



## **Policy Platform: Young People and the Law**

### **Youth Coalition of the ACT**

Legal concerns and the justice system impact on many aspects of young people's lives. While underpinning the rights and responsibilities of everyday life, many young people report feeling uninformed, poorly consulted and disempowered when it comes to engaging with or responding to criminal or civil law issues.

Most young people do not have contact with the criminal justice system. Young people are more likely to be victims of crime, such as assault, than other age groups.<sup>1</sup> Those young people who do offend are amongst the most vulnerable in the ACT. It is impossible to address issues of young people's involvement with the criminal justice system, without also considering the social and economic context, circumstances and factors that contribute to offending or involvement. These include: being the subject of Care and Protection orders, substance use, early school leaving age, and/or disengaging with education providers, abuse, unemployment, and parental criminal behavior.<sup>2</sup>

The Youth Coalition believes that addressing these factors, and developing strong social policy to better respond to the needs of vulnerable young people and their families, is the best approach the ACT can adopt. The Youth Coalition has welcomed both the ACT Human Rights Commission's Review of the Youth Justice System in the ACT (2011) and the Blueprint for Youth Justice in the ACT 2012-22.

The Youth Coalition recognises that negative experiences with the law in early life can create barriers to positive engagement in the future. It is important that young people have an informed understanding of, and trust in, the legal system. The Youth Coalition views the broader youth sector as having a responsibility to work towards better information and relationship pathways with law enforcement agencies. Further, agencies such as the Australian Federal Police should continue to seek positive outcomes when interacting with all young people. Young people have the right to accessible legal advice and representation, which can be achieved through lawyers, police and the courts engaging with young people in a more meaningful manner.

#### ***Legal Education***

The Youth Coalition seeks to promote legal education and an understanding of human rights and discrimination to young people and the broader community. Too often, young people are not empowered to exercise their rights, and instead feel marginalised or limited in their sense of ownership of their own lives. In particular the Youth Coalition identifies the following priority areas for legal education:

- Technology and the Law – recognising the significant role of technology in young people's lives and including information about issues such as sexting, cyber bullying and how other areas of law operate in the online sphere.
- Contracts and Tenancy Agreements – including information regarding rights and obligations and what to do in disputes.

- Resources for Cultural and Linguistically Diverse young people – recognising that many of the young people accessing community legal services in the ACT come from CALD backgrounds.

### ***The Youth Justice System***

The ACT faces significant challenges in its youth justice system. The profile of young offenders indicates that:

- there is an increasing rate of detention;
- there is a high proportion of young people on remand;
- there are more young people being placed on community-based orders;
- there is an over-representation of Aboriginal and Torres Strait Islander young offenders in detention and community-based supervision;
- as likely to be under community-based supervision as a non-Indigenous person aged 10–17 years and 22 times as likely to be in detention; and,
- there is an increasing rate of recidivism.<sup>3</sup>

Much has been written about the impact on young people of exposure to police, courts, bail and detention. The Youth Coalition strongly supports the adoption of evidence-based and evaluated programs that seek to reduce recidivism, work towards resolution for both young offenders and young victims, and provide meaningful alternatives to detention if appropriate. Where young people are taken into care, the Youth Coalition supports a rehabilitation focus to sentencing/imprisonment that contains appropriate therapy and support for the concurrent issues that surround their incarceration.

### ***Bail and Court***

The Youth Coalition of the ACT strongly believes young people in the ACT should have equitable access to quality legal representation and information. Agencies such as the Youth Law Centre, Legal Aid ACT, the Aboriginal Legal Service, and Street Law have a vital role to play in assisting young people to feel empowered about their rights and choices, prior to, during, and post court processes. Support is also needed for some vulnerable young people to respond to orders and conditions placed on them by the courts. Issues such as accommodation, transport, living skills and social support structures need to be considered when imposing reporting, bail, or engagement conditions on young people.

The Youth Coalition has welcomed the introduction of the After Hours Bail Co-ordination Service for young people in the ACT. The Youth Coalition strongly believes that remand and detention should be considered the last resort of options for the Police and the courts. While this service has significantly changed the landscape, housing and homelessness continue to be key issues that need be considered when discussing youth justice matters.

While discussions are taking place regarding the expansion of the After Hours Bail Co-ordination Service model to provide other kinds of crisis support, the Youth Coalition believes that the vulnerable group of young people who this service was set up for need to remain the focus of the service, lest they again begin to ‘fall through the cracks’. The Youth Coalition believes that community services are well placed to provide some of the crisis support needed.

Young people and their families interacting with the courts, whether as witnesses, victims or alleged offenders, need to be given appropriate support to navigate the court system. The right to a fair trial and rights in criminal proceedings is enshrined in the Human Rights Act of the ACT. It is important to maintain focus and adhere to the

Human Rights Act adopted by the ACT Government. Regular audits of the Bimberi Youth Justice Centre and Alexander Maconochie Centre are vital to ensuring that the Justice System is adhering to the Act, and that the recommendations made from these audits are publicly disseminated and addressed by the relevant authorities.

### ***Diversion and Alternative Sentencing***

The ACT currently provides Diversion and Therapeutic alternatives instead of, or alongside, mainstream court proceedings. The process of Restorative Justice involves connecting offenders with victims in a controlled mediation session, and encourages young offenders to take responsibility for their actions and engage in some form of restitution, if appropriate.

The Youth Coalition notes initiatives such as the Alcohol Diversion Program for Young People, which aims to divert young people from the criminal justice system and to provide intervention and education to young people early in their 'drinking careers', and the ACT Policing Early Intervention and Diversion program is designed to provide early incentives for drug offenders to deal with their drug use.

Similarly, the Youth Coalition broadly supports the Youth Drug and Alcohol Court trial in the ACT. This goes some way to addressing the underlying nature of some offences, and offers a viable and timely intervention for young people to engage with ATOD services.

The Galambany Circle Sentencing Court is broadly based on the principles of restorative Justice. The Youth Coalition supports this, and other initiatives, that aim to address the over-representation of Aboriginal and Torres Strait Islander people in court and detention. The Youth Coalition advocates for the Galambany Circle Courts to be better resourced, in order to support and increase capacity to address local Aboriginal and Torres Strait issues.

The Youth Coalition also acknowledges the importance of implementing on-going evaluation of these programs, and actively seeking out best practice examples from around the world. Research has shown that while Restorative Justice programs have a high participant satisfaction rate, the effectiveness of reducing recidivism can be reliant on the nature of the crime and age of the offender.<sup>4</sup>

### ***Throughcare***

'Throughcare is the co-ordinated, integrated and collaborative approach to reducing the risks of re-offending. It covers all people who are managed by Corrective Services from their first point of contact with Corrective Services to the completion of their legal orders and their transition to law-abiding community living.'<sup>5</sup>

The ACT has range of government and community based services and agencies working to support vulnerable young people who have involvement with the criminal justice system, both in custodial and non-custodial settings. The Youth Coalition believes that this requires the active partnership of multiple government directorates beyond the Community Services, to include ACT Health, Chief Minister and Cabinet, Territory and Municipal Services, Justice and Community Safety, and in particular, Education and Training, to be successful. It is vital that non- government agencies also adopt this model formally at a senior level, to inform daily practice and on the ground service delivery.

Further to this, we believe that it is essential to ensure that the community based workforce who are working with young people with youth justice involvement also

have the right frameworks, skills, and support to ensure that their interventions are achieving the right outcomes.

### **Family Support**

Throughout the consultations the Youth Coalition undertook to inform the development of the ACT Government *Blueprint for Youth Justice*, support for families was identified as a key issue young people's involvement in the justice system.

Stakeholders identified that the justice system can be particularly overwhelming and difficult to navigate for families experiencing other forms of disadvantage, families from culturally and linguistically diverse backgrounds, and ATSI families.

The Youth Coalition also believes it is essential that young people and their families are key partners, and informants in design, implementation, and evaluation of the youth justice service system. This is consistent with the ACT Human Rights Commission's recommendations around creating a system that involves families.<sup>6</sup>

### **Commitments**

1. Advocating for the full resourcing and implementation of the strategies outlined in the *Blueprint for Youth Justice in the ACT 2012-22*.
2. Advocating for a systematic, evidence based and whole of government approach to the issues of throughcare for young people detained in the ACT, both in the Bimberi Youth Justice Centre and Alexander Maconochie Centre.
3. Advocating for regular Human Rights audits of Bimberi Youth Detention Centre to take place (i.e. every two years); and for those reports to be released publicly, if appropriate, and in a timely fashion.
4. Working for and with the Aboriginal and Torres Strait Islander community, the ACT Government and non-government agencies to assist in reducing the over-representation of Aboriginal and Torres Strait Islander peoples in the justice system.
5. Advocating for increased funding and resources to be allocated to crime prevention strategies, particularly programs that address the underlying causes of behaviors deemed criminal.
6. Advocating for the provision of support services for families whose children and young people are involved in the justice system.
7. Creating and maintaining positive partnerships with stakeholders such as the Australian Federal Police, the Youth Law Centre, Department of Justice and Community Safety, Community Youth Justice and the broader youth sector.
8. Advocating for the active involvement of young people in designing, planning and evaluating youth policy and service delivery frameworks.
9. Advocating for the active and supported participation of young people in their individual care planning and case management.

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<sup>1</sup> Australian Institute of Criminology (2010) Australian crime: Facts & figures 2009 (Australian Institute of Criminology, Canberra) cited in Alasdair Roy and Helen Watchirs (2011) The ACT Youth Justice System 2011: A Report to the ACT Legislative Assembly by the ACT Human Rights Commission (ACT Human Rights Commission, Canberra), p. 87.

<sup>2</sup> Attorney General's Department (Accessed November 2010) National Community Crime Prevention Programme, Australian Government, Canberra.

<sup>3</sup> Sourced from Community Services Directorate data; Australian Institute of Health and Welfare Juvenile detention population in Australia 2011, Table A10; Australian Institute of Health and Welfare Juvenile Justice in Australia, 2009–10; Table 6.3 p83; Table 8.6 p189; and Table 15A.176 (unpublished).

<sup>4</sup> Sherman, L; Strang, H (2007) Restorative Justice: The Evidence, The Smith Institute, London

<sup>5</sup> NSW Government Corrective Services (Accessed April 2011) NSW Government, Sydney.

<sup>6</sup> Alasdair Roy and Helen Watchirs (2011) The ACT Youth Justice System 2011: A Report to the ACT Legislative Assembly by the ACT Human Rights Commission (ACT Human Rights Commission, Canberra), p. 4 citing Richard A Mendel, (2010) 'The Missouri Model: Reinventing the practice of rehabilitating youthful offenders'.