



National Justice Symposium overview

October 21st – 22nd 2011

What?

On the 21st and 22nd of October, Jesuit Social Services, in conjunction with the Public Policy Institute (ACU), hosted a National Justice Symposium.

Why?

Jesuit Social Services has been working with people involved in the justice system for nearly 35 years. We have direct experience in this field and have a strong sense of what works and what does not. Having had much experience in the justice area, we see our responsibility as not only providing services for some of the most vulnerable people in our community, but also to advocate for them - we call it 'influencing hearts and minds'.

We have heard the calls for being 'tough on crime', creating more prison beds and locking people up. What we haven't heard as much about – indeed what we believe has been missing from the debate - is the **evidence**.

Evidence confirming what **really** works in creating a safe community and what works to both reduce and indeed prevent crime in the first place.

A just community is a safe community.

Given that, we felt compelled to call people together and to have this critical discussion. The theme of the Symposium was, **“What does a humane and effective justice system look like?”**

We gathered together people from across the justice system – judges, academics, Corrections officials, former prisoners, bureaucrats, non government organisations and members of parliament to ensure a robust, informed discussion. We drew on people from Victoria, NSW and the NT – all places in which Jesuit Social Services has a presence and beyond.

See the attached Program outline for speakers and bios.

Program

Day One:

The **Victorian Minister for Crime Prevention and Corrections, Andrew McIntosh, MP**, opened the Symposium. Minister McIntosh spoke about the Victorian Government's commitment to 500 extra prison beds to deal with current overcrowding. Speakers at the Symposium said these new beds should be used for rehabilitation and reform so that prisoners could be supported to re-enter the community safely.

In his keynote address, **former Victorian Supreme Court Judge and former Chair of the Victorian Adult Parole Board, Frank Vincent AO QC**, said that statutory minimum sentences had the potential not only to lead to injustice for some young people but will also be counter to the long term achievement of a safe community.

“A humane system recognises that prisons are inherently damaging institutions, I know from nearly 50 years working in the criminal justice system that detention in a youth facility or an adult prison even for a very short period and the associated stigma can have profound impact upon the later lives of the individuals concerned.

“We need to work on basis of prison as a last resort. The research shows that putting people in jail makes it more likely that they will reoffend once released.”

This echoes Jesuit Social Services’ calls to the Victorian Government to abandon its plans for this legislation. In Frank’s words, “prisons are inherently isolating and potentially destructive institutions. A sensible society recognizes this and employs the use of incarceration as the sanction of last resort.”

He spoke of there being far better ways of reducing the incidence of criminal behaviour, including dealing with the factors that have contributed to the engagement in such conduct in the first place, such as child abuse, poverty, mental illness and drug and alcohol use.

Frank also expressed his concern at the limited and sometimes skewed information provided to the public concerning what happens in our courts and that the complexity of people’s lives cannot be conveyed in a few simplistic clichés of the kind that have great attraction to the media.

Day Two:

Four panels:

- Crime Prevention and Diversion
- Sentencing and Restorative justice
- Prisons
- Transitional and Post Release Support

Throughout these discussions, we heard much about the importance of addressing crime at its root causes – disadvantage, lack of support – and that crime reduction is not achieved by the imposition of heavier sentences and that there is no evidence of this as a deterrent.

Panel 1 Crime Prevention and Diversion

In opening panel 1, **Professor Tony Vinson**, Foundation Director of The NSW Bureau of Crime Statistics and Research and former head of the NSW Department of Corrective Services, reminded us of the changing definitions of what society deems to be crime over time with ‘crime not the object but the product of criminal policy’. Tony spoke of the ‘web of disadvantage’ entrapping offenders, with for example 2% of Victorian postcodes accounting for 25% of prisoners. Professor Vinson called for “the strands of this web to be loosened in a coordinated way through prevention and early intervention”. Critical to this is the level of cohesion or ‘social efficacy’ in a community – including high levels of trust and norms of reciprocity – in communities with low imprisonment rates.

Tony’s stance was affirmed by other panel contributors. **Kate Auty**, Victorian Commissioner for Environmental Sustainability, former Victorian Magistrate in 1999 (including inaugural

Koori Court Magistrate) and senior lawyer for the Royal Commission into Aboriginal Deaths in Victoria, Tasmania and Western Australia spoke of her experiences in Victoria and Western Australia working as a Magistrate with Indigenous communities. Ms Auty spoke of a 12 year old accused of aggravated burglary who came before her court. The Child had been previously raped in a public toilet, though this information was absent from the file on his history provided to the court. Ms Auty asked, "What hope did that man or that boy have without a culturally grounded Court acting to divert him out of the jail system?"

Bernie Geary, Victorian Child Safety Commissioner, spoke of the high crossover rates between the youth justice and child protection systems and challenged us to think of a children's court with child development specialist rather than lawyers. **Patricia Faulkner**, AO, Chair of Jesuit Social Services Board, Chair Social Inclusion Board and former Secretary of the Victorian Department of Human Services, affirmed the importance of disadvantaged young people having a significant person to believe in them, give them hope and treat them with respect and dignity. Ongoing support that stays the distance, and eroding the structural barriers that equally underpin poor education, health and justice outcomes are also critical, Patricia said.

Terry Laidler, Chair of the Victorian Mental Health Reform Council, concluded the formal panel presentations, again affirming the 'web of disadvantage' in observing that we are not talking about an unlimited number of kids, that we know from a young age the signs of those at risk of extreme mental health problems or incarceration in prisons. Terry called for specialist support that can over-come the fragmented nature of the service system to provide the support these young people in need.

Panel respondents raised the particular concerns of troubled children's exclusion from schools, with one impassioned description of our awareness of "the extent of the exclusion and the horrific results of what our society does to these kids". The cuts in funding to VCAL in Victoria were decried, as was the further damage suffered through imprisonment. A fundamental principle for the justice system was that it 'do no harm'- intervene intensively and humanely when harm has occurred and intervene early and widely to address structural barriers.

Panel 2 Sentencing and Restorative justice

Greg James QC, President of the NSW Mental Health tribunal and former NSW Supreme Court Judge, introduced Panel 2, affirming the 'intuitive synthesis' approach of the judiciary in balancing the complex factors in sentencing. He called for the need to strengthen community confidence in sentencing and also to strengthen the coordination and cooperation between the multiple support services if 'problem solving courts' and restorative justice outcomes were to be successfully realised. Benefits for both offenders and victims were affirmed later in the panel by **Andrew Waters** a lawyer representing participants in the Jesuit Social Services Youth Justice Group Conferencing program. Andrew provided a powerful example where a victim was able to overcome his fear after coming face to face with his attacker through a Group Conference.

Wayne Muir, CEO of the Victorian Aboriginal Legal Service, furthered this, calling for 'front end investment' in education and training, health, welfare and evidence based social programs to make a difference and break the cycle of intergenerational trauma among

Indigenous people. A key call was for the outstanding Recommendations of the Royal Commission into Aboriginal deaths in Custody to be implemented. Wayne attested that the impacts of introducing mandatory minimum sentencing “hadn’t been thought through”- querying why anyone would plead guilty, that it would increase stress on victims who would be increasingly required to give evidence and that it would further clog the courts and prisons.

Michael Bourke, Victorian County Court Judge and Chair of the Youth Parole Board, affirmed the high incidence of child protection involvement, mental illness, impaired cognitive functioning and Aboriginal young people coming before the Youth Parole Board and how personally struck he was by the level of trauma these young people had suffered. He said that the capacity for personal relationships between the small number of people sitting on the Youth Parole Board and the young people meant better outcomes were achieved through close and direct knowledge of the young people’s circumstances .

Kerry Walker, Director of the Victorian Neighbourhood Justice Centre (NJC) spoke of the value of court ‘zoning’ as demonstrated in Philadelphia for example, ensuring the judge understands the context of the person being sentenced. The NJC is able to provide such a model of difference in community/ in relationship with offenders and observed that members of the judiciary can sometimes be the hardest to push on Court reform.

Daniel Briggs, the first Koori Court Officer in Victoria, affirmed this from an Indigenous perspective, speaking of how the Koori Court can change lives through the well thought out model of incorporating community in the court process.

Panel discussion included a call for Group Conferencing to be extended to the adult justice system broadly and affirmed that prison is a hostile place, a sanction of last resort and that rehabilitation was the best way to protect the community.

Panel 3 - Prisons

Panel 3 was introduced by **Rod Wise**, Deputy Commissioner of Operations, Corrections Victoria, who noted the strong approach to diversion across the adult and youth justice systems in Victoria with prisons being the sentence of last resort. The prison system, Rod observed, is therefore dealing with “people at the tougher end of the market”, complicating expectations for rehabilitation with people often lacking the basic skills to survive in the communities into which they are released. With a touch of humour, Rod questioned whether we would feel 7 times as safe in US cities by virtue of their 7 times greater incarceration rates? Rod said that while people question the capacity for dignity in prison, there have been great improvements over the last 30 years from a longitudinal perspective. The more recent advancements in Victoria towards rehabilitation and re-integration prison models provided through Marngoneet and the Judy Lazarus Transition Centre are promising, even while evaluations are still to be completed. Rod also noted that the reality of ‘re-habilitation’ in prison was in most cases a misnomer, and that in most cases the emphasis was on ‘habilitation’ given the chaotic circumstances that most prisoners come from.

Tony Vinson extended Rod’s view, noting that rehabilitation and decency go together. He highlighted positive approaches within the Dutch and Swedish prison systems where staff/prisoner relationships are characterised by high degrees of normalcy (calling each other

by first names for example) and cooperation. 'Guards' will meet families when they visit and go on home visits to family members, acting as intermediaries between families and the person in custody. Each prisoner has a personal plan and for prisoners who do not respond in the first instance to the interventions aimed at normalising behaviour, the level of intensity is actively increased. At its most intensive level there is one official for each prisoner. Local employers are brought into prisons to effect seamless transitions back to community.

Joe Caddy, CEO Catholic Care and chaplain to the men's maximum security prisons in Melbourne, spoke of the futility of 'doing more of what's not working' by putting people in prisons. He made a timely comment given it was Cox Plate day, stating that, "the sorts of people who will end up in prison come from chaotic backgrounds, they're not the ones that we'll see at the races, they're just not there. They haven't read life's menu, they don't get to do the sorts of things we think good healthy people should be doing". Joe also affirmed the importance of remand reform and of re-integration planning through, for example, the Judy Lazarus Transition Centre approach of allowing prisoners to go home for a day or out to work.

Frank Vincent presented the stark reality of his long experience, seeing "prisons as inherently damaging institutions". Frank voiced that there is "no statistical relationship between incarceration and the incidence of crime" – but this has been poorly communicated to the public as it "doesn't sell". He went on to add that we talk about using prison as a last resort, but really the extent to which we as a community have adopted that, makes the claim very dubious indeed. Concluding with the comment, "in so far as we are collectively able to resist [the fixing of minimum mandatory sentencing] then in my view we have an obligation to do so".

Leonard Ottone spoke of his personal experience of being made a child protection state ward at the age of thirteen which, over time, led to various encounters with the justice system. He described his experience as horrific. Leonard emphatically argued that those with drug and alcohol addictions need to be treated in the same category as people with mental illness, that drug and alcohol addiction requires a medical not a punitive response.

Panel 4 - Transition and Post Release Support

Peter Murphy, CEO Noetic Solutions, introduced Panel 4, saying that we need to begin at the end: "what you want the end point to look like". For Peter, critical to successful re-integration is a single case manager and the importance of developing family cohesion in breaking intergenerational cycles. Recounting the enormity of the obstacles and prejudice facing prisoners on release, Peter cited one ex prisoner in saying "It may as well have been a life sentence. You can take me out of jail, but you can't take the jail out of me".

Graham West, CEO of St Vincent de Paul (NSW) and former NSW Minister for Juvenile Justice continued the stress on the critical period of transition and the importance of replacing fear with hope, that "what's missing from a lot of these debates is love". Again highlighting the need to work with the whole family, Graham cited evidence affirming the value of multi-systemic therapy. 'Justice reinvestment' was called for to divert funds from prisons to community level interventions.

Julie Edwards, CEO Jesuit Social Services, cited the words of Father Brosnan, long term chaplain at the old Melbourne Pentridge Prison saying that when people leave prison they need three things – a place to live, a job, and friendship “and the hardest to provide is friendship”. Jesuit Social Services works strongly from a relationship basis, recruiting people with “a vocational heart” willing to stand in solidarity with the people with whom we work. Jesuit Social Services has recently successfully tendered to deliver the Intensive Transitional Support programs - WISP, Konnect and Link-out. Julie observed however that while the service models are described as intensive, maximum funded hours within the support packages are 30 hours of direct contact over 12 months - but experience shows that these hours could be delivered in the first month or earlier to meet the diverse and complex needs of prisoners on re-integration into the community.

Former prisoners added strong remarks. **Arthur Bolkus**, founder of prisoner support group Five8 (rhyming slang for ‘my mate’) stressed that behind a humane and effective justice system stood a humane and effective society, with family as key. Panel member **Leonard Ottone** powerfully called for prisoners to be included in the debate: “You keep talking about ‘them’ but it should be ‘we’. For a humane and effective justice system, prisoners must be consulted – ‘we’ are part of the community, ‘we’ have a right to a voice, to an opinion”.

Outcomes

Frank Brennan, SJ AO was facilitator for the Symposium. This required great skill and tact, as we had many people wishing to put their views, both from the panels and from the audience!

At the end of the day, Frank helped sum up the main principles to be drawn out over the course of the discussion, along with the main calls for action.

The principles included:

- Safe communities as a first priority
- With any interventions, we should do no harm
- Early intervention and prevention of crime
- Relationship based – respect, dignity, hope, aspiration
- Prison as last resort.

Calls for actions included:

- No minimum statutory sentencing
- Group Conferencing in adult courts
- Court ‘zoning’ - to postcode
- Spend new money where it makes a difference: prevention, diversion; reintegration, rehabilitation
- Intensive and early responses to childhood trauma – cross government, inclusion (especially in education)
- Improved prison programs
- Increase of diversion options – group conferencing, Koori courts, problem solving courts
- Justice reinvestment.

We call on Governments across the country to pay attention to the experts, to heed the evidence and to ensure that this evidence is the basis for any decisions made in relation to justice issues.