



**RESEARCH, POLICY AND ADVOCACY UNIT**

## **SUBMISSION**

# **2011 Review of Northern Territory Youth Justice System**

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**For further information, contact:**

Julie Edwards, CEO, Jesuit Social Services

Phone: (03) 9427 7388 Email: [Julie.edwards@jss.org.au](mailto:Julie.edwards@jss.org.au)

## Introduction

Jesuit Social Services welcomes the opportunity to make a submission to the Northern Territory Government's Review of the Youth Justice System. We welcome also the Northern Territory Government's Review as a positive step towards genuine reform and a long lasting legacy in what is a significant area of public policy.

This submission contains a brief description of Jesuit Social Services, who we are, and what we do, as well as evidence based examples of the types of programs we run and the success of these programs in helping young to avoid further penetration of the justice system. Jesuit Social Services has the mandate and the responsibility to contribute to the discourse about Youth Justice based on our 35 years of experience in this field of work and relationships with thousands of people in the justice system.

While Jesuit Social Services were founded in Victoria our focus is Australia wide. It is learnings and practice through our history that have led us to strongly endorse the current Victorian model as the starting point for the best outcomes in Youth Justice.

The Victorian justice system is looked upon by the other Australian jurisdictions and indeed other jurisdictions around the world as providing an enlightened and modern approach to keeping imprisonment and crime rates low. This approach has a strong crime prevention and diversionary aspect and does not rely on imprisonment solely as a means of dealing with offending behaviour. The idea of therapeutic jurisprudence lies at the heart of the existing approach and ought to be maintained and strengthened.

We understand that there are differences in the population mix when comparing the Australian Eastern seaboard with the Northern Territory. That said, our approach is based on a flexibility that is sensitive to its environment, both geographic and cultural, with critical core underlying principles – early intervention, education opportunities and therapeutic jurisprudence -the key principles of youth justice.

## Who we are and what we do

Jesuit Social Services works to build a just society by advocating for social change and promoting the health and wellbeing of disadvantaged people, families and communities. Our service has its origins in work with disadvantaged young people involved with the youth and adult justice systems in Victoria.

We strengthen and build respectful, constructive relationships for:

- **Action** – by partnering with people most in need and those who support them to address disadvantage
- **Education** – by providing access to education, life-long learning and development
- **Advocacy** – by building awareness of injustice and advocating for social change

Jesuit Social Services values every person and seeks to engage with them in a respectful way that acknowledges their experiences and skills and gives them the opportunity to harness their full potential. Jesuit Social Services works where the need is greatest and where it has the capacity, experience and skills to make the most difference.

Our direct practice services include intensive case-management with young offenders; outreach and counselling services for young people with a dual diagnosis of mental illness and substance abuse; outdoor experience programs for at risk young people; and education and training for disadvantaged people excluded from the labour market.

Our services presently include:

- **Brosnan Youth Services:** Supporting young people and adults in the justice system, and assisting them to make a successful transition from custody back into the community.
- **Artful Dodgers Studios:** Providing pathways to education, training and employment for young people with complex and multiple problems associated with mental health, substance abuse and homelessness.
- **Connexions:** Delivering intensive support and counseling for young people with mental health, substance and alcohol abuse problems.
- **Community Programs:** Working with people, including the African Australian and Vietnamese communities, on public housing estates.
- **Support After Suicide:** Supporting people bereaved by suicide.
- **Jesuit Community College:** increasing opportunities for people constrained by social and economic disadvantage to participate in education, work and community life and reach their full potential.
- **Community Development:** helping to build community cohesion, provide opportunities for engagement and ownership, strengthen skills and capabilities, and encourage and facilitate community partnerships and leadership. This activities include education and training, social enterprises, community programs and activities. We have a presence in community development activities in the area of Mount Druitt, Western Sydney and Alice Springs.

This latter aspect of our work is being extended by our collaboration with local Alice Springs communities to support Eastern and Central Arrernte to improve their situation and to have

more control over their lives. A few years ago, their leaders approached the local Catholic Church network seeking support to access mainstream services in ways that give them a voice about what matters to them. Jesuit Social Services was then approached to assist by supporting community members to develop plans and to engage stakeholders from various sectors of the community. Through local family and community meetings, the project is undertaking a local assessment of needs, identifying priorities and developing plans to address these. Opportunities to directly address 'closing the gap' are being identified. Community governance structures are being established and strengthened and areas for corporate, philanthropic and government engagement will be identified.

Jesuit Social Services activities involve our staff relating to a range of Commonwealth and state government departments and services providers.

## Response to Terms of Reference

*TERMS OF REFERENCE 3: RECOMMENDATIONS ON STRATEGIES FOR DEALING EFFECTIVELY WITH OFFENDING YOUNG PERSONS TAKING INTO ACCOUNT RELEVANT NATIONAL AND INTERNATIONAL RESEARCH, REVIEWS AND REPORTS, AND THEIR APPLICATION TO THE NORTHERN TERRITORY CONTEXT;*

*TERMS OF REFERENCE 4: RECOMMENDATIONS TO ENHANCE THE ABILITY OF GOVERNMENT AGENCIES AND COMMUNITIES TO ASSIST IN THE CONTINUUM OF SERVICES FOR YOUNG PEOPLE IN THE YOUTH JUSTICE SYSTEM TO ACHIEVE A REDUCTION IN OFFENDING, PARTICULARLY INDIGENOUS OFFENDERS.*

We recognise that there must be differences as well as similarities in the approaches developed in Youth Justice within densely populated areas of Eastern Australia and remote areas of the Northern Territory such as the communities comprising a discrete cultural and language group approximately 550 km east of Darwin reported upon by Clough, A., Lee, K and Conigrave, K (2008).<sup>1</sup> These researchers in the course of reporting the most promising outcomes of the youth offender diversion scheme appropriately underline the need for such a scheme to be culturally relevant together with action to address multiple risk factors within broader social justice programs. The issue of cultural relevance is no doubt a persistent and compelling one in the setting described and, of course, it is a factor which Jesuit Social Services at all times bears in mind in its work. Nevertheless, it is the Territory's multiple-component youth initiative, involving case management and collaboration with local community services and systems, that clearly bridges our common challenges. We believe that by sharing our experiences in this regard we can contribute to your current exercise of strengthening youth justice in the Northern Territory.

## Youth Justice: Overview

It is our contention that any review of the youth justice system should start from the position that no evidence exists that would lead rationally to the automatic favouring of a particular legislative or practice *response* to an individual's offending. The word 'response' is italicised because there is empirical evidence supporting the potency of certain factors in encouraging the occurrence of juvenile crime and, by implication and factual evidence, the utility of preventive interventions based on those insights. The evidence in question, some of it compelling because of its strength in a variety of cultural contexts, other elements highlighted because of its particular relevance to the Northern Territory, is reviewed in this submission. However, we wish to preface that material by stating our conviction that the many and varied instigators of offending behaviour by children and young people require a 'matching flexibility' or 'individualising of response' from the authorities if effectiveness in bringing about responsible behaviour is the principal objective.

What is required is a *system* of preventative and remedial measures rather than faith in the universal efficacy of a single approach based on personal or ideological conviction rather than scientific evidence. There is considerable evidence that traditional ways of dealing with youth offending have been ineffective. Moreover, several researchers have concluded that traditional treatments might, in fact, be harmful to young offenders and may increase delinquency. Certainly a review of longitudinal studies shows that incarceration alone is not

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<sup>1</sup> *Drug and Alcohol Review*, Vol. 27, Issue 4

adequate. Studies have shown that incarcerated young offenders have higher rates of criminal activity after release than their counterparts who received intensive family- and community-based treatment (Henggeler, Melton, & Smith, 1992; Henggeler, Melton, Smith, Schoenwald, & Hanley, 1993). Low motivation for change, lack of trust, non-compliance, drug and alcohol dependency, and high levels of anger and impulsivity are among the factors associated with poor outcomes. This list could be expanded many times over because offenders are such a mixed group with diverse treatment needs, hence the emphasis in this submission upon individualising responses to youth offending within a broader systemic response. It is not our intention to submit a text on technical treatment methods and so our commentary is at a more general level and highly influenced by the collective and substantial experience of our organisation over three decades.

## **Risk Factors**

### **Limited education and training**

The international evidence on the association between limited education and delinquency, in itself, constitutes a powerful argument for according education priority status among the preventative measures. This is especially so given the evidence of longitudinal studies of the protection afforded by good quality early childhood education and an Australian study which we cite below. Of course, the Education arm of government has specialist knowledge of the field but children and young people's genuine participation in schooling should be of vital concern to those charged with youth crime prevention.

The common ground in the available research is the importance of children's readiness to learn in their earliest years. A recent RAND Corporation overview of *Early Childhood Interventions* included a large scale longitudinal study indicating that disadvantaged children not only arrive at school less well prepared than the relatively advantaged, but early gaps persist and even widen as children progress through school. The children in question more frequently drop out of school, and have higher delinquency and crime rates. More generally, the RAND assessment identified 20 studies of early childhood intervention projects that had employed scientifically rigorous methods of evaluation. Statistically significant benefits were found in at least two-thirds of the programmes reviewed. The magnitudes of the favourable effects were sometimes sizable and long lasting particularly with respect to educational progress and pro-social behaviours, as illustrated by the High/Scope Preschool studies. Three and four year olds were randomly allocated to a group receiving a high quality preschool program and a control group. By the time they reached their twenties only one fifth as many program group members as members of the no-program group had had multiple arrests and only one-third as many were ever arrested for drug dealing. The earnings and general economic status and educational attainments of the programme group were significantly higher and their relationships were more stable. The researchers have calculated a seven-fold benefits/cost ratio of the programme investment returned to the public – a better investment than the stock market during the same period.

Lest it be thought that these findings are somehow less relevant to Aboriginal Australian young people we cite an Australian Institute of Criminology study by Walker and McDonald (1995) that puts into clearer perspective the high rates of involvement in youth justice issues of Aboriginal youngsters. The poorly educated Indigenous person has over thirteen times greater chance of imprisonment than has her or his better educated counterpart. Again, the potential for improving employment prospects through improved educational attainment could also have a significant impact on imprisonment rates starting with those at the upper end of the youth justice age range and continuing thereafter. The rate of imprisonment among employed Aboriginal people, while still comparatively high, is almost twenty times less than among their unemployed counterparts. These findings can only be regarded as

broad indicators of the present situation but they do serve to bring into focus the contribution of features of the Indigenous community to disparities in breaches of the law rather than Aboriginality *per se*.

Because of past tolerance/expectation of poor educational outcomes in Aboriginal groups the youth justice goals may, in some instances, require intensive effort to lift the self-image and motivation of students and their families along the lines developed by Dr Chris Sarra at Cherbourg School. Our organisation's experience of working in disadvantaged areas generally leads us to recommend that, as part of the Northern Territory crime prevention system, the now well documented means of engaging families in their children's education and collaboration with Family and Early Care agencies be adopted. Using the opportunity afforded in the earliest years to remedy speech, health and behavioural problems, as well as intensive efforts to help the children engage in play and experiences that will assist later formal learning, help avoid demoralisation and later school failure and their behavioural sequelae.

### **Family**

Throughout Australia, including the Northern Territory, one of the antecedents to delinquent or anti-social behaviour is inconsistent or weak parenting (sometimes bolstered by parents' alcohol/drug dependency). Poor adult example and communal strife can also play a part. These are formidable challenges that may ultimately necessitate involvement of the child protection agency. However, our practical experience also has demonstrated to Jesuit Social Services that many parents, including single parents, once presented with the opportunity to learn about appropriate child care or even to talk over such matters with other parents in an appropriately non-judgemental way, eagerly take up that opportunity.

Often in the background is the fact that the parents are isolated and/or have not had the benefit in their own upbringing of exposure to good parenting. In one locality in which we have worked the school with which we collaborated provided an opportunity for physical exercise and social contact between parents and that program was eventually modified, with the approval of participants, to allow some time for group discussion. We have seen the benefits of work aimed at improving child/parent communication patterns and skills, behavioural contracting, specification of rules, and positive reinforcement - amounting to what James Garbarino describes as the necessary re-assertion of parental leadership and authority.

## **Intervention Approaches**

Jesuit Social Services through its programs aims to assist young people involved with the justice system and young people at risk through a range of intervention approaches. Young people are matched to programs based on a holistic assessment of their needs and aspirations. Our workers are *expert companions* supporting and assisting program participants to reach their full potential.

Our direct practice services include: intensive case-management with young people in the justice system; outreach and counselling services for young people with multiple and complex needs including mental illness and substance abuse; counselling and support for the suicide bereaved; outdoor experience programs for at risk young people; and education and training for disadvantaged people excluded from the labour market.

We also undertake settlement and community building work with displaced and severely disadvantaged people working to: help build community cohesion; provide opportunities for engagement and ownership; strengthen skills and capabilities; and encourage and facilitate community partnerships and leadership. Our community development work includes: education and training; social enterprises; community programs and activities.

In our work we draw on a range of practice models and approaches including:

- **Strengths based interventions** that emphasise the importance of collaborative work and recognition of potential, aspirations, capacities, capabilities and opportunities.
- **Pro-social role modelling**, emphasising and clarifying roles, promoting pro-social values, dealing with issues of authority and establishing goals. In general, a focus on needs directly related to the risk of re-offending but because children and young people are involved, taking into account the developmental and transitional needs, the wellbeing of children and their families, child abuse and neglect, truancy, substance abuse, and mental health problems, with an underlying assumption that the offending pattern will change significantly when the other fundamental areas of concern are significantly addressed.
- **Narrative work** that recognise people's lives are shaped by their stories and aims to create new meanings from past experiences.
- **A developmental perspective** that recognises the importance of matching our services with each individual's social, emotional and physical needs and each family's life span stage.
- **A structural perspective** that recognises the impact of socio-economic class, locational disadvantage, gender, occupation and education level on the lives of our program participants and seeks to help redress these through individual and organisational advocacy efforts.
- **Culturally sensitive practice** that aims to understand culture from each family's and community's unique perspective.

## Principles and Practices in some detail

All our program activity is based on the belief that all people are: inherently relational; formed in family; part of a wider community; seek equality and a meaningful participation in society and need to feel their life has worth and a sense of purpose.

We work in the areas of greatest unmet need with people who have multiple and significant barriers to participation in Australian society:

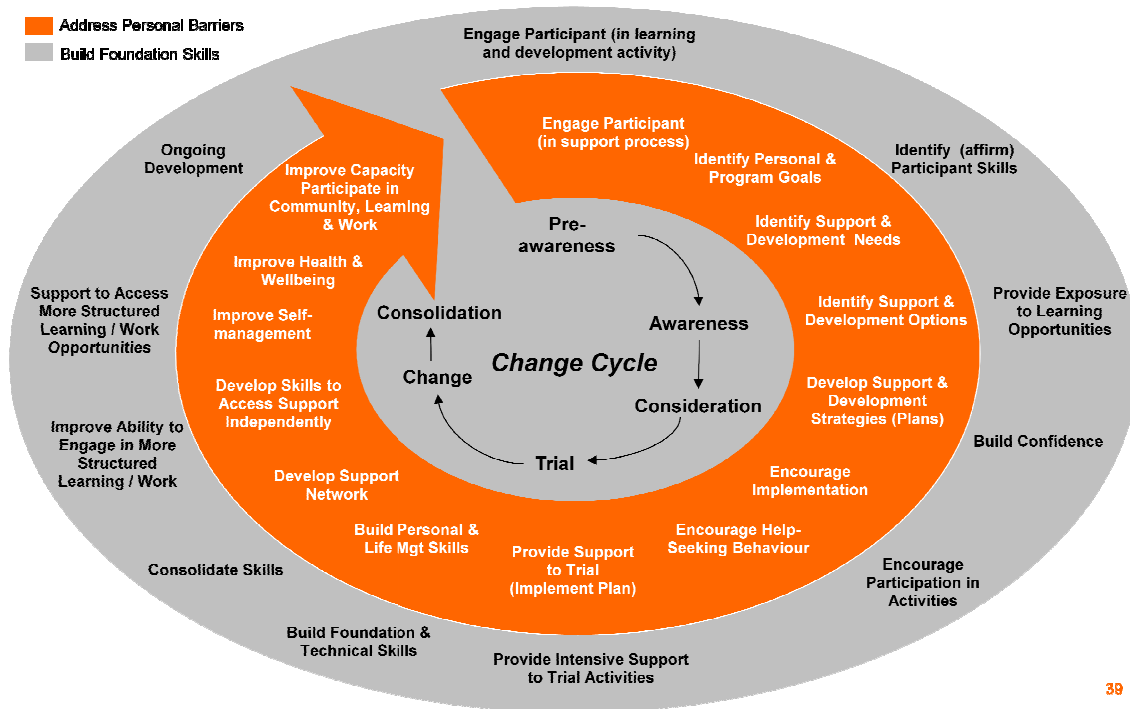
- teaching the importance of **valuing self and others** so our participants can develop the capacity to establish and maintain meaningful and respectful relationships in their personal lives and in their communities;

- engendering hope and **affirming goals and aspirations** through the establishment of supportive and mutually participatory relationships;
- delivering programs that provide **support** for participants to realize their potential by working with them to remove the barriers they face in achieving social and economic inclusion.
- supporting participants to **build capability** through the delivery of education and training programs that promote skill development and assist in accessing vocational and employment pathways;
- ensuring maximum **opportunities for change** through sustained long-term engagement and commitment and **partnering with others** to increase access to services and opportunities for community and civic participation.

The principles of care upon which our work is based include:

- Person centred focus
- Self determination and empowerment
- Equity in access
- Respect for cultural and linguistic diversity
- Respect for privacy and confidentiality
- The belief that all people require safety and security
- Active participant and community participation in program development and delivery
- Innovative, quality programs and flexible and accessible service-delivery models

## Our WAY OF WORKING ... how we seek to support individual development and change



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## Tangible Expression of Principles and Practices

Ultimately the successful application of the foregoing principles and practices depends on their embodiment in the relationship between the Jesuit Social Service caseworker and a young program participant. We use the situation in which a young person has undergone detention to illustrate the work involved. Our caseworker role requires, in addition to a therapeutic disposition, attention to a multitude of tasks of which only a sample is provided here. In our experience, failure to attend to the listed matters can nullify otherwise technically skilled intervention:

### Pre-Release Support

- Engagement/build relationship,
- Assessment; including risks and needs in relation to accommodation, drug and alcohol use, mental health, education, training and employment and other high risk behaviour including violence, sex offences and/or OH&S concerns,
- Case planning; including collaborative practice with government departments and other service providers,
- Advocacy and liaison with institutional staff and Youth Justice regional staff,
- Attendance at case planning and Youth Parole Board meetings,
- Support/Encouragement to young person to attend training programs and therapeutic groups,

## **Housing**

- Supported Referral to Crisis and Transitional Housing, and private rooming house/boarding house,
- Assessment of eligibility/suitability for supported or independent accommodation placements,
- Provision of Independent Living Skills (budgeting, menu planning, shopping, cooking, utilising transport, dispute resolution),
- Financial assistance/material aid (groceries, rent, bond, removal costs),
- Supporting young person in family home (family mediation etc...),

## **Legal**

- Support to complete Youth Parole Order or Community Based Order/Intensive Corrections Order
- Advocacy with the responsible department and with the Police,
- Consultation with legal representative,
- Court support,
- Provision of written Court report and provision of evidence,

## **Substance Use - Alcohol and Other Drugs (AOD)**

- Informal counselling (CBT, Motivational Interviewing, Narrative Therapy),
- Supported Referral to Counselling, GP, Pharmacotherapy, Residential Detox, Residential Rehabilitation program,
- Ongoing liaison with AOD service providers,
- Provision of Harm Minimisation/Overdose Prevention advice,

## **Mental Health**

- Supported Referral to Community Mental Health services,
- Input into Individual Treatment /Plans (ITP's)
- Crisis response –support during involvement of CAT/Hospital Triage/Police,
- Consultation and advocacy with General Practitioners,
- Support with and referral to Dual Diagnosis Practitioners,

## **Centrelink/Education/Employment/Training**

- Support to access post release payment (crisis payment),
- Ongoing support and advocacy with Centrelink (Mutual Obligation programs, breaches, suspensions, investigations),
- Submission of reports (for example, to support application for Disability Support Pension),
- Supported referral to TAFE, Training providers, Job Agencies,
- Assistance in preparing a resume,
- Job interview preparation, assistance and support with job seeking,

## **Family/Social Connection**

- Family mediation/conflict resolution,
- Parenting/pregnancy support,
- Supported referral to family counselling, support services,
- Support to young person to gain access to children not in their care,
- Recreational/Social activities – pro-social role modelling/mentoring,

## **Health**

- Supported referral to GP, health service, specialist clinics, hospitals, dentists,
- Provision of information to young person re range of health issues, nutrition, treatment options.

## Do the foregoing principles and practices ‘work’?

Jesuit Social Services does not have a panacea for the ills that can beset young people involved in the justice system and young people generally. However, through our program evaluation activity we have found that Jesuit Social Services is generally highly successful at engaging young people with multiple and complex needs in our programs.

### Gateway

An evaluation of the Jesuit Social Services Gateway program was completed in 2007. The Gateway program ran from 2002 to 2010 and **aimed to increase young people’s capacity for social connection, safety and economic participation, through the delivery of pre-employment and individual and group support programs.** (While some aspects of this program have been curtailed due to funding difficulties, major elements of the scheme, continue to operate under our new Jesuit Community College program).

The Gateway target group consisted of young people aged 15-26 years with a range of substance abuse and offending behaviours, health and risk behaviours including mental illness, and social and economic problems including no stable income, low academic achievement, poor work-readiness skills, and an absence of significant family and social supports. This range of problems appears to match fairly closely with the identified issues that gave rise to Recommendation 6 of the *Review of the Northern Territory Agreement* applying to both confirmed offenders and young people ‘at risk.’ It also represents the practical adoption of several of the elements of effective practice in Indigenous Youth Justice identified in the report *Review of Effective Practice in Juvenile Justice – Report to the Minister for Juvenile Justice* (Noetic Solutions, 2010) including:

- maximum access to and utilisation of alcohol and substance abuse programs,
- avoidance of incarceration wherever possible,
- emphasis on prevention and early intervention.

We established the Gateway project on the basis that the target group required a ‘wrap around’ service response to deal with the range of issues they experience and that these issues cross departmental and sector boundaries and they therefore fall through the cracks of our service system. The evaluation found that a year after their entry to the program, Gateway participants were achieving positive outcomes in relation to their health and wellbeing and accessing mainstream education, training and employment opportunities. Follow-up interviews at the one year mark conducted with 100 of the 370 program participants who engaged in the program between 2003 and mid-2007 found that:

- 46% of young people who were using drugs at entry to the program had reduced their drug use at follow-up and 20% had ceased use altogether,
- 39% reported they had a history of offending at entry to the Gateway program but only 10% reported further offending at follow up interviews. Given the serious nature of the offending prior to entry to the program, the recidivism rates are lower than would be anticipated for this target group,
- A total of 81% of Gateway respondents reported experiencing symptoms of mental illness at intake. 60% of those young people reported an improvement in the frequency and severity of their symptoms at review,

- 25% of the sample achieved employment post-participation in Gateway (8% full time, 10% part time and 7% casual). This contrasts with only 6% of participants being engaged in some form of employment prior to participation in the program,
- 48% of respondents became involved in some form of mainstream education and training following their entry into the Gateway program,
- 63% reported stable and satisfactory accommodation at follow-up interviews compared to 39% at intake to the program.

## **Jesuit Community College**

In 2010 Jesuit Social Services, informed and inspired by the learning's from Gateway, championed a broader strategic agenda: the establishment of Jesuit Community College to provide a more diverse pool of learners with an appropriate pathway. However, we continue to identify a critical need to deliver discreet, specialised programs such as the Artful Dodgers Studios for young people on the fringes, who need a more focused approach to engagement and confidence-building. The Artful Dodgers Studios currently engages effectively with this highly disadvantaged group by offering arts, computing, and multi-media skills development and a small capacity to offer young people paid work as part of commissioned projects.

The Artful Dodgers Studios offers a flexible and welcoming space to develop foundational learning skills and re-engage positively in the learning process. Our aim is that Jesuit Community College will offer a natural stepping stone for this group of young people who have been building their pre-vocational and employability skills, to move on to engage and integrate with a broader group of learners, and have the confidence and skills to access a wider range of learning opportunities.

## **Community Group Conferencing**

While Gateway and Artful Dodgers initiatives are focussed on at-risk youths who are in danger of penetrating or re-entering the justice system and assisting them in turning their lives around the Community Group Conferencing program is specifically for young offenders that have penetrated the system.

Run by the Jesuit Social Service the Community Group Conferencing is an intervention that diverts people from further penetration of the justice system, focusing on rehabilitation. The program is effective on a number of counts. It brings young offenders, victims and other community members together to talk about a crime and its impacts. It encourages young offenders to take responsibility for their actions and gives those affected a chance to be heard and be involved in developing a plan to make amends.

In 2009 the Victorian Department of Human Services commissioned a KPMG review of the program. The review described the program as:

*An intervention based on restorative justice principles that aims to provide a community rehabilitation intervention to the Children's Court at the pre-sentence stage, in order to divert the young person from more intensive supervisory outcomes, increase responsibility for their offending and encourage reparation to the victim and community(KPMG 2010)*

The program has dealt with offenders of various natures including some of the violent offenders that would be subject to the Victorian Government's proposed Statutory Minimum Sentences relating to 'Intentionally and/or Recklessly Cause Serious Injury with Gross Violence' and has achieved positive outcomes for both offender and victim.

. A summary of the reviews findings were:

- ☑ Three-quarters [75.5%] of group conferencing participants were placed on non-supervisory orders and, as a result, were diverted from further progression into the youth justice system. (22% received probation orders);
- ☑ Those who participated in a group conference were much less likely to have reoffended within 12 or 24 months; (More than 80 percent had not reoffended after two years of participation in the program)
- ☑ All of the victims, family members, and the vast majority (91 percent) of young offenders surveyed agreed that they were satisfied with their involvement with the group conference process;
- ☑ For every dollar invested in the program, more than a dollar was 'saved' in the short term in diverting young people from supervisory orders and in reducing the rate of recidivism. (KPMG, 2010)

## Dual track

As part of the diversionary approach, Victoria has a unique youth sentencing option known as the 'dual-track' system. It is the only State in Australia to implement this system which is designed to prevent early entry into the adult prison system for offenders who are vulnerable or have a greater prospect of rehabilitation. The Office of the Child Safety Commissioner guarantees the dual-track system is unique throughout the world.

The Sentencing Act 1991 provides for the adult courts to sentence a young person aged 18-20 years to serve their custodial sentence in a youth justice centre as a direct alternative to a sentence of imprisonment. The dual-track system is underpinned by the principles of diversion, rehabilitation, sentencing options, intervention needs, and strong community partnerships. Assistance to divert young people from the justice system includes drug and alcohol services, support finding transitional housing and post-release support to help reduce recidivism. Jesuit Social Services strongly advocates its strengthening in Victoria through the inclusion of dual tracking at the remand stage and furthermore its application across Australia.

As a measure of the regard that the Victorian system is held in it is worth noting that the UK now includes 'young adults' aged 18 to 20 years in the juvenile category of 'young offenders' (Tye 2009; van Kalmthout, Knapen et al. 2009). This corresponds with recent amendments to the European Rules for Juvenile Offenders regarding the appropriate age grouping and treatment of young people on remand (Committee of Ministers, 2008). Specifically, young adult offenders (between the ages of 18 and 21) may, where appropriate, be regarded as juveniles and dealt with accordingly. The European authorities also have been influenced by neurological and social science insights:

*The evidence is strong that the brain does not cease to mature until the early twenties in those relevant parts that govern impulsivity, judgement, planning for the future, foresight of consequences, and other characteristics that make people morally culpable...Indeed, age 21 or 22 would be closer to the 'biological' age of maturity. (Gur, cited in Junger-Tas and Dünkel 2009)*

The prolongation of the pre-adult phase of life has been linked to changes in the employment market, particularly employers requiring increasing levels of qualifications from their employees. The practical implications of this extended 'legal juvenile' status in Europe is an increasing emphasis on therapeutic justice (Junger-Tas and Dünkel 2009). These international assessments match our agency's experiences and accordingly we have advocated to state authorities that:

*In all but exceptional circumstances, the component institutions of the Victorian criminal justice system including the courts and penal institutes, should adopt the principles of therapeutic jurisprudence when dealing with young people up to twenty-one years of age.*

When the use of custodial remand is necessary, in all but exceptional cases we have recommended that remandees up to twenty-one years of age should be separately housed in an appropriately protective environment that affords opportunities for self improvement and the strengthening of pro-social behaviour. This should be achieved by creating young adult remand places that are authentically separate from adult prison regimes. Given that the hands of judicial officers are sometimes tied by an alleged young offender's lack of stable living arrangements we have urged the funding of a community-based bail and remand program to enable arrangements acceptable to a court to be made and to provide post-release assistance to discharged remand detainees.

Further justification for dual tracking, aside from the neurological and social studies around the development of a young person's mind, can be sought from the experience of imprisonment on an offender and specifically the harsher conditions that are innate to an adult correctional facility in comparison with a youth justice facility. Nagin, Cullen and Jonson, (2009, pp. 127–128) argued that:

*It appears that harsher prison conditions do not necessarily discourage future offending and that, paradoxically, the experience of imprisonment may exert a criminogenic effect – in other words, a crime-producing effect – by providing a criminal learning environment, by labelling and stigmatising offenders as criminals or by simply constituting an ineffective way of addressing the underlying causes of crime.*

This evidence relating to young people in custody is relevant not only for young people in the justice system between the ages of 18 and 21 (as is the cohort of the dual track system), it gives further support to the notion that young offenders under the age of 18, on remand or on custodial sentences, should be kept separated from adult prisoners. Given their maturational status, their vulnerability, and their prospects for rehabilitation, young people must be kept safely and without risk of harm, separately from adults.

## Conclusion

To return to where this submission began, to make a difference in the lives of young people with multiple and complex problems a holistic response is required to address the range of problems they are experiencing. The service model needs to be flexible, recognizing that participants will not move in a smooth trajectory to success. A successful program needs to be *innovative, flexible and comprehensive* in its response to the needs of at risk young people. We have learned from many years experience working with this target group that a flexible and long-term response is required to assist 'at risk' young people to stabilise their lives and develop work-readiness skills.