

“Juvenile Justice and community-based sentencing for juveniles in New South Wales”

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by

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Juvenile justice in Australia involves a range of bodies such as police, courts, juvenile justice agencies, legal advocates and young people and their families. A key feature of juvenile justice in Australia is the emphasis placed upon diversion of young people away from the formal criminal justice system. Central to the administration of juvenile justice in Australia is the involvement of specialised Children’s Courts.

The Role of the NSW Children’s Court

The New South Wales (NSW) Children's Court (like other Children’s Courts in Australia) is a specialist court with specialist judicial officers (Children’s Magistrates and a Judge) which deals with juvenile offenders in NSW. These specialist courts recognise the need to have children’s cases dealt with by judicial officers with specialised skills in juvenile justice and the need for juvenile offenders to be dealt with in separate courts from adults.

The sentencing jurisdiction of the NSW Children’s Court extends to serious and complex cases. The NSW Children's Court has a more extensive criminal jurisdiction than the Local Court which commonly deals with adult offenders. However, sometimes with serious crimes, children may be dealt with in the District Court or the Supreme Court. For example, an adult (a person aged 18 years or older) charged with robbery, sexual assault or the supply of certain quantities of drugs must be dealt with in the District Court. However, the Children's Court has the jurisdiction to deal with such offences to finality if the court believes it is appropriate to do so. However, very serious offences (homicide, armed robbery with a firearm, sexual assault with violence or other similarly serious offences known as “*serious children’s indictable offences*”) cannot be dealt with in the Children's Court and must be dealt with in either the Supreme Court or the District Court. .

The reason that the Children’s Court rather than the Local Court or the District Court deals with more serious juvenile offences is because:

- children are likely to receive a sentence less than that received by an adult;

- there is a need for children charged with criminal offences to be dealt with quickly; and
- there is a need for specialist judicial officers to deal with criminal cases involving young people.

An important purpose of sentencing is the rehabilitation of the offender. This purpose is very important in the sentencing of juvenile offenders. Section 6 of the *Children (Criminal Proceedings) Act 1987* (the CCPA) sets out a number of principles which must be taken into account when sentencing a juvenile. They include:

- (c) *that it is desirable, wherever possible, to allow the education or employment of a child to proceed without interruption*
- (d) *that it is desirable, wherever possible, to allow a child to reside in his or her own home;*
- (f) *that it is desirable that children who commit offences be assisted with their reintegration into the community so as to sustain family and community ties.*

The Age of criminal responsibility in NSW

Under the law of all the States and Territories of Australia, a child under the age of 10 years is incapable of committing a criminal offence. Children above the age of 10 years and under the age of 14 years are presumed not to have the necessary knowledge to have a criminal intention. That presumption may be rebutted by evidence adduced by the prosecution. Accordingly, as regards a child aged 10 years and older but has not yet turned 14 years, there remains a presumption that such a child is incapable of wrong-doing, that is, incapable of committing a crime because of lack of understanding of the difference between right and wrong. To rebut the presumption of criminal incapacity and hence prosecute and convict a child aged 10-13 years of a crime, the prosecution must prove beyond reasonable doubt that the child did the act charged and knew, when doing the act, that it was seriously wrong, as distinct from merely naughty or mischievous:

“The child must know that the act is seriously wrong as a matter of morality, or according to the ordinary principles of reasonable persons, not that it is a crime or contrary to law”: ***Stapleton v. The Queen*** (1952) 86 CLR 358 (High Court of Australia).

Juvenile offenders should generally be treated differently to adult offenders

In Australia, young offenders who are aged between 10 and 17 years at the time they commit an offence are usually sentenced under a separate system to adults. As stated above, with respect to very serious offences a child may be sentenced under the same sentencing regime applicable to adults but this is not common.

Courts recognise, as a matter of policy that young people need to be dealt with differently from adults. This is because the vast majority of offences committed by juveniles result from the immaturity of youth. It is well recognised that the human brain (including its ability to organise,

control impulses and make decisions) does not fully develop until the early 20's. It is therefore not surprising that juvenile offending is commonly unplanned, opportunistic, impulsive and attention seeking. Juvenile offending often occurs in groups in public and very visible areas close to their home. Juvenile crime is also easily detectable. However, it is also well recognised that most juveniles who commit a criminal offence never offend again. This is why the vast majority of sentences imposed upon juveniles in New South Wales (and other States of Australia) are non-custodial and community based sentences that have as their principal object the rehabilitation of the young person. The relevance of youth in sentencing was summarised in the NSW case of **KT v R** (2008) 182 A Crim R 571 by McClellan CJ at CL at [22] ff as follows:

“The principles relevant to the sentencing of children have been discussed on many occasions. Both considerations of general deterrence and principles of retribution are, in most cases, of less significance than they would be when sentencing an adult for the same offence. In recognition of the capacity for young people to reform and mould their character to conform to society's norms, considerable emphasis is placed on the need to provide an opportunity for rehabilitation.

The law recognises the potential for the cognitive, emotional and/or psychological immaturity of a young person to contribute to their breach of the law. Accordingly, allowance will be made for an offender's youth and not just their biological age. The weight to be given to the fact of the offender's youth does not vary depending upon the seriousness of the offence. Where the immaturity of the offender is a significant factor in the commission of the offence, the criminality of the offender will be less than if an adult committed the same offence.

The emphasis given to rehabilitation rather than general deterrence and retribution when sentencing young offenders, may be moderated when the young person has conducted him or herself in the way an adult might conduct him or herself and has committed a crime of violence or considerable gravity. In determining whether a young offender has engaged in “adult behaviour”, the court will look to various matters including the use of weapons, planning or pre-meditation, the existence of an extensive criminal history and the nature and circumstances of the offence. Where some or all of these factors are present the need for rehabilitation of the offender may be diminished by the need to protect society.

The weight to be given to considerations relevant to a person's youth diminishes the closer the offender approaches the age of maturity (18 years of age). A “child-offender” of almost 18 years of age cannot expect to be treated substantially differently from an offender who is just over 18 years of age. However, the younger the offender, the greater the weight to be afforded to the element of youth”.

Various international Instruments recognise the need to deal with children charged with criminal offences in a different manner from adults: see *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)* which includes provision that there should be a system for children, separate from adults; that detention should be a last resort and for the

shortest possible period of time. See also article 40 of *United Nations Convention on the Rights of the Child*.

On the continuum of sentencing, detention is treated as the last resort and may only be imposed when all other sentencing options are regarded as being “wholly inappropriate”: section 33 (2) of the CCPA. Detention should not be the starting point, but rather it should be the final option.

Investigation of offences committed by juveniles

NSW legislation also recognises the necessity for young people to be dealt with differently during the process of investigation of criminal offences. Under s 13 of the CCPA, any statement, confession or admission made or given to a member of the police force by a child shall not be admitted in evidence unless the child was either accompanied by their parents, another person responsible for the child or a “support person”. In the case of a child who is of or above the age of 14 years, an adult must be present with the consent of the child, or a lawyer of the child’s own choosing. The police must, as far as practicable, assist a child to exercise their rights upon arrest which include the right to obtain legal advice before being questioned. In relation to the right of a juvenile to have a support person present when being questioned by police, Wood CJ at CL in *R v Phung & Huynh* (2001) NSWSC 115 said at [36]:

“The role of the support person is to act as a check upon possible unfair or oppressive behaviour; to assist a child, particularly one who is timid, inarticulate, immature, or inexperienced in matters of law enforcement, who appears to be out of his or her depth, or in need of advice; and also to provide the comfort that accompanies knowledge that there is an independent person present during the interview. That role cannot be satisfactorily fulfilled if the support person is himself or herself immature, inexperienced, unfamiliar with the English language, or otherwise unsuitable for the task expected, that is, to intervene if any situation of apparent unfairness or oppression arises, and to give appropriate advice if it appears the child needs assistance in understanding his or her rights”.

Arrest of juveniles in NSW

It is often not necessary for young people to be arrested in order for police to investigate whether they have committed an offence. An appointment can be made for a young person to be interviewed by police at a police station. This enables the young person's parents or another support person to attend. In most cases arrest will not be necessary in order to bring them before a court. Police can issue a Court Attendance Notice (C.A.N.) requiring that a young person attend court at a future date. Juveniles may also be dealt with for their offending conduct completely outside the court system by way of the issuing of an infringement notice and a fine. This procedure is commonly used with offences such as failing to pay a bus or train fare or failing to wear a bicycle helmet.

The law concerning the arrest of and the commencement of criminal proceedings against persons, especially children, for minor offences is clear. Arrest should be reserved for

circumstances in which it is clearly necessary: *Lake v Dobson* (NSW Court of Appeal, 19 December 1980 unreported). Factors which should be taken into account by police in deciding whether a young person should be arrested include:

- the seriousness of the offence,
- whether the police can be sure of the identity of the young person,
- whether arrest is necessary to prevent the young person continuing to commit offences,
- whether forensic evidence needs to be maintained, and
- whether the young person will be brought before a court or dealt with by way of an alternative process under the *Young Offenders Act*, i.e. warning, caution, or youth justice conference.

Entitlement of juveniles to legal advice and representation

In NSW free legal advice and legal representation are available to young people in criminal matters both when they are being interviewed by police and when they appear in court. The NSW Legal Aid Commission, a government agency overseen by an independent Board, provides this assistance. Some of the lawyers who provide this assistance will be salaried lawyers employed by the Legal Aid Commission, while others will be private lawyers paid by the Legal Aid Commission to represent the young person. Legal advice by telephone is available to young people who are being interviewed by police. This service is available 24 hours per day, seven days a week. There is an obligation on police to ensure that the young person has access to that advice, and failure to ensure that this happens may result in evidence obtained whilst the young person is in police custody or being interviewed not being able to be used against them in court. This representation is available whether they are pleading guilty and being sentenced or whether they are contesting the charges against them. The Aboriginal Legal Service, an independent self-determining body that is funded by the government, usually represents indigenous Australian young people.

Bail

The *Bail Act 1978* applies to a juvenile offender: s5 *Bail Act*; s12A CCPA. When considering bail for a young person, the court “shall” take into consideration s32 (1)(b)(v), (vi) *Bail Act*:

- if the person is under the age of 18 years, any special needs of the person arising from that fact
- any offences committed in the past, and weighing up their seriousness

When considering the probability of whether or not the accused will appear in court, in having regard to the “details of residence” under s32 (1)(a)(i) *Bail Act*, the fact that an accused under the age of 18 years does not reside with a parent or guardian shall be ignored: s32 (4). The “family situation” as referred to in that provision would still be relevant.

Explaining the proceedings

Judges and Magistrates must ensure that juveniles before the court understand the proceedings and are involved in the proceedings (s12 of the CCPA). Juvenile cases are conducted in closed court in NSW. This means that only those people directly interested in the proceeding (e.g. the young persons' parents) are allowed in court (s10). Additionally, children's names are not allowed to be published or broadcast (s15A).

Sentencing orders and principles

Section 33 of the CCPA, provides the following penalty options for a young person found guilty of an offence:

- the court can dismiss the charge without imposing a penalty
- the court can discharge the young person on condition that he or she enters into a good behavior bond for a period not exceeding 2 years
- the court can fine a child if they have savings or an income; usually the fine will not exceed \$1000 and will depend upon the child's ability to pay, not their parents.
- the court can place a child on a supervised probation order for up to two years. The court will set conditions for this period.
- the court can order a child to perform community service work. The maximum number of hours that can be imposed for children under 16 years is 100 hours and for children 16 years and over it is 250 hours. This is instead of being sent to a Juvenile Detention Centre. If the child does not do the work ordered, they may be sentenced to a control order, to be served in detention.
- the court can impose a control order (a custodial order) and then suspend it provided the child enters into a bond to be of good behavior. If the bond is broken, the child will have to serve the entire control order in custody. In addition, there may also be other conditions of the bond, such as:
 - attendance at alcohol or other drug counselling or other therapy
 - living where directed by Juvenile Justice or Community Services
 - accepting directions regarding people with whom the young person associates
 - attendance at school or other training or seeking employment
 - receiving assessment, counselling or other treatment for mental health problems
- the court can sentence a child to imprisonment (a control order) for a maximum of two years in respect of an indictable offence.
- other penalties can also be imposed, such as paying damages for harm caused to persons or property and confiscating property illegally gained.

Criminal records

Young offenders will not obtain a criminal record by way of conviction if they are under 16 years of age at the time of the offence: s 14(1) of the CCPA. In certain circumstances, the court may still decide not to record a criminal conviction for a child 16 years of age or over. This will

commonly be done where the offence is minor or the young person's criminal record is limited. Whether or not a conviction is recorded, all sentencing options under s 33 apply.

Some statistics in relation to juvenile justice across Australia

As at June 2009 the population of Australia was 21 million. In 2006, there were 5.3 million young people in Australia aged 19 years or younger of whom 4.1% were of Indigenous origin (Aboriginal or Torres Strait Islander).

Few young people in Australia are involved in the juvenile justice system. Each year, less than 5% of young people are proceeded against by police, only around 2% have a case finalised in a Children's Court, 0.5% are supervised by a juvenile justice agency and 0.2% are detained.

In the year 2008-09 approximately 7,200 young persons (between the ages of 10 and 17 years) were under supervision by juvenile justice agencies on any given day. Most of those 7,200 (90%) were under community-based supervision. The remainder were in detention unsentenced (54%) or serving a sentence (46%). Therefore, the majority of young persons in detention on a particular day were awaiting a court appearance and their case has not yet been finalised (either by way of final hearing or sentence). Many young people in detention on a given day are only in custody because they are waiting for suitable accommodation to be arranged so they can be released on bail.

Overall, very few young people are detained in Australia. In 2008-09, there were 0.4 young people aged 10-17 years in detention on an average day for every 1000 young people in the general community. In 2008-09 there were around 5,900 young people in Australia in detention throughout the year. 91% of those detained on an average day were male. About half of young men and young women in detention were Indigenous, which is much higher than the proportion found in the general Australian population.

Despite the low level of detention of juveniles in Australia, the level of Indigenous over-representation is high. On an average day in 2008-09 Indigenous young people were around 24 times more likely to be detained as non-Indigenous young people.

In 2008-09 almost 30% of young people under supervision on an average day were from one of the areas of lowest socioeconomic status in Australia, while only 12% were from one of the areas of highest socioeconomic status. A young person aged 10 to 17 years who lived in a low socioeconomic area was around 5 times as likely to be under juvenile justice supervision on an average day as someone of the same age who lived in an area of high socioeconomic status.

Most common offences committed by juveniles in NSW in 2008:

In 2008 there were 7,120 juveniles aged 10 to 17 years who were found guilty in NSW courts. The five most common offences in 2008 were:

- road traffic and motor vehicle regulatory offences (which offences are usually dealt with in the Local Court rather than the Children's Court) (1,243 or 17.5%)
- theft and related offences such as damage to property (1,096 or 15.4%)
- acts intended to cause injury (1,086 or 15.3%)
- public order offences (739 or 10.4%) and
- unlawful entry with intent/burglary, break and enter (728 or 10.2%)

2009 NSW Young People in Custody Health Survey

This recent survey found that almost 90% of young people in custody in NSW in 2009 were found to have one psychological disorder and nearly 75% were found to have two or more psychological disorders. Young women were significantly more likely than young men to have a psychological disorder. Among young women, 23% had attempted suicide and 28% had been admitted to a psychiatric unit in a hospital.

Of those in detention, 60% were found to have had a history of child abuse and trauma. A high proportion of young women had been physically or sexually abused.

Of those in detention, 66% reported being drunk at least weekly in the year prior to custody and 89% reported using illegal drugs in the same period. Two thirds reported ever committing crime to obtain drugs or alcohol and a similar proportion (69%) reported being intoxicated at the time of committing their offence. Significantly more Indigenous young people regularly used drugs and alcohol than did non-Indigenous young people (72% versus 58%).

The survey found that more than 27% of detainees (and 40% of young women) had a history of foster and kinship care and that almost 50% of detainees had a parent who had been in prison at some time. For Indigenous young persons, the proportion was 61%.

Non-custodial sentencing options and community corrections for juveniles in NSW

Community-based sentencing alternatives are a key component of the juvenile justice system in Australia. Full time imprisonment is extremely expensive and requires the government to allocate enormous amounts of money to build, maintain and staff Juvenile Detention Centres.

Diversion from and within the juvenile justice system is a key goal of juvenile justice in NSW and the other States of Australia. Diversion can occur at different stages in the juvenile justice system. For example, it can involve diversion from entry into the formal justice system, diversion from being placed on a community based order, diversion from custody and diversion from re-entry into the system.

Cohen and Piquero (2007) in the United States, report that the value of saving a 14-year-old high risk juvenile from a life of crime ranges from US\$2.6 to US\$5.3 million. Similarly, it was

estimated that saving a high-risk child from 0-5 years of age from involvement in crime would save government between US\$2.6 and US\$4.4 million. When the costs of the associated problem behaviors of drug use and school disengagement are included, the total societal cost of a high-risk youth can be even higher.

It is also clear from consistent research findings both from within Australia and from overseas, that incarceration is the least effective strategy for reducing reoffending over the longer term (Przybylski 2008). While incarceration has the short-term effect of preventing a person's offending while they are physically incarcerated, they are more likely to reoffend on release at a greater rate and severity than before when released to the community. Research by *Holman and Ziedenberg (2006)* conducted in Washington, indicates that confining young people to custody is not effective in improving behaviour and may lead to increased crime and increased costs to government. The same research found that young people who are detained are more likely to reoffend than similar youth who are diverted from custody.

A recent study in NSW (*Reducing Juvenile Reoffending by Understanding Factors Contributing to Intention to Reoffend – Vignaendra, Viravong, Beard and McGrath (March 2011)*) found that a sentence of custody did not have a deterrent effect on intention to reoffend. In fact, when all explanatory factors were considered together, being sentenced to custody was found to have a positive independent effect on intention to reoffend, such that juveniles sentenced to custody were more likely to indicate intention to reoffend than juveniles sentenced to a non-custodial order.

According to research conducted by the NSW government's research division and the Australian National University, eliminating long-term unemployment and boosting school retention rates could bring about a 16 per cent reduction in the rate of home break-ins in NSW. This research has found that the major predictors of participation in crime are lack of employment and/or disengagement from school and, drug and alcohol abuse.

Thirty years of studies have resulted in a body of evidence that demonstrates rehabilitation programs work to reduce reoffending. These studies have found that educational and vocational programs, substance abuse treatment, cognitive behavioural programs and family based interventions are particularly effective in reducing reoffending.

All young persons who come under the supervision of Juvenile Justice in NSW have a case plan developed to address their needs. The NSW Juvenile Justice agency has a strong commitment to the participation of the young person in the development of their case plan and ongoing case planning. Juvenile Justice Officers seek to engage the young person and encourage the young person's ownership of their case plan. The Officer assists the young person to identify and rank the problems and issues that need to be addressed.

Forms of community based sentencing options for juveniles in NSW

Good behaviour bonds

By way of sentence the court may order the release of a young person into the community conditional upon entering into an agreement (recognizance or bond) to be of good behaviour for

such period as the court thinks fit, usually between six months and three years. This can occur with or without the recording of a criminal conviction.

A court may impose conditions on a recognizance or bond such as:

- being under the supervision of a Juvenile Justice Officer
- undergoing medical, psychological or psychiatric treatment
- living at a particular address or not to live at a particular address
- performing community service work
- being abstinent from drugs and alcohol, and
- payment of compensation

Community Service Orders

A Children's Community Service Order is an order of the court directing a young person to perform unpaid work for the community for a specified number of hours. The Children's Community Service Order scheme is regulated by the *Children's (Community Service Orders) Act 1987* and the *Children (Community Service Orders) Regulation 2000*. This scheme seeks to ensure that the young person undertakes useful and meaningful work.

Community Service Orders promote rehabilitation by allowing young people to remain in the community and by addressing, through development programs and work activities, factors which have contributed to offending. These orders are also cost-effective and enjoy considerable public approval and provide young people with the opportunity to make reparation to the community through unpaid community work.

The Young Offenders Act

The implementation of the *Young Offenders Act 1997* in NSW is one of the most significant developments in the history of juvenile justice in Australia. It established a scheme to divert, wherever possible, young offenders away from formal court processes through the use of warnings by police, cautions and Youth Justice Conferencing. Youth Justice Conferencing, in particular, provides a community-based response to juvenile offending that seeks to identify the cause of the offending; to encourage young offenders to take responsibility for their conduct and to face the victim of their offending and, in appropriate cases, to require offenders to make reparation for harm caused. In this way, Youth Justice Conferencing addresses the needs of victims and offenders more directly than traditional court proceedings and holds out the promise of reduced rates of repeat offending.

The *Young Offenders Act* provides the following options for young offenders:

- giving of a warning by the police
- giving of a caution by the police or the court, or
- referral by the police or the court to a Youth Justice Conference

All these options may be utilised by police without the matter ever going before the court. In this way the case is completely diverted from the court system. If the matter does come before the court, the court may still deal with the matter by giving a caution or by referring the matter to a Youth Justice Conference. Certain serious offences (such as sexual offences and serious drug offences) cannot be dealt with under the *Young Offenders Act*. A young person cannot be dealt with by way of a caution or a Youth Justice Conference unless the young person admits the offence.

The main principles enshrined in the *Young Offenders Act* under ss 7 and 8 ensure that:

- the least restrictive form of sanction is to be applied against a child who is alleged to have committed an offence,
- children who are alleged to have committed an offence are entitled to be informed about their right to obtain legal advice and to have an opportunity to obtain that advice,
- criminal proceedings are not to be instituted against a child if there is an alternative and appropriate means of dealing with the matter,
- parents are recognised as being primarily responsible for the development of children and included in justice processes, and
- all victims are entitled to receive information about their potential involvement in, and the progress of, action taken against them.

Youth Justice Conferencing is available for offences committed by children and young people that are too serious to be dealt with by police warnings or formal cautions. Conferences can be held for a large number of offences commonly committed by young people. A conference provides the opportunity for the offender to be brought together with the victim as well as the young person's family members, police and Juvenile Justice Officers. Youth Justice Conferencing is a form of restorative justice. But it is also seen as a form of therapeutic jurisprudence (see Youth Drug and Alcohol Court below). A victim will only be present at the conference with their consent.

At the conference a "convenor" acts as a neutral facilitator who enables all participants to speak freely about the offence and then agree on a suitable outcome. A conference "outcome plan" is agreed by all present at the conference including the victim. Approximately 90% of young offenders complete all of the tasks allocated in the outcome plan.

Youth Justice Conferencing is based on restorative justice principles with benefits for the victim and the offender. A conference outcome plan may provide for the following:

- the making of an oral or written apology by the young person

- the making of reparation to a victim or the community
- participation by the young person in an appropriate program

The kinds of programs that may be appropriate to be contained in an outcome plan include:

- counselling programs
- drug and alcohol rehabilitation programs
- educational programs, and
- other programs aimed at improving a child's prospects

These programs may be conducted by a government agency, an educational institution or a community organisation (such as Police and a Community Youth Club).

Under section 58 of the *Young Offenders Act*, if a young person satisfactorily completes a conference outcome plan, no further criminal proceedings may be taken against the young person for the relevant offence.

An example of a Youth Justice Conference involved a 15-year-old boy who had maliciously damaged a property by fire which resulted in damage to a function centre. The young offender met the victim at the conference. The conference was also attended by a representative from the Fire Brigade and the Police. The young person had mental health issues and was accompanied by their counsellor. The conference focused on the offence and the underlying issues contributing to it. An outcome plan was developed which required the completion of work hours, the attendance at a local Police Youth Centre and counselling. The plan was completed and the victim reported a high degree of satisfaction with the process.

Intensive Supervision Program

In May 2008, NSW Juvenile Justice launched the Intensive Supervision Program (ISP) in New South Wales. Research of the Washington Institute of Public Policy shows that family based interventions are proven to have the greatest effect on reducing juvenile delinquency and re-offending. The ISP works with high-risk young offenders in the community and is an effective evidence-based intervention which reduces re-offending.

The ISP family-treatment model is based on Multi-Systemic Therapy (MST). These programs have been independently evaluated as one of the most successful treatment models for serious, repeat young offenders. The ISP targets serious and/or repeat young offenders aged between 10 and 16 years who are assessed as being at medium to high risk of re-offending or incarceration. This target group represents 60% of young persons who come under the supervision of Juvenile Justice in NSW. Evaluations over 10 years in other jurisdictions have shown consistent reductions in re-offending. MST is currently being used in over 30 States in the United States and in eight other countries including Canada, Denmark, Ireland, England, Sweden, Netherlands, New Zealand and Norway.

Long term follow up of chronic juvenile offenders showed that up to 88% of young people who participated in MST did not re-offend in 4 years. In the long term this treatment model is also more cost-effective when compared with custodial interventions.

The ISP program in NSW is established in teams of specially trained clinical staff including an Aboriginal team advisor who facilitates the engagement of Aboriginal families in the program.

The intended results of the ISP include a reduction in re-offending and incarceration, a reduction in substance misuse, improved family functioning, decreased behavioural problems at home, increased school attendance or uptake of training and employment opportunities, improved caregiver discipline practices and increase association with pro-social peers.

In ISP the worker contracts with the young person's carer to agree to a number of strategies to deal with their current situation. The focus on the family and the community, rather than solely upon the young person, is a change from traditional approaches.

BOCSAR is currently conducting an evaluation of the ISP in NSW.

The NSW Youth Drug and Alcohol Court program

The NSW Youth Drug and Alcohol Court (YDAC) program commenced in July 2000 in response to recommendations from the NSW Drug Summit held in 1999. The Court was established to address the needs of young offenders between 14 and 18 years of age who have alcohol and other drug problems. The YDAC is not a separate court but a program conducted by specialist Children's Magistrates within the NSW Children's Court.

The aim of the YDAC is to divert young offenders from further drug use and reoffending by providing specialist assistance in a number of areas. The YDAC is an innovative pilot program within the criminal justice system. Like the NSW Drug Court (for adults), the YDAC program is a problem solving court reflecting the principles of therapeutic jurisprudence.

Under the YDAC program, offenders are offered the opportunity to participate in an intensive program of rehabilitation before being sentenced. In a six-month program participants undergo detoxification and rehabilitation, attend educational and vocational courses, and appear regularly throughout that period before the YDAC for what are called "report backs". Various health needs of the participants (for example, dental) are met whilst they are on the program.

Evaluations to date indicate that the program is having success with the very "hard end" of juvenile offending and offenders. The YDAC program seeks to address criminal offending by providing holistic and systemic health and welfare interventions for the young person. It is well recognised that disengagement from education and employment are high risk factors for reoffending. The YDAC program is an integrated and collaborative initiative, which brings

together the elements of the juvenile criminal justice system with various government and non-government adolescent service providers.

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