

INQUIRY INTO JUVENILE OFFENDERS

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Summary

Police Association of NSW Submission

Inquiry into Juvenile Offenders

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Background

At the end of 2004, the Legislative Council voted to establish a Select Committee on Juvenile Offenders. The terms of reference require the Committee to examine the legislation that transferred Kariong Juvenile Justice Centre to the Department of Corrective Services, as well as certain related juvenile justice issues.

The Police Association of NSW was invited to participate in this inquiry in the form of a submission. Members were asked to comment on the terms of reference that have a direct impact on their roles as police officers. The Association's prepared response to questions 2(e) and 2(h) are hence based on the comments and general feedback as provided by our members.

Q2 (h) Does incarcerating juveniles in juvenile correctional centres achieve reduced recidivism, rehabilitation and compliance with human rights obligations?

The objective of juvenile custodial facilities should be to provide a humane, safe and secure environment to assist young people to address their offending behaviour and to make positive choices about their lives, both in custody, and upon their return to the community. The juvenile justice system was founded on the belief that children were entitled to a range of special protections due to their vulnerability and immaturity. The juvenile Court was intended to separate youth from the negative effects of the adult justice system. Inherent in these special protections was the belief that children, because they have not established fixed criminal careers, were more amenable to adult guidance and intervention (Redding 2000).

A few police officers have provided examples of juvenile correctional centres working in relation to their goals for juvenile offenders. An officer from the Robbery and Serious Crime Squad arrested and charged a juvenile in late 2004 with 'Robbery with Wounding' and other serious charges. The offender has since this time been incarcerated at Kariong Juvenile Justice Centre in Baxter. The officer explains:

"Up until his arrest, he was involved in a variety of offences including Armed Robbery, Receiving Stolen Property, Drug Supply Extortion and heavy personal cannabis use. He attempted to continue the extortion via mobile phone contact from Kariong but has since ceased activities."

His incarceration not only made an immediate impact on his recidivism, but also that of his accomplices and associates. I have established that he has completely given up his cannabis habit (despite being able to obtain supplies in Kariong) and he has also quit smoking cigarettes".

Another member notes:

"My experience of Kariong is that inmates are well cared for, are offered recreation and education and the regime is focused on prison for rehabilitation as opposed to prison for punishment".

The majority of members, however, share a somewhat contrasting view when it comes to the issue of rehabilitation:

"Most juvenile offenders recognise and expect every 'right' they are entitled to. Unfortunately, one of the key problems with juveniles is that they fail to recognise that with rights, comes responsibility. It is often necessary that rehabilitation take

place to instil values that encourage responsibility. The problem is that whilst juveniles are committing crime and not in a custodial context, there is no inclination to accept responsibility, especially when part of any rehabilitation plan requires them to do this. The ultimate outcome is that they do not turn up or take part in any rehabilitation program. This problem is overcome, however, if the juvenile is in custody, as then they have no option but to participate”.

A decade has passed since the Government produced its White Paper entitled “Breaking the Crime Cycle: New Directions for Juvenile Justice in NSW”. The problems that were identified then, are still the same problems in existence today:

“Detention frequently does not make sense because it is more likely to teach young and impressionable people how to become criminals rather than to deter them from a career in crime”.

The information as provided by our members concurs with this statement. When asked whether they believe incarcerating juveniles in juvenile correctional centres achieves rehabilitation, the following responses were provided:

“No, depending on the level of criminality. Inside correctional centres, they are interacting and networking with other criminals (usually older and more experienced) and are learning and being introduced to other crimes i.e. drugs”.

“No, due to the learning factor and criminal schooling”.

As one member went on to explain:

“In the Lake Illawarra LAC there is a high instance of repeat offenders appearing at bail court (Port Kembla or Wollongong). Analysis of data will show that a considerable percentage of those juveniles who appear before bail court, or for mention dates or hearings whilst incarcerated are from the same pool of repeat offenders (a group of perhaps 15 or 20). Most of these juveniles resent being bail refused but when there is no other alternative derive some comfort in being held in a group atmosphere at Keelong JDC where they can fraternise with fellow criminals. There is little or no sign that the seriousness of crime committed by these offenders is reducing as time progresses. There would be a correlation between number of occasions held in Keelong and increase in rate or seriousness of crime (once released)”.

A number of members have shared their frustration with the current system in relation to juvenile offenders:

"Why, as police officers, do we bother to uphold the rule of law when it comes to juveniles when they are always given non custodial sentences. This results in them not seeing any real consequence for their actions and subsequently sees them re-offending. In addition to this, as police officers, we then have to go and speak with the victims and tell them that the disruption and invasion to their own lives, having been brought about by these little 'misunderstood darlings' does not have any meaning to the Court which has subsequently let the juveniles off with a caution".

Members agree that the incarceration of juveniles in juvenile correctional centres generally achieves reduced recidivism but only due to the fact that:

"Whilst in custody, there is no way to commit crime or re-offend. The longer they are in custody, the less opportunity they have to re-offend".

Members are in agreement that incarceration is a legitimate form of punishment that should be used to reform juvenile offenders. This view echoes that of the Government as shown in the previously mentioned White Paper:

"The Government is adamant that detention is an appropriate and necessary penalty for juvenile offenders who commit serious crimes and for those juvenile offenders who repeatedly engage in criminal behaviour. Society must be protected from people, even young people, who commit serious crimes".

Rehabilitation should be a legitimate goal deriving from this view. As members argue:

"These juveniles have committed offences and deserve punishment. To get to the stage of incarceration, a juvenile must have committed either a serious offence requiring immediate incarceration, or a series of offences which leave no alternative than incarceration".

"Yes, there needs to be detention for juveniles so they know what they have done has severe consequences which may just make them think twice before continuing to commit crimes when they become adults".

In order for the juvenile correctional centres to become effective in their goal for achieving rehabilitation of juvenile offenders, a number of members believe serious changes need to be made:

"The current standard of juvenile detention centres requires review, where situations such as occurred last year when one of the gang rapists was captured on video receiving a sexual favour from his girlfriend within the confines of the centre".

"I believe that once a juvenile gets to the stage of incarceration, a lot of their rights need to be forfeited. For some of these offenders, detention means a place to sleep, clothing and three meals a day. Individual punishment and rehabilitation programs need to be devised".

"Juveniles in our area look forward to going to Acmena as it is a chance to catch up with friends, have a bit of a holiday and receive balanced meals. Once released, many continue to re-offend".

"I don't believe there is anything to deter juveniles from re-offending. Most juveniles you speak to actually tell you that detention centres are 'fun' and they are entertained at these places (i.e. they meet up with their mates again). Conditions at correctional centres are usually better than the offender's home".

"Currently, Juvenile Justice remand centres hold no punitive value as the juveniles seem to run the show and think of it as a holiday, not punishment".

Members agree that the attitude of many of these juvenile offenders needs to radically change.

"Remove these 'privileges' and make it harder for juvenile offenders in custody. Softly – softly isn't working".

"Juvenile offenders would be far less likely to re-offend if subjected to more strict and regulated conditions".

"The punishment must be relevant to the crime. Incarcerating juveniles must have a purpose – punishment and rehabilitation, not rewarding them i.e. television etc."

"Time in correctional centres needs to be increased for juvenile offenders, in particular, for the more serious offences".

"Juveniles are aware at the moment that if they breach their bail, they will be released with a slap on their wrist (if even that). They 'know' how the system works and how it is for the offender. Tougher correctional centres need to be established, not only for juveniles, but for all offenders".

Members are of a general agreement that the incarceration of juveniles in juvenile correctional centres complies with human rights obligations.

"Whilst incarcerating juveniles in correctional centres does not achieve reduced recidivism or rehabilitation, it does comply with human rights obligations. Without juvenile correctional centres, there would be no where to place the already deeply entrenched criminal elements that no matter what you do or say, will always be of the criminal nature.

Juvenile cautions, conferences etc only work with the juveniles that are not of the criminal element and have offended with minor offences and are not likely to be seen again after the first caution. Juveniles who are placed in correctional centres are already too far gone and cannot be reached by the alternatives already in place".

Agreeing with this view, another member provides the following example:

"We have become so narrowly focused on offenders, that we virtually totally ignore victims. We have 9 High Risk Offenders in the Tuggerah Lakes LAC and all of them are juveniles. They repeatedly break into elderly persons' homes whilst they are home and traumatise them so much they end up in an early grave. Some offenders are going before the Court with 14 such charges and are getting one month in custody. My view is that whilst they are in custody, they are not committing any more offences and therefore, the community in general have their human rights protected from these juveniles that are a parasite on society".

Q.2 (e) What are the alternatives to the establishment of a juvenile correctional centre?

Members have suggested the following alternatives to the establishment of a juvenile correctional centre:

Making families more responsible

"The problem of juvenile crime is a big one, but I am sure that the statistics show that recidivist offenders are those who have little or no family interaction or are of low socio-economic background (not negating those who are just rotten regardless). Perhaps making family more responsible for their children's action instead of blaming society could help reduce the incidence of crime. I am sure if mum in housing commission is fined every time little Johnny commits a crime, she will make it her business to know where Johnnie is at all times. It sounds extreme, but something has to change".

"Empower the parents to control their children".

"Make parents accept the responsibility for their children's actions. More accountability is required".

"Make parents take responsibility".

"Home detention, curfews, discipline at home. Correctional Centres may stop many juveniles, however, juveniles are raised in a lifestyle that makes it appear the 'norm', such as being raised with a family of armed robbers etc".

In the United Kingdom, a fine is the most commonly used penalty for less serious offences. It is aimed at punishing offenders who commit minor offences and who do not require any form of state supervision. Where juveniles are concerned, it is the duty of the Court to ensure the parents/guardian of the offender pay the fine, providing the parent/guardian can be found and it is considered reasonable for them to pay, depending on the nature of the case. Parents must also satisfy the Court that they are taking responsibility for the child and exercising proper control over their behaviour before a fine or discharge can be imposed (Elliott, Airs, Easton 2000).

Electronic Tagging

Members have suggested as an alternative to juvenile correctional centres, enforced home detention with a monitor collar.

The Home Office conducted research from 1998-2000 to evaluate the impact of electronically monitored curfews of 10-15 year olds in two pilot areas. Section 13 of the United Kingdom's Criminal Justice Act 1991 allows Courts to impose electronically monitored curfew orders on those aged 16 years or

above. The order requires the offenders to reside at a specified place, usually their own home, at a specified time. Section 43 of the Crime (Sentences) Act 1997 amended the Criminal Justice Act 1991 to extend the use of electronically monitored curfew orders to young offenders aged less than 16 years. This curfew power is extended from 10-15 year olds with a 3 months maximum length of order. Before making the order, the Court must obtain and consider information about the family's circumstances and the likely effect of such an order on the family (Elliott, Airs, Easton 2000).

Baroness Blatch explained the decision to pilot electronically monitored curfew orders for juvenile offenders less than 16 years:

"They will be a means of keeping them at home, off the streets and away from shopping centres, clubs and other places where they may get into trouble. By keeping young people out of harm's way, we believe that the curfew order should be able to prevent young offenders from re-offending and help protect the public...Because (a curfew order) is monitored electronically, it is properly and strictly enforced. Its virtue so far has been that any movement of the individual who is subject to electronic tagging outside of the area is detected immediately and dealt with".

(House of Lords Hansard, 27th February 1997)

In terms of the pilot, most of the young offenders were curfewed for between 10-12 hours in any 24 hours (12 hours is the maximum allowed within any 24 hour period). The electronic device was fitted to the ankle of the offender. Most of the offenders were made up on 14 and 15 year olds and most orders were made in respect of theft and handling offences (36%), followed by burglary (26%) and violence (13%). Two-thirds of the orders were made in respect of just 1 or 2 offences. Of the 152 orders that the Home Office were able to obtain breach/completion data, the majority (66%) of juvenile offenders successfully completed their order without breaching. Another 9% went on to complete their order after breaching. This means that only 23% failed to complete their order, which was a lower figure than was originally expected for this group.

The Home Office report discusses the effect of tagging on young offenders:

"Generally, the reaction of the offenders and their families was positive, with most saying that the main advantage was that it kept them out of prison".

Away with the 'softly, softly' approach

Members are calling for a tougher approach in relation to the treatment of juvenile offenders:

"Alternatives need to be tougher on juveniles from the beginning and inconvenience them and their families by placing them before the Court first offence. Not softly, softly as is the case now".

"Go hard on them i.e. charges. Scare the crap out of them. Take them through prisons and show them where they are heading. The softly, softly approach has failed".

"Abolish the youth caution and conference system or at least make it at the discretion of the police officer – not something that they have to do".

Removing Correctional Centres away from cities

An Aboriginal Community Liaison Officer (ACLO) who has worked at both Redfern and Glebe Police Stations has offered the following suggestion:

"I do believe that incarcerating juveniles in correctional centres is alright, but the centres must be away from the city. By having them close to the city and mixing with their same young peoples, I feel that they are only biding their time and mixing with their own kind to have a good rest and in the meantime, cooking up some other devious methods to do more crime whilst having a holiday.

*I feel that there should be a correctional centre based out in the country...In this way, the young people will be cut off from the city atmosphere and will get another view of life, away from the life of the city. Above all, they will get a new view of life without having to fight and rough it out with others in the city. This is my idea and as I have said before to many people, **it worked for me**".*

Other suggestions along these same lines include the establishment of **Jackaroo schools/farms** in isolation from the environment where the offences are committed and the establishment of **Boot Camps**.

Conclusion

Members are in agreement that incarceration is a legitimate form of punishment that should be used to reform juvenile offenders. Members are frustrated with the current “softly, softly” approach that is being used in relation to juvenile offenders. They advocate a tougher approach and system more in line with that of the adult prison structure. Rehabilitation of juvenile offenders in the current juvenile detention centres generally does not appear to be working. Swift and effective changes need to be made as addressed in this submission.

The Association would like to thank the Select Committee on Juvenile Offenders for inviting our submission to your inquiry. We ask that the concerns that have been raised by our members in terms of this submission be granted due consideration by your Committee members and we look forward to our continued involvement in this issue regarding juvenile offenders.

Bibliography

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