



WESTERN AUSTRALIA POLICE FORCE

**OFFICE OF ASSISTANT COMMISSIONER
OPERATIONS SUPPORT PORTFOLIO**

Your Ref:

Our Ref: fA2407875

Inquiries:

Ms Anne Hollonds
National Children's Commissioner
Australian Human Rights Commission

Via email: youthjusticereform@humanrights.gov.au

Dear Ms Hollonds

YOUTH JUSTICE AND CHILD WELLBEING REFORM ACROSS AUSTRALIA

Thank you for your correspondence dated 10 May 2023 regarding the project for reform of youth justice and child wellbeing systems.

In Western Australia, when dealing with juvenile offenders, police are influenced by the mandatory relevant considerations and principles of the *Young Offenders Act 1994* ('the Act'). The Western Australia Police Force seeks to solve crimes fast and unfortunately young people are a significant cohort of offenders. The application of the Act mandates police actions post investigation of offences. Police actively deter young offenders from entering the justice system where they are legislatively able to. Part V Division 1 of the Act confers the discretion of police to take no action or caution for offences which are not contained within Schedule 1 or Schedule 2, of which these offences are precluded from consideration of diversionary options. Additionally, the impact of the offending by the young person on community safety may necessitate entry into the justice system.

The role of family members, community leaders and government and non-government agencies have once a young person is identified after police investigations, is crucial to prevent a young person from offending again. The lack of dedicated support to the young offender post identification of offending, places the young person at risk of future offending, often escalated in seriousness, and likely entry into the justice system.

The discretionary options provide alternatives to formal court proceedings and while the specific programs and services may evolve over time, the following diversionary options can be considered for a juvenile offender:

1. Caution:

Police officers have discretion to issue a caution (either verbal or written) to juvenile offenders for minor offences which serves as a formal warning and allows young people to avoid further legal consequences.

Currently, the Metropolitan Youth Bail Service through Youth Justice Services (YJS), Department of Justice, assesses police cautions and engages individuals. The aim is to implement early intervention strategies for young people, with limited offending history, recognising the importance of providing support at an early stage.

2. Family conferences:

Family conferences, known locally as Family Group Meetings (FMG's) are chaired by a YJS Coordinator, bringing together the juvenile offender, their family members, and relevant community representatives to discuss the offending behaviour and its impact. The conference aims to reach an agreement on measures to address the harm caused, support the young person, and prevent further involvement in the justice system.

FMGs typically involve the participation of various government agencies, including Department of Communities, Child Protection and Family Support, Department of Justice or Youth Justice Services, Department of Education, Department of Health or Mental Health Services, Department of Housing or Housing Services, Aboriginal and Torres Strait Islander Services, Drug and Alcohol Services and police.

Agency attendance at these meetings is not mandated and may not be consistent which may have an impact on the decision-making process within FMGs and can result in a lack of comprehensive information, diverse perspectives, necessary resources needed for well-informed decision making, create gaps in communication and coordination and potentially lead to fragmented or less effective support being provided. Without consistent attendance, the decision-making process may be limited in its ability to consider all relevant aspects of the case and explore all possible avenues of support and intervention for the young person. Inconsistent agency representation can impede effective collaboration and coordination among the stakeholders which is essential in addressing the needs of individuals and families participating in FMGs. Mandating agency attendance would improve the overall management of the individual juvenile offender's situation.

3. Juvenile Justice Teams:

Juvenile Justice Teams (JJT) consist of professionals from various disciplines who work collaboratively to develop and implement tailored interventions for juvenile offenders. These teams assess the needs of the juvenile offender, coordinate services, and provide support to address the underlying causes of their offending behaviour.

The effectiveness of these meetings relies on the attendance of key participants, including the juvenile offender, their responsible adult, and, in some cases, the victim of the committed crime. The impact of a JJT meeting can be diminished when either the juvenile offender or the responsible adult fails to attend leaving the victim feeling unheard, disregarded, or denied the opportunity for meaningful engagement in the restorative process. The JJT process is often lengthy and may have reduced impact on the young person due to the period elapsed from time of offence to intervention where, in some cases further offending has been committed during this time.

4. Diversionary programs:

There are various diversionary programs available which can include education, skill-building, counselling, and therapeutic interventions. These programs are designed to address the specific needs of juvenile offenders and assist in their rehabilitation and reintegration into the community.

There is significant gap in the availability of diversionary programs that effectively address the criminogenic needs of young individuals, particularly within the context of the family environment. This is compounded in regional Western Australia where service providers are limited, and the range of diversionary programs is negatively impacted. Unfortunately, this means many young people are not receiving the necessary assistance to address the contributing factors to their offending behaviour leading to risk of perpetuating a cycle of re-offending and detrimental consequences for the young person, their families, and the broader community.

5. Referral to external agencies:

During interaction with juvenile offender, police officers conduct a thorough individual assessment and may refer juvenile offenders to external agencies or community-based organisations that offer specific support services, such as drug and alcohol counselling, mental health assistance, or educational programs, with an aim to address the criminogenic needs of the juvenile offender and reduce the likelihood of re-offending. Participation in these programs is not mandatory, and there are no consequences for non-attendance. YJS funded programs that have received endorsement and are utilised by Magistrates in court setting carry a higher level of accountability and compliance. The participation of the juvenile offender in these court-endorsed programs may be required, and non-compliance could result in legal consequences. The role of the Department of Communities, Child Protection and Family Support and Department of Justice in managing a young offender is instrumental in preventing further offending.

In response to your questions, I provide the following:

1. What factors contribute to children's and young people's involvement in youth justice systems in Australia?

- a) Socioeconomic Disadvantage: Children and young people from disadvantaged backgrounds, experiencing poverty, limited access to education, unemployment, and unstable family environments, are at a higher risk of entering the youth justice system.
- b) Trauma and Adverse Childhood Experiences: Many young people involved in the youth justice system have experienced trauma, abuse, neglect, or other adverse childhood experiences, which can lead to behavioural issues and involvement in criminal activities.
- c) Substance Abuse and Mental Health Issues: Substance abuse and mental health issues can contribute to criminal behaviour by young people. These issues often intersect with other risk factors and require a comprehensive approach to address causation of offending effectively.

2. What needs to be changed so that youth justice and related systems protect the rights and wellbeing of children and young people? What are the barriers to change, and how can these be overcome?

- a) Early Intervention and Prevention: Shifting the focus towards early intervention programs and support that address the underlying causes of offending behaviour, such as family support, education, mental health support, and positive youth development.
- b) Rehabilitation and Support: Providing comprehensive rehabilitation and support services tailored to the individual needs of young people, including access to education, skills training, mental health support, and reintegration programs to reduce reoffending.
- c) Diversionary Programs: Expanding the availability of diversionary programs that offer alternatives to formal court processes, such as restorative justice, community-based programs, and youth conferencing, to divert young people away from the justice system.

Barriers to change include limited funding, resource constraints (increased in regional WA), lack of coordination among agencies, and a punitive approach that focuses on punishment rather than rehabilitation. Overcoming these barriers requires collaboration among stakeholders, including police, government agencies, community organisations, and the judiciary, to prioritise the rights and well-being of children and young people in policy and practice.

3. Can you identify reforms that show evidence of positive outcomes, including reductions in children's and young people's involvement in youth justice and child protection systems, either in Australia or internationally?

- a) Early Intervention Programs: Targeted initiatives that provide support to at-risk families, improve parenting skills, offer educational support, and address social and economic factors have shown promising results in reducing youth justice involvement.
- b) Restorative Justice Approaches: Implementing restorative justice practices that emphasise repairing harm, promoting accountability, and involving victims, offenders, and the community in the resolution process, has demonstrated positive outcomes in reducing re-offending and promoting rehabilitation.
- c) Trauma-Informed Approaches: Recognising the impact of trauma on a young person's behaviour and well-being and providing appropriate trauma-informed support and interventions has shown positive results in reducing youth justice involvement.

4. From your perspective, are there benefits in taking a national approach to youth justice and child wellbeing reform in Australia? If so, what are the next steps?

- a) Consistency and Standardisation: A national approach would ensure consistency in policies, procedures, and practices across jurisdictions, promoting fairness, empowerment and equal treatment for young people regardless of their geographical

location. In the event a child is transient, national consistency would ensure effective and ongoing support.

- b) Information Sharing and Collaboration: A national approach would facilitate improved agency information sharing, collaboration, and coordination, enabling more effective identification of at-risk youth, early intervention strategies, and tailored support services.
- c) Best Practice Implementation: A national approach allows for the identification and dissemination of evidence-based best practices.

The WA Police Force welcomes the opportunity to be involved in the project and nominates Acting Superintendent [REDACTED], Community Engagement Division as the key contact regarding any consultation or queries who can be contacted on [REDACTED] or by email at [REDACTED]

Yours sincerely



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ACTING ASSISTANT COMMISSIONER
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14 June 2023