

# The Commission for Children and Young People and Child Guardian

promoting and protecting the rights, interests and wellbeing of all Queenslanders under 18

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**Advice to:** Indigenous Policy and Service Delivery Branch, Commonwealth Attorney-General's Department  
**Topic:** Response to the National Indigenous Law and Justice Framework 2009-2015  
**Date due:** 31 July 2009

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Thank you for inviting comment from the Commission for Children and Young People and Child Guardian (the Commission) on the *National Indigenous Law and Justice Framework 2009-2015* (the Framework).

Aboriginal and Torres Strait Islander children and young people in the juvenile justice system are a key priority group for the Commission. The Commission recognises that Aboriginal and Torres Strait Islander children and young people are at greater risk of coming into contact with the juvenile justice system than other Australian children.

The Commission supports the Standing Committee of Attorneys'-General (SCAG) commitment to address the complex issues regarding Aboriginal and Torres Strait Islander peoples' interaction with Australia's justice systems.

## **Commission recommendations**

The Framework has the potential to improve the outcomes for Aboriginal and Torres Strait Islander people, particularly those involved in the criminal justice system. However, to enhance the effectiveness of the Framework, the Commission suggests it:

1. place greater emphasis on strategies to reduce the numbers of Aboriginal and Torres Strait Islander children and young people coming into contact with the youth justice system
2. emphasise the importance of implementing early intervention initiatives and taking a coordinated, holistic approach to reducing the prevalence of Aboriginal and Torres Strait Islander children and young people coming into contact with the youth justice system or becoming repeat offenders
3. include strategies for regular consultation with Aboriginal and Torres Strait Islander young people in the youth justice system, and
4. require a stronger commitment from jurisdictions to adopt the strategies and actions.

### ***1. Greater focus on reducing the number of children and young people in detention centres***

Although the Commission is generally supportive of the Framework, it suggests that there could be greater emphasis on strategies to reduce the numbers of Aboriginal and Torres Strait Islander children and young people coming into contact with the youth justice system.

The over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system is not limited to adults. Aboriginal and Torres Strait Islander

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children and young people are also over-represented in the youth justice system and this trend appears to be increasing<sup>1</sup>.

The significance of youth offending is highlighted by research which found a direct correlation between juvenile and adult offending<sup>2</sup>. This suggests that the less contact a child or young person has with the youth justice system the less likely they are to enter the adult justice system.

## **2. Emphasis on early intervention strategies**

The Framework could place a greater emphasis on the importance of implementing early intervention initiatives and taking a coordinated, holistic approach to reducing the prevalence of Aboriginal and Torres Strait Islander children and young people coming into contact with the youth justice system or becoming repeat offenders.

The New South Wales' 2007 Auditor-General's report, *Addressing the Needs of Young Offenders*, recognised the value of early intervention and stated that:

“.....early intervention could prevent an escalation of the seriousness and frequency of offending by a young person in need of help. It should be pursued wherever possible.”<sup>3</sup>

Studies have consistently shown that young people in detention are more likely to have histories marked by multiple traumatic events, mental health problems, substance abuse, family dysfunction, school drop-out and untreated health problems<sup>4</sup>.

This is supported by the Queensland Commission's own survey findings which found that three quarters of respondents stated that when they first came into contact with police they had multiple health and social problems<sup>5</sup>.

The early identification of children and young people who are at risk of offending could reduce their prospects of coming into contact with the youth justice system.

According to recent research, agencies need to place a greater focus on support strategies, including improved literacy and numeracy, vocational training, living conditions and mentoring to stop young people from falling into a life of crime<sup>6</sup>.

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<sup>1</sup> Commission for Children and Young People and Child Guardian (2008) *Children and Young People in Queensland: a Snapshot 2008*. Brisbane: Author

<sup>2</sup> Kalb, G and Williams, J (2002) *The Relationship Between Juvenile and Adult Crime*, Melbourne Institute of Applied Economic and Social Research

<sup>3</sup> New South Wales Auditor-General, *Performance Audit, Addressing the Needs of Young Offenders* (2007) p4

<sup>4</sup> Abram K, Teplin L, Charles D, Longworth S, McClelland G and Dulcan M (2004) Posttraumatic Stress Disorder and trauma in youth in juvenile detention, *Archives of General Psychiatry* and Prtichard J and Payne J (2005) *Alcohol, Drugs and Crime: A Study of Juveniles in Detention*, Research and Public Policy Services no 67, Canberra, Australian Institute of Criminology

<sup>5</sup> Commission for Children and Young People and Child Guardian (2009), *Views of Young People in Detention, Queensland, 2009*. Brisbane: Author

<sup>6</sup> Kenny D and Nelson K, (2008) *Young offenders on community orders: health, welfare and criminogenic needs*, Sydney University Press

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This view is supported by the Commission's own survey findings which indicate that for some young people detention may be safer and meet their needs better than when they are not in detention<sup>7</sup>.

These young people and their families need access to appropriate support facilities and early intervention initiatives if they are to be diverted from the youth justice system.

In 2009 the Australian National Council on Drugs (ANCD) released a paper containing a number of recommendations designed to reduce the unacceptably high level of incarceration and to improve the health, wellbeing and reintegration of Aboriginal and Torres Strait Islander prisoners and youth detainees<sup>8</sup>. These recommendations include initiatives for addressing alcohol and drug misuse and educational disengagement aimed at diverting Aboriginal and Torres Strait Islander young people from a trajectory of youth offending.

### **3. Consulting with young people in the youth justice system**

The Commission recommends that the Framework includes strategies for regular consultation with Aboriginal and Torres Strait Islander young people in the youth justice system.

Young people in detention can offer valuable insight into identifying issues affecting them in the youth justice system. However, to do this, they need to be given the opportunity to speak out and to be heard.

One of the ways that the Commission listens to young people and is able to speak out on their behalf, is through its Views surveys<sup>9</sup>. In particular, the bi-ennial *Views of Young People in Detention Centres* survey reports. These reports are important because they:

- allow the voices of young people in detention centres to be heard
- help to identify reforms and early intervention initiatives to assist young people to find productive pathways and stay out of the youth justice system
- shed light on the needs and circumstances of young people as well as how and if their needs are being met, and
- help the Commission to monitor young people's safety and wellbeing over time.

The Commission has found that a high proportion of young people in detention want to participate in the Commission's surveys. For example, for the 2009 survey, 87% of the young people in Queensland's detention centres responded.

Some of the key findings from the 2009 survey<sup>10</sup> were:

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<sup>7</sup> Commission for Children and Young People and Child Guardian (2009), *Views of Young People in Detention, Queensland, 2009*. Brisbane: Author

<sup>8</sup> Australian National Council on Drugs, National Indigenous Drug and Alcohol Committee (2009) *Bridges and Barriers – Addressing Indigenous Incarceration and Health*, <http://www.ancd.org.au/>

<sup>9</sup> *Views of Young People in Detention, Queensland*, [year], *Views of Children and Young People in Foster Care, Queensland*, [year] and *Views of Young People in Residential Care, Queensland*, [year]

<sup>10</sup> Commission for Children and Young People and Child Guardian (2009), *Views of Young People in Detention*

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- detention centres need to work towards a transparent complaints process to help young people be confident that their complaints will be taken seriously
- that many of the young people said they would like an improvement in the amount of support, information and contact they receive from those outside detention, particularly in relation to legal matters
- agencies need to explore ways to maximize young people's involvement in important processes taking place outside of detention, particularly those that influence judicial and child protection outcomes
- a large number of respondents reported that they came from socially and economically disadvantaged backgrounds
- some young people said that they feel safe in detention because the centres provide them with their basic needs. For example one seventeen year old boy said, "I eat well, sleep well and youth workers look after me"
- most respondents reported that they had been in detention on multiple occasions that that they had had some involvement with the child protection system.

#### ***4. Stronger commitment by jurisdictions to adopt the Framework's strategies and actions***

The Framework's broad approach allows jurisdictions to formulate tailored approaches to address their specific issues. While this is positive there should also be a requirement for jurisdictions to make a stronger commitment to adopt the Framework's strategies and actions. Currently, the implementation of the Framework's strategies and actions is discretionary and dependent upon the policy priorities and resource capacity of each jurisdiction.

In the absence of a strong commitment there is a real risk that the Framework's initiatives may not be given sufficient priority or resourcing by jurisdictions, thereby reducing its effectiveness. Strong national leadership and support will be important to address this issue and enhance the Framework's potential to have a real and positive impact on improving the outcomes for Aboriginal and Torres Strait Islander people.

Please do not hesitate to contact Adrienne Schneider, Senior Policy Officer, Strategic Policy and Research Unit (ph: 3211 6863; e-mail [Adrienne.schneider@ccypcg.qld.gov.au](mailto:Adrienne.schneider@ccypcg.qld.gov.au)) should any aspects of this advice require clarification.