

**Submission  
No 1**


## **INQUIRY INTO THE ADEQUACY OF YOUTH DIVERSIONARY PROGRAMS IN NSW**

**Organisation:** Federation of Parents and Citizens Associations of  
New South Wales

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**Date Received:** 15 December 2017



**Inquiry into the adequacy of  
youth diversionary programs  
in NSW – Submission to the  
Legislative Assembly  
Committee on Law and Safety**

**December 2017**

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## **Introduction**

Federation of Parents and Citizens Associations of New South Wales (P&C Federation) is thankful to the Legislative Assembly Committee on Law and Safety for this opportunity to contribute to the inquiry into the adequacy of youth diversionary programs in NSW. P&C Federation supports the position of individual educational and developmental needs met by a range of differential services expressed through appropriate and well-planned curricula, programs and environments conducted by sensitive and well-trained personnel in conjunction with parents<sup>1</sup> and families.

The core belief of P&C Federation is that the education of our children and youth are the most fundamental means of ensuring individual and collective success and, as a result, our greatest national resource.

P&C Federation's response to this inquiry is guided by the assumption that juvenile detention is a highly disruptive factor in young people's education, possibly permanently affecting their education outcomes, lives and future livelihoods, and that alternative solutions must be utilised. It is also guided by the belief that schools are a central part of young people's lives, and must therefore be considered in any policies pertaining to preventing juvenile crime or preventing reoffending behaviour, as well as supporting those that have suffered by a misadventure.

## **Terms of Reference**

### **The way in which youth diversionary efforts work with schools and educational authorities, and the experience of other jurisdictions**

P&C Federation acknowledges that by some available measurements, the rates of young people in juvenile detention in New South Wales have declined over approximately the last five years. Nevertheless, there is clearly space for improvement: from 2012-2016, New South Wales had the third highest number per 10,000 of young people in detention on an average night of all states/territories.<sup>2</sup> A Productivity Commission report further found that the daily average rate per 100,000 of young people in detention in New South Wales is consistently higher than the national average.<sup>3</sup> Considering the consistent finding that contact with the juvenile justice system increases the likelihood of adult criminality, minimising such contact is clearly desirable.

Of the youth diversionary programs currently existing in New South Wales, we know of none that entail partnerships between juvenile justice agencies and schools. This is a glaring gap, as schools rank with family and peers as a key aspect of a typical young person's life. The closest New South Wales has to this are School Liaison Police and Youth Liaison Officers, who are members of the police force responsible for working with schools and young people to reduce youth crime and violence. However, given that a multitude of factors can contribute to juvenile criminal behaviour, a coordinated strategy across multiple government agencies and non-government organisations (NGOs) must form part of any youth diversion program. With this in mind, we argue that New South Wales should have a systematic framework under which juvenile justice agencies, law enforcement authorities, social

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<sup>1</sup> "Parent" refers to anyone with legal care of a child, such as a parent, carer or legal guardian

<sup>2</sup> Table 5.2 of Australian Institute of Health and Welfare. 2016. *Youth detention population in Australia 2016*. December. "Young people" defined as those aged 10-17.

<sup>3</sup> Table 16A.5 of Productivity Commission. 2016. *Report on Government Services 2016*.

services (non-government and government), schools and parents can share information on young people who are at risk of juvenile detention, with the aim of intervening to prevent them entering juvenile detention.

One potential model for this is the Schools, Social Services and Police (SSP) cooperation framework in Denmark, a country with one of the world's lowest crime rates.<sup>4</sup> SSP began as an initiative to bring police, school staff and social workers together to share information, and has since become a more specialised system. Each Danish municipality has the opportunity to appoint specialist SSP professionals to oversee cooperation between law enforcement, schools and social workers, with the specific aim of crafting preventative measures against juvenile delinquency. This occurs through regular meeting in SSP offices between police, municipality officials and other stakeholders which identify at-risk behaviours in young people, and in this way SSP consultants act as mediators between these stakeholders in preventing juvenile crime.

Schools and parents occupy a central role in this system, with SSP consultants "*providing advice and guidance to the class teacher, the school management, the parents*".<sup>5</sup> Schools may have SSP contact teachers based within the school, who are responsible for preventative work directly on the school site. This preventative work may take the form of discussions with teachers and parents of students of concern, consultative forums with the wider parent community of a school, and helping deliver preventative courses to students in school classrooms.<sup>6</sup> Information regarding "at-risk" young people are shared on a regular (usually weekly) basis between SSP stakeholders, who can collaboratively decide the best approach. Such information on individuals can only be shared between police and other agencies if it is strictly necessary for preventative work; it cannot be used by police when investigating cases, and parents must be notified if their children have been discussed with police in SSP meetings.<sup>7</sup> For individual cases, SSP contact teachers or consultants may also organise meetings with parents and relevant teachers to formulate solutions.

Transposing this system directly to New South Wales may not be straightforward due to differing legal frameworks, demographics, etc. Nevertheless, there are numerous benefits to this system, elements of which could apply to New South Wales. For one, it allows for problematic behaviour in students to be promptly identified and responded to by multiple relevant stakeholders (such as teachers, social workers, police) working in conjunction with parents. As a matter of priority, the New South Wales Government should likewise allow for SSP-like external specialists to coordinate collaboration and information-sharing between school communities, social workers, and law enforcement agencies in preventing juvenile crime. The SSP framework in Denmark also underscored the importance of community engagement in diversionary programs, with the most effective approaches to problematic youth behaviour treating it as a consequence of problematic social dynamics. Some SSP specialists have argued that if students have a sense of belonging in their classes, and among their peers and

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<sup>4</sup> World Prison Brief – Denmark – at <http://www.prisonstudies.org/country/denmark> - accessed 23 October 2017.

<sup>5</sup> Ansbjerg and Lywood. 2015. *Crime prevention amongst youth in Denmark*. Page 7. Available at <http://www.ssp-samraadet.dk/media/1383/crime-prevention-amongst-youth-in-denmark.pdf> - accessed 23 October 2017.

<sup>6</sup> Meyland-Smith and Lywood. *SSP in Furesø Municipality* - at <https://translate.google.com.au/translate?hl=en&sl=da&u=http://www.ssp.furesoe.dk/&prev=search> (translated from original Danish) – accessed 23 October 2017

<sup>7</sup> Ansbjerg and Lywood. *Op.cit.* Page 2.

family, they are less likely to become involved in problematic behaviour, and that diversion methods should focus on these factors.<sup>8</sup> A comparable system in New South Wales could strengthen at-risk students' sense of acceptance in their school communities, and would ensure all relevant participants in juvenile crime prevention are involved in a direct and systematic way. This should be considered as a viable alternative to current frameworks in New South Wales, where schools, law enforcement and others have little cohesive cooperation in youth diversionary efforts.

### **Aboriginal over-representation in the Juvenile Justice system**

The needs of Aboriginal and Torres Strait Islander people and communities are unique in many ways from other communities in New South Wales, and approaches that are not cognisant of these differences are less likely to improve the rate of Indigenous juvenile incarceration. Juvenile Justice NSW notes that Indigenous young people “consistently represent almost half of the Juvenile Justice custodial client base”,<sup>9</sup> an extremely disproportionate rate that indicates inadequacies in efforts thus far to prevent Indigenous juvenile crime. It is worth noting that Juvenile Justice NSW previously adopted a strategic plan to lower Indigenous incarceration rates, however the strategy curiously included no explicit mention of education or schooling in reducing juvenile offenses and recidivism.<sup>10</sup> P&C Federation believes these should be central components of any youth diversion strategy, and should be tailored to the context of Indigenous communities.

### **Bail Issues**

Due to the potentially disruptive influence of detention on students' education, bail must be granted for young offenders and remand must always be a last resort for young people. Moreover, prolonged custody carries the risk of perpetuating cycles of incarceration and recidivism. One potential alternative is remand foster care, which has been implemented in some jurisdictions in the United Kingdom. It involves placing young people for a short-term period in the care of foster carers while they await their court date. Those wishing to be remand foster carers typically undergo relevant training and assessment and may receive regular cash payments.<sup>11</sup>

An early draft of a review into juvenile justice prepared for the New South Wales Government by the consulting firm Noetic in 2010 noted that remand foster care was among the most effective methods of ensuring release conditions are complied with.<sup>12</sup> In particular, it provides a source of stability for young offenders and offers them the most opportunities to become re-engaged in their education and therefore reduce the likelihood of recidivism. However, mention of remand foster care was absent in the final version of Noetic's review,<sup>13</sup> and therefore did not feature in the State Government's response to the review.<sup>14</sup> It does not seem to have featured in any reviews of juvenile justice in New

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<sup>8</sup> Ibid.

<sup>9</sup> Juvenile Justice NSW. 2016. *Juvenile Justice Year in Review 2015-16*. Page 22.

<sup>10</sup> Juvenile Justice NSW. *Aboriginal and Torres Strait Islander Strategic Plan 2011-13*.

<sup>11</sup> Remand Fostering – at <http://ukfostering.org.uk/fostering-information/remand-fostering/>

<sup>12</sup> Noetic Solutions. 2010. *Review of Effective Practice in Juvenile Justice: Report for the Minister for Juvenile Justice*. January.

<sup>13</sup> Noetic Solutions. 2010. *A Strategic Review of the New South Wales Juvenile Justice System: Report for the Minister for Juvenile Justice*. April.

<sup>14</sup> Juvenile Justice NSW. 2010. *Government Response to NSW Juvenile Justice Review*.

South Wales since then, and P&C Federation recommends that the State Government consider again the possibility of allowing for remand foster care as an alternative to incarceration.

### **Other Issues**

P&C Federation acknowledges that all Juvenile Justice Centres in New South Wales include education units administered by the NSW Department of Education. This is imperative to offsetting the likelihood of recidivism of young people in detention. However, to our knowledge, no review has been carried out of the effectiveness of these units. Reviews of juvenile justice education in the United States identified numerous concerning problems, such as a lack of teachers properly trained in dealing with the needs of young people in detention, lack of a consistently executed curriculum, and young people in detention only receiving a small portion of the mandatory instruction time.<sup>15</sup> The New South Wales Government should implement a publicly available review into education in Juvenile Detention Centres to ensure these issues of concern are not present in New South Wales.

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<sup>15</sup> Thielbar. 2011. *Education in Juvenile Detention Centers*. The Loyola University Chicago ChildLaw and Education Institute Forum