believed that such delays only helped young offenders distance themselves from their offending behaviour and the harm this caused. As such, the youth justice system does not appropriately encourage young offenders to either take responsibility or be held accountable for their actions, as is the intention set out in the objects of the *Young Offenders Act 1993*.⁵⁹ At the other extreme this time delay can enable young people to rebuild their lives free from offending only to have it stripped away when they do eventually appear before the Youth Court. Speaking to those working in the youth justice system, it is apparent that there are significant areas where we can improve the timeliness of the system. This delay has led to an enhanced disconnect for a generation of young offenders who have grown up in an environment where immediacy is an expectation.

Lack of engagement, limited opportunity to participate

In speaking to victims it was evident to me that they wanted greater opportunities to participate at different points in the youth justice system. It was clear that having a say and being heard meant different things to different people. It was also evident that just as young offenders responsiveness to address their offending behaviour varies with their individual circumstances, so too does the healing process for victims. Although there have been significant gains for victim involvement since the introduction of the *Young Offenders Act 1993*, many victims still feel there could be greater opportunities to participate in youth justice processes, particularly the court process.

Following contact with the Youth Court process, many of the victims report that they feel the primary purpose for their involvement is to provide evidence that will secure a conviction and not adequately addressing their outstanding issues.⁶⁰

⁵⁸ Pandya T 2007, 'Average time from to sentence for persistent young offenders', *Statistics on persistent young offenders: Statistical bulletin*, issue 5. UK Department for Constitutional Affairs, London.

⁵⁹ Laycock, D 2007, 'Restorative justice: Saves people, time and money', *Law Society Bulletin (SA)*, vol. 20, no. 1, pp. 4-5.

⁶⁰ *ibid*

Youth Court process

The Youth Court process is largely based on an adversarial approach and involves a limited opportunity for victims and offenders to be involved in the formulation of justice outcomes. Under the current Youth Court process the victim is entitled to provide a Victim Impact Statement. The immediate victim of a crime is also eligible for compensation under the *Victims of Crime Act 2001*. Other than these mechanisms, there is limited provision for reparation or restitution for the immediate victim of the crime, and limited opportunity for conciliation between offenders and victims.

These comments are contrary to the comments made by victims who have participated in the Courts Administration Authority's family conference process. They found the process fair and inclusive, and overall were satisfied. However, in recent times there has been a reduction in participation of victims and victim representatives. I have been told that there may be a variety of reasons for this, including that for some having knowledge of the process and being invited to participate satisfies their needs. I am also aware that some victims may not be at a stage of healing where they feel they could reasonably be part of the family conference process.

Family conferencing

Restorative justice is a philosophy that underpins the family conference process. The Courts Administration Authority is responsible for the administration of family conferencing. Currently there are ten Youth Justice Coordinators and one Community Service Coordinator, supported by a team of four administration staff.

Family conference staff estimate that over 120 cases are referred to the Court's Family Conference team each month. The Youth Justice Coordinators are responsible for:

- coordinating and convening family conferences
- monitoring compliance with undertakings.

Although Courts staff monitor compliance with undertakings, direct supervision of activities associated with undertakings is primarily the responsibility of the family members and agencies involved in the provision of community services for young offenders. Currently there is no provision for Courts staff to carry out supervision of young offenders.

Of the victims who participate in conferencing processes, victim satisfaction is high.⁶¹ However, of the family conferences held in 2005, victims only attended 29.3% of cases, continuing a downward trend.⁶²

⁶¹ Daly, K & Hayes, H 2001, *Restorative justice and conferencing in Australia*. Trends and issues in crime and criminal justice, no. 186, Australian Institute of Criminology, Canberra..

⁶² OCSAR (2006) op. cit.

Reparation to the community

Restorative justice was a theme that I heard over and over again and one that makes strong sense to me. Different people have different ideas as to what restorative justice means and how it can be better incorporated into our youth justice system. For some people, restorative justice means being given the opportunity to face their victims, to have them understand the hurt that their actions have caused. For others, it will mean providing opportunities for offenders to give reparation to their communities through community service related to their offence.

I was moved by the level of forgiveness and compassion that many victims have towards their offenders. Restitution and reparation to the community are fundamental to the conciliation process. When I visited the United States in 2006 I was most impressed at the level of involvement local community members had in addressing local crime. These types of programs help young people recognise the harms their actions have on, not only individual victims, but also the communities in which they live. Many of the programs actively involve community members and local businesses in formulating solutions, including programs to enable young people who have offended to make amends to their community through involvement in community-based programs. Many of these activities involved a training component to help young people become job-ready.

Looking to international research there is a growing body of evidence to support the benefit that such an approach has on reducing the long-term cost that youth crime poses to the community. Equally as important, this type of approach provides young people with an opportunity to see things differently and provides them with new found hope for their future.

6. ABORIGINAL PEOPLE'S EXPERIENCE

Aboriginal South Australians feature significantly less favourably in comparison to their non-Aboriginal counterparts across most social indicators, such as education, employment, housing, economic and health, and are over-represented in youth and adult correctional facilities.

The over-representation of Aboriginal people in the criminal justice system is well documented. There are multiple factors that create the conditions that result in the incarceration of Aboriginal people. Of particular note is the early involvement of Aboriginal young people in the criminal justice system. This puts them at a much higher risk of being imprisoned as adults.⁶³

Operation Mandrake has drawn attention to many of the issues that underlie youth offending, often exposing government system failings. It has also provided me with an opportunity to hear about some innovative work and share in the marvellous achievements that are being made by many Aboriginal young people. The message was loud and clear that the majority of Aboriginal young people are law abiding, however, a significant proportion of the Aboriginal community are inextricably connected to the effects of offending in some way. The activities of a few unfairly taint the perception of the Aboriginal community within the broader South Australian community. This community sentiment reinforced to me that youth offending was not an issue restricted to Aboriginal young people, but a much broader issue facing all of society. Somehow this message has been lost with the recent focus on Operation Mandrake.

Through the excellent work of Mr Tauto Sansbury and members of the Aboriginal Advisory Group, including Mr Major Sumner, Ms Pat Buckskin, Ms Sharon Gollan, Mr Allan Sumner, Ms Heather Agius, Mr Sydney Sparrow, Ms Rebecca Stanway and Mr Rodney Welch, we have been able to connect with Aboriginal communities and listen to their views as to the underlying issues—and what they think needs to be done to fix things to give young Aboriginal people fresh hope beyond offending. There were a total of 24 community and youth forums facilitated, which included the metropolitan area and 12 regional locations. From my discussions with Mr Sansbury, and other Aboriginal members, it is evident that the causes and issues related to serious offending by Aboriginal young people are complex and varied. There is no one cause and there is no one solution. It is clear that many Aboriginal communities and families are struggling with multiple issues, and all are concerned about the future of their young people.

The Aboriginal community and youth forums have highlighted that each community wanted to be recognised as a community in their own right. As such, each community felt that to have any ownership, they had to be involved in the development of local solutions to their local issues. Despite this, there was a level of commonality amongst underlying causes and proposed solutions.

⁶³ Steering Committee for the Review of Government Service provision 2005, *Overcoming indigenous advantage: Key indicators 2005: Overview*, Productivity Commission, Melbourne.

Contact with the Youth Justice System

My visit to the Cavan Youth Training Facility confirmed what the evidence was telling me. There are far too many young Aboriginal people in secure care and something needs to be done to address this. Almost every Aboriginal person I spoke to throughout the consultation had a son, daughter, grandson, granddaughter, niece or nephew who has had some type of contact with the youth justice system, whether it had been formal cautioning by police, or detention in a youth justice facility. From what I heard, many of those who had contact with the youth justice system had previous contact with the police at a very young age, and once old enough to attract a response from the youth justice⁶⁴ system, quickly escalated within it.

Disproportionate representation and disproportionate outcomes

Aboriginal young people nationally are over-represented in the youth justice system.⁶⁵ When comparing South Australian Aboriginal young people under justice supervision with that of other Australian jurisdictions in 2004-05, South Australia had the third highest rate with 54.5 Aboriginal young people per 1000 compared with 4 per 1000 non-Aboriginal young people.⁶⁶ This equates to just over 1 in every 20 Aboriginal young people aged 10-17 years being under justice supervision.

The situation is even more concerning when comparing incarceration rates of young Aboriginal males with that of other Australian jurisdictions. During 2004-05, South Australia and Western Australia consistently had the highest rates of detention for young Aboriginal males. In the December quarter, South Australia recorded the highest rate with 990.5 per 100,000 of relevant population, compared to 67.5 for non-Aboriginal young people.⁶⁷

2005 data indicates a continued over-representation of Aboriginal young people's contact with the youth justice system at all points. It also indicates that for actions taken following an apprehension report, Aboriginal young people were less likely to receive a formal caution, slightly less likely to be referred to a family conference, but were more likely to be referred to the Youth Court.⁶⁸

⁶⁴For the *Young Offenders Act 1993* to be applicable the young person must be aged 10 to 17 years inclusive.

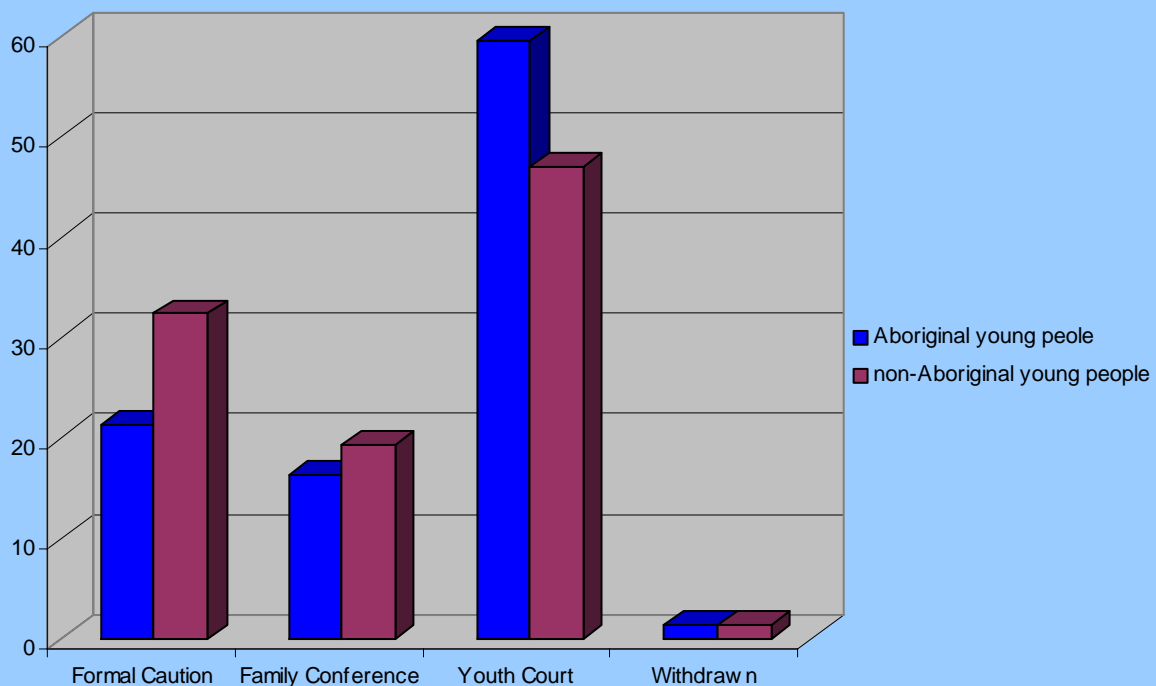
⁶⁵ AIHW (2007) op. cit.

⁶⁶ AIHW (2007) op. cit.

⁶⁷ Taylor N 2006, *Juveniles in Detention in Australia, 1981-2005*, Technical and background Paper no.22, Australian Institute of Criminology, Canberra.

⁶⁸ OCSAR (2007) op. cit.

Figure 4: Actions by Non-Aboriginal and Aboriginal Appearance for 2005⁶⁹



A recent study of the extent of contact with the youth justice system among a cohort of young South Australians born in 1984 confirms this overrepresentation. Of the estimated 540 Aboriginal young people born in that year, just over four in ten went on to have contact with the youth justice system. This is nearly three times the recorded contact for non-Aboriginal young people. The contact is even more disproportionate for young Aboriginal males, almost two thirds of the Aboriginal males compared with less than one quarter of non-Aboriginal males had at least one recorded contact with the system.⁷⁰

The study also found that Aboriginal young people's first contact with the youth justice system occurred at an earlier age than non-Aboriginal young people, with 10.3% of the estimated Aboriginal young people born in that year having at least one formal contact with the system, compared with 1.1% of non-Aboriginal young people.⁷¹

Suspension and exclusion from school

During the consultation it was explained that a high number of Aboriginal young people were suspended or excluded following physical altercations with other students. Aboriginal community members were clear that they did not condone such behaviour. However, participants voiced a level of frustration that a significant proportion of such instances occurred following racial taunts or resulted from continued bullying by other groups of students within schools.

⁶⁹ OCSAR (2006) op. cit.

⁷⁰ Skrzypiec G & Wundersitz J (2005) op. cit.

⁷¹ ibid

It was evident through speaking to young people in Cavan Training Centre, and other young Aboriginal people, that a lack of attachment to school had failed to be developed. Young people talked of the hardships that suspension and exclusion brought with them, of not having anything to do while others were at school, of not being able to keep pace with their learning, of not being able to catch up on their return, of dropping out of school for fear of looking 'dumb' in front of their peers. They were concerned about the impact that not being good at school would have on their future prospects. Parents also acknowledged these difficulties and expressed feelings of frustration and spoke of their own poor school outcomes.

Suspension and exclusion of Aboriginal young people

2005 data for school enrolments indicate that Aboriginal students were three times more likely to be excluded from school and over two and half times more likely to be suspended than non-Aboriginal students.⁷²

Devaluing of culture

Many believed the devaluing of Aboriginal history and culture was an underlying factor in the development of racist attitudes. Both young and old felt that the current education system did not provide an adequate focus on Aboriginal history or culture. It was argued that this contributed to the lack of appreciation and devaluing of Aboriginal culture. Cultural learning was viewed as a particularly important issue for Aboriginal young people. It was felt that cultural education and cultural mentoring would engender pride in Aboriginal young people, which would help them to enhance their self-esteem and pride in their Aboriginal identity. It was also believed that this would enable the strengthening and continuation of Aboriginal culture into the future.

Sport and recreation

Throughout the consultations, Aboriginal young people indicated a strong connection to sport and recreation based activities. Many said that there was a lack of opportunity to participate in sport, either due to the absence of sporting facilities within their communities, or through a lack of funds required to access such programs. Young people felt that involvement in sport would both give them something to do, which would keep them out of trouble, and also help them to develop positive relationships, both within their own communities and within the broader community. Many felt that sport could be used to engage Aboriginal young people and provide future opportunities. It was also seen as a way of escaping from the sense of hopelessness that was being experienced by a number of Aboriginal young people.

There was a clear message from the consultations that they wanted greater access to recreational programs, especially programs that helped develop self-esteem and self-identity.

⁷² Social Inclusion Unit 2007, *Making the Connections School Retention Action Plan: Stage 2 evaluation report: Securing a better future for all South Australians*. Department of the Premier and Cabinet, Adelaide.

They spoke of the distinct lack of recreational programs that focussed on culture. It was evident that they thought that these types of programs were important in developing pride and a sense of knowing who they are. They believed that these programs could help young people develop positive mentoring relationships between community members and other young people.

Impact of legislative changes

When speaking of the proposed legislative changes to try the most serious repeat young offenders as adults, and for adults who commit offences in the company of juveniles to face harsher penalties, many felt the result would be the introduction of harsh and unfair laws that would only further disadvantage Aboriginal young people. They also had serious concerns that such a change to the law would entrench more people in the criminal justice system and, combined with the perceived increased scrutiny of their young people, it was felt the changes would only make it more difficult for Aboriginal young people to succeed. Speaking with young people, it was unmistakable that they were disturbed that laws were being made that directly affected them and to which they had no say, and agreed that it would only serve to further disadvantage Aboriginal young people.

Many consultation participants felt that the proposed introduction of such legislation was a 'knee-jerk' reaction. A large number felt that the change was a response to media reports. It was also felt that such change would do nothing to solve the underlying problems that were leading to young people's involvement in crime and their subsequent re-offending—rather it would have the reverse effect.

Aboriginal elders and leadership

Aboriginal leadership and the involvement of elders in the formulation of solutions were seen as critical factors in building and strengthening community capacity, and were also seen as necessary in supporting and encouraging parents to step up and take responsibility. As part of my investigation I was invited to meet with the Grannies Group. The level of commitment of this group of Aboriginal elders to bettering outcomes for their young people was unquestionable. Listening to their heartfelt stories and the level of hardships being endured by some families within the Aboriginal community was particularly concerning. The deep networks that had been formed within the group impressed me. So too did the support the group offers to families and the advocacy role it provides in addressing issues that affect Aboriginal families and communities. Through the efforts of elders and groups, such as the Grannies Group, capacity is being built within the Aboriginal community; however, this cannot be sustained without adequate support.

7. RECOMMENDATIONS

This section of the report suggests a framework for addressing the broader issue of serious repeat offending by young people. The framework is used as a basis for organising and understanding the recommended response. There is also a set of recommendations specifically relating to the issues raised by Operation Mandrake. The recommendations that follow these relate to all young offenders, including young people identified through Operation Mandrake.

A youth justice framework

As a community, we want all young people to realise their full potential. In this context, the ultimate aim of our youth justice system is to prevent young people from becoming involved in offending in the first place or, where they have offended, to provide the ‘care, correction and guidance’⁷³ to prevent further offending and support the young person’s development.

The clear message from all who have been consulted as part of this investigation is that this means our youth justice system must:

- support young people to be **accountable** for their actions
- give young people opportunities to make **restitution** to the people and communities who have been affected by their offending
- provide services that promote **rehabilitation**
- encourage and facilitate **community involvement**
- enhance **community safety**.

I recommend these objectives to the Government as the basis for its response to the issue of serious repeat offending by young people in our South Australian community.

The experiences of young people involved in offending, outlined earlier in this report, reinforce the importance of these objectives. They must be focused on at all points along the continuum of prevention—that is, early intervention, community care, secure care services and their post release support. Obviously, the balance may be different at each point along the continuum, but a focus on all objectives is nonetheless essential.

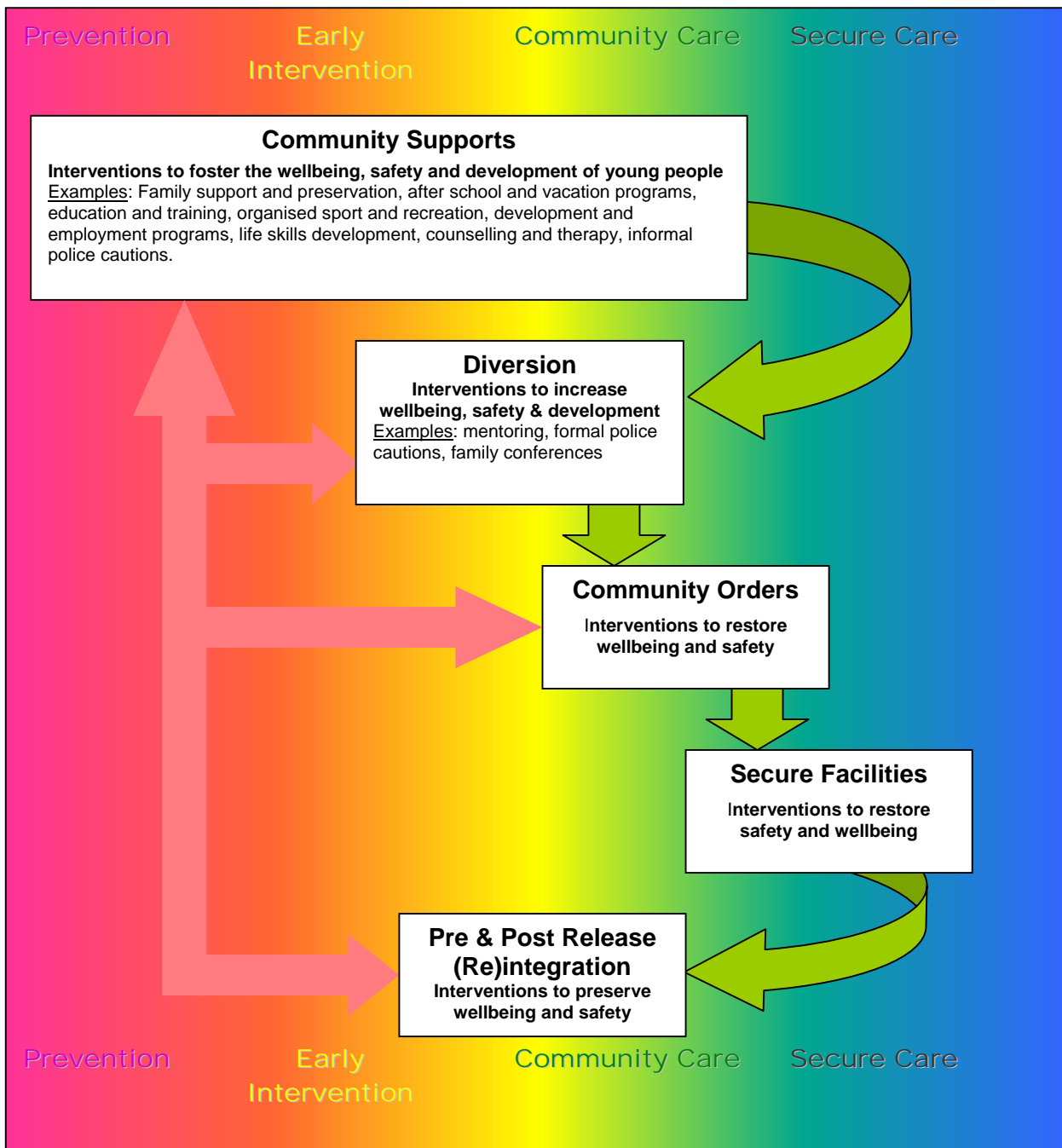
For example, secure care (at the Cavan Youth Training Centre and Magill Training Centre) is the most stringent form of sanction for young offenders in South Australia. The community safety objective has a stronger focus here than at any other point on the continuum. If community safety were the only focus this would imply there is no need to address the causes of the offending of young people detained there, only to minimise its effects. Nothing could be further from the truth. By requiring all of the objectives to be a focus, we are endorsing the role of secure facilities in rehabilitation, accountability and restitution as well as community safety. Additionally, we are requiring greater community involvement, especially for Aboriginal communities, whose young people are detained in disproportionate numbers. This is achieved in part by the provision of a range of services within secure care facilities but also by linking the activity within these facilities to the wider youth justice and youth development systems.

⁷³ s. 3(1) *Young Offenders Act 1993*.

Also, in most cases the causes of serious and repeat youth offending are multiple and inter-related. Accordingly, the recommendations that follow call for a range of necessary services to be available so that the full range of causes can be addressed. It is expected that the mix of interventions be tailored to the particular circumstances of each young offender.

Figure 5 provides a visual representation of the points along the youth justice continuum. These points include: prevention, early intervention, community care and secure care services, and form specific points in the overall youth justice framework.

Figure 5 A Youth Justice Framework



Operation Mandrake related recommendations

Operation Mandrake has been the catalyst for this investigation, and has led to the consideration of broader issues that face not only young people identified through Operation Mandrake, but also serious repeat offenders in general. This first section of the recommendations focuses specifically on addressing the offending by young people identified through Operation Mandrake and the communities in which they live.

In providing solutions to the young Mandrake offenders, it must be remembered that these young people are individuals and each come from a unique set of circumstances. However, it cannot be dismissed that this investigation has confirmed that the actions of a very small number of young people identified through Operation Mandrake are putting both the community and themselves at serious risk. It is highly likely that this small group of young people will continue to offend while in the community. Unfortunately, it seems that the only way to manage this small group of young people—to both minimise the risk they pose and influence that they have on others—is to remove them from the general community and place them in secure care. However, this does not mean that we lock them up and give up on them. On the contrary, it means that we should be giving these young people every support available to help their rehabilitation, to ensure that when they are released back into the community they have hope beyond a life of offending. The investigation has also confirmed that there are a number of young people identified through Operation Mandrake whose offending would be best managed in the community using an assertive approach.

In addressing the activities of young people identified through Operation Mandrake, a collaborative approach is clearly essential. In December 2005, the Social Inclusion Board sponsored a visit by Professor David Kennedy, a leading academic and thinker in the field of justice system responses from the John Jay College of Criminal Justice. Professor Kennedy met with Aboriginal leaders and discussed the issues of Aboriginal over-representation in the criminal justice system and underlying factors that led Aboriginal young people to offend. He also shared some of his knowledge of the issues that many young American offenders faced and the similarities between issues facing many Aboriginal young people, particularly those with strong peer group associations.

During his visit, Professor Kennedy stressed that an across-government approach, which includes the community, is necessary to appropriately address youth offending. Using the Boston Gun Project⁷⁴ example, he was able to demonstrate the achievements that could be gained when there was a universal commitment by all parties to such an approach. Involvement of older representatives from communities is key to this approach. As part of this approach, he also highlighted the importance of addressing group dynamics as well as individual factors, especially peer relations.

This investigation has revealed an absence of a joined-up approach across agencies to address the complex needs of serious repeat young offenders. As such, this group of young offenders are not receiving the specialised, integrated services that they require in order to address their offending behaviour.

⁷⁴ The Boston Gun Project is a renowned anti-crime program implemented in the 1990s. The project involved a ground-breaking problem-solving policing exercise aimed at serious youth violence which produced significant results in reducing homicide victimisation against young people under the age of 24. The program won the Ford Foundation Innovations in Government Award, the Herman Goldstein International Award for Problem Oriented Policing and the International Association of Chiefs of Police Webster Seavey Award:

<http://www.ksg.harvard.edu/criminaljustice/research/bgp.htm>

Recommendation 1. (URGENT ACTION STATUS)

That the Government adopt a joined-up response to address the issues raised by Operation Mandrake that involves the Department for Families and Communities, Department of Education and Children's Services, South Australia Police, Attorney-General's Department, Department of Health, Department of the Premier and Cabinet, and Department for Correctional Services.

Community safety is not being given a high enough priority in the current legislation; so too, rehabilitation is not being assertively pursued. Both of these issues need to be addressed.

Recommendation 2. (URGENT ACTION STATUS)

That the objects of the *Young Offenders Act 1993* (Part 3, section 3) be amended to strengthen the requirement to take account of community safety when sentencing serious repeat young offenders. The strengthening of these provisions should occur in the context of a stronger focus on rehabilitation.

The approach advocated by Professor David Kennedy, John Jay College of Criminal Justice (New York), in addressing serious repeat offending is internationally renowned. This assertive approach to addressing serious repeat youth offending has been demonstrated to be highly effective in working with young offenders who live in highly disadvantaged areas and circumstances.

Recommendation 3. (URGENT ACTION STATUS)

That the Government support a program in the metropolitan area that uses the approach advocated by Professor David Kennedy, John Jay College of Criminal Justice, which focuses on bringing together government agencies, non-government agencies, families, carers, young people and community members to develop and implement solutions to local youth offending issues. The program could be managed through Victim Support Services and be subject to ongoing monitoring and evaluation. As part of this, the John Jay College of Criminal Justice could provide information, training and ongoing advice to Victim Support Services on development, implementation and ongoing management of such a program.

Apart from those young offenders who are participating in the *Breaking the Cycle* program, there is no comprehensive assessment being carried out for serious repeat young offenders. As result many young people who have been identified through Operation Mandrake are not receiving appropriate assessment or systematic planned management that includes access to therapeutic programs.

Recommendation 4. (URGENT ACTION STATUS)

That the Department for Families and Communities conduct a VONIY criminogenic assessment for all young people identified through Operation Mandrake under youth justice supervision. The assessment must form the basis for the development of a case management plan. (Target: assessment must be completed within two weeks of coming under the care of Families SA).

Recommendation 5. (URGENT ACTION STATUS)

That the Department for Families and Communities ensure that all young people identified through Operation Mandrake under youth justice supervision receive priority access to therapeutic programs, services and any other additional assessments and interventions as identified through the criminogenic assessment.

Recommendation 6. (URGENT ACTION STATUS)

That the Department for Families and Communities ensure that all young people identified through Operation Mandrake that are being managed in the community have clear management plans and are subject to intensive supervision and case management (Target: case management plan must be completed within one week of criminogenic assessment).

The Government requested specific advice on legislative reform, which is contained in Recommendations 7 and 8. These recommendations should be considered in the context of the recommendations that relate to each of the specific points that form the youth justice continuum.

Recommendation 7.

That where there is serious concern that the actions of a young person are placing the community at risk, the current provisions of section 17 of the *Young Offenders Act 1993*, be used to try the young offender as adults, as follows:

‘the Court or the Supreme Court determines, on the application of the Director of Public Prosecutions or a police prosecutor, that the youth should be dealt with in the same way as an adult because of the gravity of the offence, or because the offence is part of a pattern of repeated offending...

the Court will conduct a preliminary examination of the charge, and may commit the youth for trial or sentence (as the case requires) to the Supreme Court or the District Court.⁷⁵

Legislative change in this regard should only be pursued if these provisions are demonstrated to be unworkable.

⁷⁵ s 17(3)(c) *Young Offenders Act 1993*.

Recommendation 8.

That the Attorney-General's Department reviews sentence guidelines to ensure that they adequately address sentencing of adults who commit crimes in the presence of young people. The notion of imposing harsher sentences on adults who commit crimes in the presence of minors is sound. However, individual circumstances need to be considered when imposing sentences.

Secure care

Secure care is the harshest of all sanctions that can be imposed on a young person. It is a sanction that should only be used as a last resort, and only used for those young people whose offending is of a serious nature and in circumstances where their behaviour is likely to continue to put the community and themselves at risk. While they are in secure care, we have a responsibility and an opportunity to ensure that young offenders are provided with systematic structured interventions to help the young people change the behaviours that have resulted in placement in secure care. As part of this process, young people should be provided with comprehensive pre-release planning that focuses on minimising the impact of institutionalisation and supporting the transition back into the community.

Recommendation 9.

That the Youth Education Centre continue to meet current operation standards of numeracy and literacy testing for all young people in secure care in excess of five days. For those young people held in secure care in excess of 12 months, follow up testing should occur, and systems set up to record this information to enable quarterly reporting.

Recommendation 10.

That the Department of Education and Children's Services ensure that information sharing occur between the Youth Education Centre and the mainstream school system, with the goal being transition of the young person back into the mainstream education system. That a system be put in place to track outcomes for young people and enable quarterly reporting.

Recommendation 11.

That the Department for Families and Communities ensures that transitional planning involving the young person's family or carers occurs for all sentenced young people exiting secure care. Transition planning for Aboriginal young people must involve Aboriginal staff unless the family requests otherwise. Transition planning should have a focus on:

- home detention
- involvement of other agencies
- pre-release activities
- staged release into the community.

Recommendation 12.

That the Department of Health works with Families SA to ensure all young people who enter secure care have a nurse-delivered health assessment (including dental assessment) within 12 hours of admission. For urgent medical conditions, Families SA to continue the current practice of transporting young people to the Women's and Children's Hospital for treatment. In cases of non-urgent medical conditions requiring treatment by a medical practitioner, young people in secure care should receive attention by a medical practitioner the next working day. All dental care should be managed through the school dental program. Benchmarks should be set in each of these areas and reported on quarterly to the Minister for Health and the Minister for Families and Communities.

Recommendation 13. (URGENT ACTION STATUS)

That the Department of Education and Children's Services develops and implements **clear pathways for participation in education** for all young offenders under the age of 17 who are in secure care. The use of the Flexible Learning Options program should be considered in this regard, and wherever possible such options be linked to future employment opportunities.

Community care

Diversionary options are an important mechanism in addressing offending behaviours early on and enable the young person to make amends for their offending, while at the same time maintain a focus on streaming the young person away from the youth justice system. Victim involvement in such processes is important in helping the young person understand the harms their actions have caused. Effectiveness of these processes is also reliant on the sharing of information between agencies that are involved in the management and delivery of services. This enables the development of a complete picture of young people's circumstances and options that are available for the effective individualised management of young offenders.

This investigation has highlighted that repeat offenders typically come from complex circumstances. Balancing the needs of this group of young people with issues of community safety is necessary. Young repeat offenders tend to present challenges when developing plans and delivering interventions to address their offending behaviours. Where there are strong offending networks present, management of young offenders becomes an even greater challenge. Young people identified through Operation Mandrake fall within this category.

Evidence tells us that a planned systematic approach is the only way to address this group. As already noted, despite a focus of the *Young Offenders Act 1993* being on rehabilitation, South Australia has historically not had a common, systematic response to the management of young offenders who have orders imposed through the Youth Court. As a result, factors that contribute to a young person's offending are not always addressed. This situation is exacerbating the cycling of a small group of offenders within our youth justice system.

Promoting victim involvement

Throughout this investigation, a consistent theme was the need for a renewed and increased emphasis on restorative justice and the involvements of victims at different stages of the youth justice continuum.

Recommendation 14.

That the Courts Administration Authority undertake an investigation as to the causes of the decreasing involvement of victims in the family conferencing process and propose to the Attorney-General mechanisms to address this situation.

Recommendation 15.

That magistrates and the Courts Administration Authority give consideration to ways to increase the focus on reparation to the young person's community or origin when imposing Youth Court orders or family conference undertakings.

Recommendation 16.

That the use of victim conferencing be increased throughout the youth justice system to include:

- Youth Court presentence victim / offender conferencing
- Families SA post sentence pre-release conferencing.

Improving information sharing

Currently, there is limited information sharing occurring between agencies with regard to serious repeat young offenders. Information sharing is critical in the delivery of timely integrated services.

Recommendation 17. (URGENT ACTION STATUS)

That processes and agreements are put in place to increase **information sharing** about young offenders between Families SA, Courts Administration Authority, South Australia Police, Department of Education and Children's Services, and Department of Health. This is essential for delivering coordinated and integrated responses to youth offending. Recent changes to the way Families SA and South Australia Police share information provides a useful template for this approach.

Recommendation 18.

That the Department for Families and Communities develop and implement a training program detailing the minimum information requirements for Social Background Reports. This program should be developed in consultation with the judiciary. All youth justice system staff responsible for the preparation of such reports should be provided with the training. The Courts Administration Authority and Department of Families and Communities should periodically audit Reports to check for quality.

Increasing and diversifying skills

Currently, there is a limited mix of skills in the delivery of youth justice interventions through Families SA. In order to provide high quality services that meet operational demands there will need to be a focus on increasing the diversity of staff and the range of skills that they have.

Recommendation 19. (URGENT ACTION STATUS)

That the Department for Families and Communities make the Youth Justice Directorate responsible for all Families SA staff who carry out youth justice functions. At a minimum, this will involve:

- consolidation within the Directorate of the existing 233 FTE staff
- the transfer of 26 FTE staff from metropolitan districts to the Directorate
- arrangements for 26 FTE staff in country districts to have a close, formalised relationship with the Directorate.

Recommendation 20.

That the Department for Families and Communities undertake an audit of skills of youth justice staff working within Families SA as a basis for:

- provision of training that focuses on increasing skills of current workforce
- current and future workforce planning
- increased diversity of workforce skills and qualifications to meet current and future operational demands.

Improving planning and management

Systematic assessment that involves families or carers is essential to address the offending behaviours of young people, particularly young repeat offenders. Comprehensive assessment provides the basis on which to develop effective plans and management processes that enable rehabilitation.

Recommendation 21.

That the Department for Families and Communities implement a system-wide case management process for all young offenders that:

- is supported by consistent standards and operational procedures
- takes into consideration cultural diversity and needs
- engages the young person's family or carer in the young person's case planning and case management.

Recommendation 22.

That the Department for Families and Communities continues to roll out the use of the VONIY to ensure that a standard criminogenic assessment is carried out for all young people who:

- receive a period of detention greater than six weeks (Target: assessment must be completed within two weeks of sentencing)
- receive a community-based order greater than three months (Target: assessment must be completed within four weeks of ordering being made).

Assessment outcomes must be linked to the case management of the young person. Case management should be supported through a system-wide electronic case management system, which is capable of recording the young person's involvement in youth justice and other programs. That this system also enables the provision of quarterly reports detailing performance against assessment targets.

Recommendation 23. (URGENT ACTION STATUS)

That within the consolidated Youth Justice Directorate, the Department for Families and Communities establishes multidisciplinary specialist teams to undertake assessment, deliver programs and provide **expert advice on the management of repeat offenders who are at high risk of re-offending and the development of therapeutic capacity within Families SA**. Lessons learned from the establishment and implementation of the *Breaking the Cycle* program should be used in establishing these teams.

Increasing intervention

There is limited provision for the delivery of programs and services that specifically address the underlying causes of offending. Access to such programs is an important factor in the promotion of rehabilitation.

Recommendation 24. (URGENT ACTION STATUS)

That young offenders and young people at risk be provided with timely access to programs, services and support to address adolescent **drug and alcohol misuse**. The Department for Families and Communities and the Department of Health should be given 60 days to develop an agreed process to ensure priority access for Aboriginal young offenders to the *Wiltanendi* program, which operates under the auspice of Drug and Alcohol Services SA.

Recommendation 25.

All young offenders have timely access to identified evidence-based rehabilitation programs. That these programs be subject to regular review and evaluation by established specialist teams.

Enhancing community safety

Community safety is a prerequisite for managing young offenders in the community. Supervision of young people based on level of risk is paramount to minimising risk and increasing public safety.

Recommendation 26. (URGENT ACTION STATUS)

That the Department for Families and Communities finalise and implement **consistent standards and procedures** for the monitoring and supervision of all young people on community-based orders.

Recommendation 27. (URGENT ACTION STATUS)

That the use of home detention be expanded as an option of community-based supervision and sanctions. That as part of this expansion, Families SA explore entering into a shared technology arrangement with the Department for Correctional Services. In addition to this, that Families SA, in partnership with the Department for Correctional Services, investigate opportunities for a resource sharing program.

Early intervention

Early intervention has been a recurrent theme throughout the consultation. Research tells us that early intervention to prevent and address offending does not necessarily mean intervention early in life. Rather, early intervention refers to intervention provided on the basis of developmental factors and critical transition points in a young person's development, such as the first contact with the youth justice system or the first suspension from school.⁷⁶

Fundamental to a developmental approach is a focus on the relationships the young person has and how these relationships can either increase or reduce the risk of them becoming involved in offending. To properly connect with young people to enable the provision of services to those most at risk of long-term involvement with the criminal justice system families need to be involved. As identified through this report, a significant number of these young people involved in repeat offending will have come from families experiencing chronic hardships. I also know that, despite their difficulties, these families want their children to succeed in life.

I understand that developing relationships with these families can be challenging. Some families may have an inherent suspicion and mistrust of government agencies based on their previous experiences—these are issues that must be worked through. Engaging these families requires time, patience and a different approach—one which will often involve co-working with people with whom family members have already developed a relationship of trust. The development of these relationships is heavily reliant on the ability of workers to connect with clients and their families and maintain a relationship.

We know that poor educational outcomes are commonplace for young offenders. Lack of school engagement, truancy, suspension and exclusion are all factors that increase a young person's risk of involvement in crime. Addressing these factors is a fundamental step in protecting a young person from serious and repeat offending.

Building and sustaining self-esteem

Self-esteem and a sense of self-worth have been identified as individual risk factors to young people's involvement in crime. Enhancing young people's self-esteem and self-worth can help divert them away from offending.

⁷⁶Homel (1999) op. cit.

Recommendation 28.

That further support be given to outdoor youth development programs that engage young offenders and young people at risk, and act as a catalyst for positive behavioural change. Such programs—which include but are not limited to Operation Flinders—should be particularly supported to develop and implement approaches that ensure the gains made during the period of the program are sustained over the medium- to long-term.

Recommendation 29. (URGENT ACTION STATUS)

That the Government supports the introduction of programs for Aboriginal young people at risk, particularly young males, which use **cultural education and cultural activities to build confidence and pride**, as well as connect Aboriginal young people with education, training and employment pathways. As the first step, a demonstration project in Adelaide should be funded to develop and test approaches for using cultural education and activities in this way.

Improving education outcomes

Poor literacy and numeracy skills limit young people's choices in life and have been shown to increase the likelihood of involvement in offending. Better responses to truancy, suspension and exclusion, particularly for Aboriginal young people, can reduce their involvement in offending.

Recommendation 30.

That the Department of Education and Children's Services and SAPOL increase their focus on reducing truancy among transient families, and among young people making the transition from primary school to high school. Implementation of a unique identifier for all students is a priority in addressing the needs of these populations.

Recommendation 31.

That the Department of Education and Children's Services increase the monitoring of all incidents of suspension and exclusion involving Aboriginal young people to ensure that assertive follow-up occurs at the school to address issues that have led to the young person's suspension or exclusion. That information be collected by District Directors and reported to the responsible central division of the Department of Education and Children's Services at the end of each term.

Recommendation 32.

That the Department of Education and Children's Services ensure that case conferencing involving a young person's family occurs for all young people who are identified as at high risk of disengagement from school. As an outcome of the conference, a plan be developed in consultation with the young person and their family or carers with agreed targets that are monitored and regularly reviewed.

For Aboriginal students, an Aboriginal Education staff member, or in their absence an agreed Aboriginal representative, must be present during the conference—unless the young person's family or carer requests otherwise.

Recommendation 33.

That the Department of Education and Children's Services, in partnership with the Department of Further Education, Employment, Science and Technology, ensure the continued participation in learning or earning of young offenders as part of the implementation of the Government's school to work reforms.

Prevention

This report has painted a picture of disadvantage, neglect and sense of hopelessness and lack of self-worth for some young people, which are significant factors in them becoming involved in criminal activity. The most fundamental thing to be done to ensure these young people realise their full potential and develop into responsible and contributing citizens is to address the underlying causes of this disadvantage. Prevention in this context involves enhanced supports for families. More importantly, it involves giving these young people and the communities in which they live a sense of hope. Youth development and engagement processes that provide opportunities to be involved in meaningful activities that build self-esteem and overcome boredom are particularly important. Throughout the consultations, sport and recreation programs were particularly called for in this context.

Assisting disadvantaged communities to increase self-determination is also important. Aboriginal community members spoke of a loss of control over what is happening within their own communities and wanting all levels of government to engage them in more authentic partnerships.

Community involvement and ownership over issues and the development of positive relationships with government agencies is essential to crime prevention and also critical in addressing underlying social factors that lead young people into offending. This is particularly true for the Aboriginal community, given the over-representation of their young people in the youth justice system. Reaffirming and celebrating cultural identity within Aboriginal communities, combined with developing cultural identity within Aboriginal young people, is considered to be a way of building community capacity and resilience and help steer young Aboriginal people away from offending.

Building partnerships

Development of community-based partnerships with government is critical to fostering ownership of local issues and encouraging community members to be involved in the development of solutions to local issues.

Recommendation 34. (URGENT ACTION STATUS)

That the South Australian Government determine and implement a process for **high level engagement with Aboriginal communities** across the state, with a particular focus on providing a forum or mechanism whereby the aspirations and needs of Aboriginal people, and the impact of government policy and services on them, are able to be communicated to government. This should be done on the basis of the consultations that have been undertaken by the South Australian Aboriginal Advisory Council.

Recommendation 35.

That local governments establish mechanisms to enable Aboriginal young people and community members to have input into issues that affect them, and the formulation of solutions. This could extend to the establishment of Aboriginal Advisory Boards. Through the Local Government Association, councils should share information on successful approaches to developing and implementing such mechanisms.

Recommendation 36.

That South Australia Police investigate ways for community constables to take a lead role in working with other officers to further develop positive relationships with Aboriginal young people and their communities.

Promoting culture

Enhancing cultural identity and a sense of pride can contribute to increasing self-esteem in Aboriginal young people. It can also be used as a mechanism to connect young people and help them develop positive relationships within the Aboriginal community.

Recommendation 37. (URGENT ACTION STATUS)

That the Government supports an **annual Aboriginal cultural, sports and arts festival**. The event should be community directed and a celebration of history and diversity of the Aboriginal communities of South Australia and building community capacity. It could include a specific focus on:

- sport and culture providing a preventative and rehabilitative function in Aboriginal people's lives
- links with South Australia Aboriginal Sports Academy
- opportunities for Aboriginal culture and achievements to be 'showcased' as part of South Australia's 'festival state' calendar
- education and promotion of available services that focus on supporting families and improving health
- being an alcohol and drug free event.

Recommendation 38.

That the Department of Education and Children's Services, in consultation with Aboriginal communities, develop education units on Aboriginal history and culture. Such programs should be implemented across all primary schools and be presented with input from Aboriginal community members. Consideration should be given to including the implementation of such programs in the performance contracts of principals and district directors.

Inclusion in sport and recreation activities

Access by young people to recreational and sporting activities is dependent on family resources. Participation in such activities has been shown to both prevent and reduce their involvement in offending.

Recommendation 39.

That the Department of the Premier and Cabinet investigate and trial a system for supporting the participation of young people from disadvantaged households in organised sport, recreation and holiday programs. The trial should include a thorough evaluation process to assist in planning for such programs in the future.

Supporting families

Many serious repeat young offenders have been subject to long-term neglect and abuse. Services and support to develop the skills of families and young people to cope with the pressures of life are necessary to reduce the risk of children and young people becoming involved in offending.

Recommendation 40.

That families, where there is evidence of multiple and long-term neglect of children, be given priority and be provided with proactive support by the Department for Families and Communities through programs focusing on anti-poverty, parenting and adolescents at risk.

Making a joined-up response happen

Throughout this process, I have been encouraged by the willingness of agencies to share information. Regular briefings were provided by SAPOL, with detailed information on young people identified through Operation Mandrake provided. The trust and assistance of senior police officers throughout the process was outstanding and invaluable. The Department for Families and Communities demonstrated a strong commitment to joined-up working by generously making staff and information readily available to support this work. Similarly, the commitment of the Courts Administration Authority and the Officer of Crime Statistics and Research contribution to the provision of information is also gratefully acknowledged.

SAPOL, the Courts Administration Authority, the Department of Education and Children's Services, the Attorney-General's Department and especially the Department for Families and Communities have all been forthcoming with suggestions of what needs to be done differently so that we can do better. More importantly, all have indicated a willingness to implement the necessary changes.

It is recognised that a number of young people will come into contact with the youth justice system as part of their normal adolescent development. For the majority of these young people, the contact will be situational and limited to a one-off experience. The available options—which include informal cautions, formal cautions, family conferencing, or in the case of more serious matters, appearance before the Youth Court—will be enough to steer the majority of young people away from any future contact with the youth justice system. For this group of young people the youth justice system works well.

However, there is a small but significant group of young people for whom the youth justice system is failing. For this group of young people the youth justice system is deficient on multiple levels. This failure is represented through repeated offending and by the poor outcomes delivered by earlier contact with the welfare, education and youth justice system.

Operation Mandrake has brought many of the issues and government system failures to the fore. In tackling the issue of youth offending it is clear that no one agency can solve the problem alone. Many of the young people in contact with the youth justice system will have issues that don't neatly finish with one agency and start with another. To have any significant impact, agencies will need to develop partnerships that enable the sharing of information and coordinated planning between agencies to stem the cyclic flow of young offenders through the youth justice system. The recent development of the Memorandum of Understanding between SAPOL and Families SA regarding the sharing of information relating to young people who have been identified through Operation Mandrake provides an example of how sharing of information can benefit agencies and is a step in the right direction. High-level ownership and governance is also critical to any systems improvements.

Recommendation 41.

That the Government's Cultural Inclusion Framework is used as a basis for ensuring cultural competence of staff within Families SA, Courts Administration Authority, South Australia Police, Department of Education and Children's Services, and Department of Health with reporting against performance targets relating to:

- cultural awareness training which includes a focus on Aboriginal people. That this training include social and historical factors that have led to the disadvantaged position of many Aboriginal people and how such factors impact upon relationships between Aboriginal people and non-Aboriginal, and Aboriginal people and government service agencies
- community partnerships
- workforce cultural diversity at all levels of the agency, with a focus on the recruitment of Aboriginal persons.

Recommendation 42.

That the Commissioner for Police undertakes a review of the current police complaints investigation processes with a view to strengthening the focus on transparency, timeliness, promotion to the community and addressing cultural differences and needs.

Recommendation 43.

That the Courts Administration Authority works in partnership with South Australia Police and the Law Society to look at ways to reduce court delays. As part of this, the use of assertive pre-trial conferencing should be explored.

Recommendation 44.

That the Government give consideration that the following amendments be made to the *Young Offenders Act 1993*:

- Part 3, section 3—Objects and statutory policies to include a provision to reflect cultural diversity
- Section 6—Provision for informal cautioning to provide for South Australia Police staff to be able to advise parents, carers or Families SA where relevant of the caution so that they can work with police to maximise the diversionary impact of informal caution. This option should be pursued as an alternative to recording of informal cautions.

Recommendation 45.

That the Government gives priority consideration to the recommendations marked as being of *urgent action status*. Where there are significant budget implications, this consideration should occur in the context of the 2008 State Budget. Recommendations that address the needs of Aboriginal families experiencing disadvantage and hardship are of particular relevance in this regard.

Recommendation 46.

That the Government establishes a Chief Executive's Coordinating Committee on youth justice, comprising the Commissioner of Police and the chief executives of the Department for Families and Communities, Department of Education and Children's Services, Attorney-General's Department, Department of Health, Department of the Premier and Cabinet and Department for Correctional Services. The group should meet at a minimum quarterly and report to Cabinet annually through the Attorney-General. The Committee should be responsible for:

- development of an action plan and related timelines for the implementation of the recommendations in this report as adopted by the Government
- overseeing implementation of recommendations
- improvement in the quality and timeliness of the response of the youth justice system to the issues identified in this report.

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