

**Submission
No 6**

INQUIRY INTO THE ADEQUACY OF YOUTH DIVERSIONARY PROGRAMS IN NSW

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Mr Geoff Provest, MP
Chair
Legislative Assembly Committee on Law and Safety
Email: lawsafety@parliament.nsw.gov.au

Dear Mr Provest

Please find attached the Australian Red Cross submission to the *Inquiry into the adequacy of youth diversionary programs in NSW* being undertaken by the Legislative Assembly Committee on Law and Safety.

Should you have questions regarding this submission, please contact Mr Peter Swain, Executive Support Manager. Mr Swain can be contacted on [REDACTED]

Yours sincerely

[REDACTED]

Jody Broun
Director NSW/ACT

30 January 2016

INQUIRY INTO YOUTH DIVERSIONARY PROGRAMS IN NSW AUSTRALIAN RED CROSS SUBMISSION

Introduction

Australian Red Cross Society (**Red Cross**) welcomes the opportunity to contribute to the NSW Government's inquiry into youth diversion programs.

Red Cross recognises the importance of these programs in reflecting societal disapproval of offending behaviour while mitigating the impacts of more formal contact with the criminal justice system. Red Cross has been delivering programs and support, focussed on the wellbeing of children and young people, in NSW for more than a century.

This submission draws, primarily, on the wealth of NSW experience with supplementary advice from our experience in other Australian States and Territories. In addition, our submission draws on the NSW Government commissioned report: *A Strategic Review of the New South Wales Juvenile Justice System*, prepared by Noetic Solutions in 2010 as well as the recently released recommendations from the *Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory*.

Response Framework

This submission does not seek to address all the elements of the Terms of Reference but rather targets those in which the Red Cross NSW Division has established experience:

- Non-government organisations (NGO) and the local community, including staff capacity and training requirements;
- Evaluating outcomes, identifying areas for improvement and building an evidence base;
- Aboriginal over-representation in the Juvenile Justice system; and
- Culturally and Linguistically Diverse (CALD) communities.

In addition to responding to these specific elements, Red Cross would like to provide comment on the potential of justice reinvestment.

Non-government organisations capacity building

There has been a range of reports highlighting the need for increased support for capacity building in the NGO sector.

In part, this is in response to the complex needs of client groups. The Noetic report highlights that young people coming into contact with justice system *are often from disadvantaged backgrounds, characterised by poor educational attainment, disrupted families and engagement in regular risk-taking behaviour.*¹ Red Cross currently has a range of programs aimed to meet the needs of this cohort including the Joint Support Program (JSP) and the Young Parents Program (see **TAB A** for an overview of these programs). Effectively responding to the needs of this client group requires a range of specialised skills as well as capacity for ongoing staff and organisational development to ensure program delivery remains informed by current best practice. As noted in the Noetic report:

...the Review reinforces that capacity needs to be built in the NGO sector for dealing with complex needs children and young people, including those involved in the juvenile justice sector. In building this capacity, specific development is required in a range of areas including people, organisation, systems, processes and knowledge. People are perhaps the most fundamental input into NGO

¹ P87 *A Strategic Review of the New South Wales Juvenile Justice System*, Noetic Solutions, 2010

*capacity and the Government therefore needs to work with NGOs to ensure there are sufficient numbers of appropriately skilled people to meet Juvenile Justice demand.*²

The overrepresentation of young people suffering from some form of mental health disorder and/or cognitive impairment is of particular concern to Red Cross.

Young people in NSW with mental health disorders and/or cognitive impairment are at least six times more likely to be in prison than young people without a disability in the general population.³ Red Cross' experience through the JSP indicates that these young people require additional investment in staff time both to establish rapport and trust with individual clients as well as identifying appropriate complementary wrap around services. Additional investment is also required when working with Aboriginal young people and those from culturally and linguistically diverse (CALD) communities.

Recommendations

That the NSW Government:

1. *implement* the recommendations from the Noetic review in relation to NGO capacity building;
2. *consider* the impact of the overrepresentation of young people with mental health disorders and/or cognitive impairment on service delivery and NGO capacity requirements; and
3. *consider* the impact of the overrepresentation of young people from Aboriginal and CALD backgrounds on service delivery and NGO capacity requirements.

Evaluating outcomes, identifying areas for improvement and building an evidence base

Governments have increasingly required the NGO sector to report on program outcomes rather than traditional outputs, as part of a broader reform program focussed on improved transparency and value for money.

Red Cross is committed to strengthening outcome reporting through Strategy 2020. Our five year strategic plan and is currently aligning program reporting against agreed outcome areas. Nonetheless, identification of appropriate outcomes and measures can be a complex task, particularly given the potential complex needs of young people at risk of offending and the variety of services and supports that may be required to effectively prevent offending. For this reason, consideration could be given to providing additional guidance and support to NGOs in this area.

The NSW Government's Office for Social Impact Investment (OSII) provides guidance and training in this area for organisations considering developing proposals under the Government's Social Impact Investment Policy. The materials developed by the OSII could form the basis of a support package delivered more broadly across the NGO sector, resulting in more efficient identification of program outcomes aligned with government priorities and existing data sets.

Red Cross notes that the NSW Government's Premier's Priorities, which are the primary drivers for NSW Government reporting, do not include commitments in the areas of juvenile diversion or reduced offending. This is a gap that could be addressed, to provide strengthened guidance when identifying program level outcomes and to ensure that addressing the complex needs of young people at risk of coming into contact (or increased contact) with the criminal justice system is given the necessary prominence.

² Idem P85

³ <https://nswmentalhealthcommission.com.au/mental-health-and/the-justice-system>

Red Cross, through its Program Management Cycle, is committed to evidence based program development, review and evaluation. Formal evaluations, however, are costly and are often not factored into funding proposals. Government requests for tender proposals could have a standard requirement to ensure that evaluation is considered as part of program design with associated costs included.

Recommendations

That the NSW Government:

4. *invest* in building the capacity of the NGO sector to identify outcomes and measures effectively, taking into consideration government priorities and available data sets;
5. *include* a juvenile justice specific Premier's Priority; and
6. *require* consideration of program evaluation as part of the tender development process.

Aboriginal over-representation in the Juvenile Justice system

The overrepresentation of Aboriginal people in the criminal justice system is well documented. Also well documented are the factors necessary to increase success in working with Aboriginal communities, with the Noetic review providing detailed summary of recognised good practice.⁴

Red Cross is committed to establishing and maintaining effective and respectful partnerships with Aboriginal communities, through which we support them to identify and respond to local priorities, taking a community development, strength based approach.

Many of these priorities, such as improved health and education outcomes for young people, are directly aligned with potential contact with the criminal justice system. Our approach has resulted in the development of programs that directly address issues resulting in ongoing contact by Aboriginal people (as well as others from lower socio-economic communities) with the criminal justice system.

Aboriginal young people are overrepresented in driving related offences, in particular driving without a license. There are a number of contributing causes including:

- limited access to a car and/or licensed driver necessary for those under 25 to complete the necessary 120 hours supervised driving practice;
- limited literacy, impacting on the capacity of individuals to pass written tests;
- a lack of formal identification (noting that this is a significant issue for members of the Stolen Generations);
- a lack of public transport options (particularly in regional and remote locations); and
- family and/or cultural commitments.

While driving offences often result in a fine, Aboriginal people (and those from other lower socio economic groups) are often unable to pay. This can result, where the driver is licensed, in license disqualification and where the driver is unlicensed, additional fines or incarceration.⁵

In response to this issue, Red Cross worked with the Shoalhaven Aboriginal community (in particular the Aboriginal Legal Service) to develop the Learner Driver Mentor Program (LDMP), which is funded by the NSW Government, through Roads and Maritime Services Work Orders⁶. Participants in this program are matched with a mentor who, as well as providing support to meet the 120 hours of supervised driving practice, also assists participants to overcome other barriers to gaining a driver's license.

⁴ P162 *A Strategic Review of the New South Wales Juvenile Justice System*, Noetic Solutions, 2010

⁵ It is noted that the LDMP also operates in Wagga Wagga, however it also provides services to other disadvantaged groups.

⁶ Noting these are issued on a single financial year basis only until the governing contract expires on 30 June 2020.

In the last financial year, the LDMP in the Shoalhaven achieved the following outcomes:

Learner's Licence	P1 Licence	P2 Licence	Full Licence
23	17	3	1

Feedback from the Shoalhaven community has also been positive. The following feedback was collected as part of an "annual reflection" of the LDMP.

The program also helps them overcome literacy barriers to accessing their licence. Many of the kids that come to PCYC have low literacy and feel a sense of shame, so don't access their license. By matching the kids with a mentor, the mentor then helps the kids with their literacy.⁷

Jane has two kids who were preschool aged at the time she accessed the program and was reliant on public transport to get her children to school. There was only one bus that would leave from the front of her house in the morning. Jane mentioned that getting two small children on the bus, on her own, was challenging, so in some instances (especially in winter) Jane wouldn't take them to day-care.

Jane's son is now in kindy and she's now happy to do the "school run".⁸

Given both the success of the LDMP and overrepresentation of Aboriginal young people coming into contact with the justice system as a result of driving related offences (or offences stemming from non-payment of driving related fines), we recommend that the NSW Government consults with other Aboriginal communities where there are high rates of driving offences, with a view to making the LDMP accessible to more communities as a diversionary program.

Similarly, Red Cross is working with the Kempsey Aboriginal community, supporting that community to respond to concerns regarding community cohesion as well as the wellbeing of Elders and young people.

As part of this work, Red Cross will deliver a NSW Government funded Aboriginal Bicycle Safety Program aimed at both reducing injury rates as well as reducing levels of juvenile contact with the criminal justice system stemming from helmet infringements. Consideration could also be given to using this as a diversionary program in place of fining or warning young people caught riding their bicycles unlawfully (e.g. without a helmet).

The ongoing impact of colonisation, which has resulted in a loss of connection to culture, Country and language for many young Aboriginal people cannot be underestimated. Connection to Country and culture, therefore, should be key element for any diversionary program with a focus on Aboriginal young people.

The Wolkara Elders, a Western Sydney based Elders Group (see **TAB A** for additional information) currently visits young people in juvenile detention centres. The positive impact of visits highlights the importance of cultural connection and the significant impact where it has been lost. The Elders have also been supporting schools. The Sister Girls yarning with Elders has achieved participation from 8 girls each week for 12 weeks to date. This has surpassed all expectations of teachers in the school with other programs running no more than three weeks before a loss of interest by participants.

⁷ Feedback from Shoalhaven PCYC Coordinators.

⁸ Shoalhaven case study. Please note names have been altered to ensure client privacy.

While not uniquely affecting Aboriginal young people, the lack of diversionary options in regional and remote NSW has a disproportionate impact on Aboriginal communities. This is, in part, due to the increased percentage of Aboriginal people living rural and remote locations with the impact compounded by a further lack of culturally appropriate diversionary options.

Recommendations

That the NSW Government:

7. *adopt* the Noetic review's recommendations regarding effective partnerships with Aboriginal communities;
8. *expand* the Learner Driver Mentor Program and Aboriginal Bicycle Safety Program geographically and enable magistrates to divert relevant young offenders to participate in these programs rather than issuing a fine; and
9. *ensure* that connection to culture underpins all diversionary programs focussed on Aboriginal young people.

Culturally and Linguistically Diverse (CALD) communities

It is unclear the extent to which young people from CALD communities are coming into contact with the criminal justice system. The Red Cross JSP experience indicates that this youth cohort is overrepresented.

Issues such as differences in language, culture and a mistrust of government authority stemming from lived persecution can both increase the likelihood of young people from CALD communities coming into contact with criminal justice system and adds to the complexity of diversionary case management. In addition, there is additional complexity for clients with uncertain visa status. There appears, however, to be little evidence as to best practice when working with these young people.

Recommendation

That the NSW Government:

10. *undertake* additional research into the barriers faced by young people from CALD communities and successful diversionary responses; and
11. *review* the level of access to diversionary programs for young people in regional and remote NSW with a particular focus culturally appropriate programs for Aboriginal young people.

Justice Reinvestment

Justice reinvestment sees money diverted from building and running more and more prisons into strengthening disadvantaged communities to address the issues that lead to criminal behaviour in the first place and is a key recommendation of both our 2016 Vulnerability Report⁹ as well as the Noetic review.¹⁰

Red Cross is a member of Just Reinvest NSW, an organisation established to advocate that the NSW Government adopt a justice reinvestment approach, the value of which is already being demonstrated through working with the Bourke Aboriginal community and other stakeholders.^{11 12}

It is noted that the Northern Territory Royal Commission Recommendation 2.1 called for a legislated Council of Children who have been in out of home care and the youth justice system to express

⁹ P7 *Vulnerability Report: Rethinking Justice* 2016

¹⁰ P120 *A Strategic Review of the New South Wales Juvenile Justice System*, Noetic Solutions 2010

¹¹ <https://www.sydneycriminallawyers.com.au/blog/positive-results-for-bourke-justice-reinvestment-trial/>

¹² It is noted that in addition to the Bourke pilot, the Australian National University is undertaking a separate justice reinvestment research project in partnership with the Cowra Aboriginal community.

views of legislation and policy effecting young people in those systems.¹³ In addition the Royal Commission recommends commitment to a place based approach and partnerships with local communities.

While Red Cross is not suggesting that Recommendation 2.1 be implemented in NSW, it does recommend that the client voice be central in the development and implementation of diversionary programs. In addition, a place based approach is recommended, ensuring the program is responding to community needs and is integrated with existing programs and community decision making structures.

Recommendations

That the NSW Government:

12. *increase* its support for justice reinvestment in consultation with local Aboriginal communities;
13. *adopt* a justice reinvestment approach and champion its implementation through the Law, Crime and Community Safety Council of the Council of Australian Governments; and
14. *ensure* that diversionary program development is underpinned by the client voice and is undertaken in partnership with local communities.

¹³ Recommendation 2.1 *Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory*

KEY RED CROSS INITIATIVES

Joint Support Program

The Joint Support Program (JSP) secured for the Blacktown/Penrith districts of Sydney targets young people under the supervision of Juvenile Justice who have been assessed as having a medium to high level of offending related to risk and need. The model allows for strong collaboration with funded organisations, client-focused strategies and regular review meetings to ensure the agreed target outcomes are being achieved.

Red Cross' work with the JSP commenced in July 1, 2016 and is in partnership with Whitelion who provide expertise around employment and education engagement and support. JSP is currently engaging approximately 56 participants per year.

The central objectives of the JSP are for young people to:

- Young people increase their personal capacity, resilience and confidence;
- Red Cross increases volunteer opportunities to the wider community through the mentor program and Volunteer turnover is low; and
- Young people increase their pro-social skills to support a decrease in the severity and frequency of offending.

Young Parents Program

The Young Parents Program (YPP) works to improve the capacity of young parents with complex needs aged 13 to 24, to live and parent independently. The program is designed to meet the needs of highly vulnerable young parents who require safety, stability and support to parent effectively. These are very young parents who have experienced significant trauma and abuse, homelessness, domestic and family violence, complex behaviours and mental health needs, and lack appropriate supports.

The program is available in 3 stages depending on young parents' age, vulnerability and capacity to live independently and safely with their child:

1. **Residential** – Intensive 24 hour support
The Residential stage in Randwick is accredited by the Office of the Children's Guardian (OCG) to provide Out of Home Care to young women and their children. This is so Red Cross can legally support young women and children who are 'Under the care of the Minister'. Red Cross is the only Out of Home Care provider in NSW accredited to provide residential care for parenting young women and their children, and is understood to be the only residential parenting program in NSW that can accept young mothers less than 16 years of age.
2. **Outreach** – Semi Independent Accommodation and Case Management
The Outreach stage supports young parents (men and women) aged 16 to 24 and their children through YPP sites in Randwick, Parramatta, Gosford and Nowra. It includes families transitioning from the Residential stage, and those referred directly to Outreach through external agencies or self-referral. Outreach families are supported in home through weekly home visits and case management support from an allocated Case Manager.
3. **Aftercare** – Independent Accommodation and Limited Support
Families can elect to access Aftercare after transitioning from the Residential or Outreach stages of the program, usually until the young parent is twenty-five. This stage focuses on maintaining

independence and enhancing the young parents' confidence accessing services in their community.

In addition to Case Management, all YPP families receive holistic wraparound support from the **Family Education and Community Support (FECS)** Team. This includes weekly groups where young parents can develop their parenting and independent living skills, and improve their educational and vocational skills. Weekly playgroups are provided on site for families to learn to support their child's development through play, and child development is closely screened and monitored. Trained volunteers provide a range of support including academic tutelage, driving mentorship and best practice child minding while young parents attend groups.

Learner Driver Mentoring Program

The Learner Driver Mentoring Program operates in partnership with the Aboriginal Legal Service, supporting young Aboriginal people in the both the NSW Shoalhaven and Wagga Wagga regions who have had contact with the justice system for driving unlicensed to obtain a driver's license.

Participants need this support as they do not have access to a licensed driver to gain the 120 hours of supervised driving required to enable them to obtain their provisional license. Graduates of this program are then better equipped to find education, employment and training opportunities as they have the agency to seek out and get to these opportunities.

Training involves volunteers offering their time to mentor drivers in Red Cross vehicles. This approach extends beyond an individual license and reaches towards building positive social relationships within the community.

Participants have consistently expressed their increased confidence and that a license has given them capacity to get their children to school, day care, health appointments, community activities, social events and to connect with family. Many participants have also gained employment, increased or permanent employment as a result of having a license.

A young girl who was pregnant through her who time in the program gained her P1 license 3 weeks after her baby was born. This license allows her to be socially included, gaining access to medical appointments for her young family and to assist other siblings and family members.

Feedback from the Aboriginal Legal Service

I've seen a number of benefits for the clients though starting with an increase in self-esteem, access to work and taking their kids to school- the transport system here isn't very efficient. The benefits of the program are not only for the individual though, in an Aboriginal community where there are limited drivers, the person with the license becomes a "community resource". So there are benefits for the wider community, not just the individual. A lot of our clients are beaten down by the system so to get them motivated to do anything is hard- as they feel as though they don't have any real prospects for employment and lack structure. This program gives them structure and allows them to aim for something attainable.

Wolkara Elders

Red Cross provides support to the Wolkara Elders Group (made up of 28 Elders) to meet on a weekly basis at Ngallu Wal Aboriginal Child and Family Centre to share culture and connections and participate in group workshops and community events. The group derives its name 'Wolkara' from the area they meet in Doonside, although members of the group are from across New South Wales and Queensland.

While Red Cross provides support to the Elders with staffing and logistical support, it is a community led group. Red Cross has recruited a position to further develop community driven volunteer work with a specific focus on engaging men.

Engaging young people in Juvenile Justice Centres (JJs)

The Wolkara Elders Group regularly visited the young women detained at the Juniperina JJC over the past 12 months, until the Centre's recent closure. The Elders spent time speaking to and sharing stories and culture with those from both Aboriginal and non-Aboriginal backgrounds.

In July 2016, the Wolkara Elders were invited to NAIDOC Celebrations at Rieby Juvenile Justice Centre where the young women, formerly detained at Juniperina JJC, now reside. They were also invited to celebrate NAIDOC at Cobham Juvenile Justice Centre which holds an average of 80 young men. The Elders have recently started visiting young people in both these centres on a fortnightly basis on alternate Tuesdays and Saturdays.