



Youth Coalition of the ACT
Submission to the Legislative Assembly
Standing Committee on Legal Affairs
Inquiry into Sentencing Options

July 2005

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The Youth Coalition of the ACT

The Youth Coalition of the ACT (Youth Coalition) is the peak youth affairs body in the Australian Capital Territory and is responsible for representing the interests of people aged between 12 and 25 years of age and those who work with them. The Youth Coalition works to actively promote the well being and aspirations of young people in the ACT with particular respect to their political, cultural, economic and social development.

The Youth Coalition is represented on many ACT advisory structures and provides advice to the ACT Government on a range of issues related to young people and youth services.

The Youth Coalition works collaboratively with a range of other service providers and organisations, a key role being the provision of coordination and analysis of the implications of ACT policy and program decisions for young people and youth services.

As the peak body for youth affairs, the Youth Coalition facilitates the development of strong linkages and promotes collaboration between the community, government and private sectors to achieve better outcomes for young people in the ACT.

The Youth Coalition has a history of experience and broad range of knowledge upon which we have drawn to prepare this submission. The Youth Coalition maintains networks and runs forums for our members, young people and interested organisations and individuals. We host a monthly forum where we discuss current issues, listen to guest speakers, participate in limited consultative processes (and learn about other opportunities to participate), and share information. We also hold a bi-annual Policy Forum and Conference and other forums and working parties as issues arise. We aim to inform our members of new developments, funding opportunities, reform processes and other issues through our regular E-Bulletin service, website, fax stream services and other avenues.

As well as its usual activities, during 2004 and 2005 the Youth Coalition conducted a number of consultations with young people to inform:

- the ACT Homelessness Strategy;
- the ACT Graffiti Strategy;
- the Alcohol and Other Drugs Project;
- policy regarding young carers and young parents; and
- a response to the ACT Government Position Paper for a Commissioner for children and young people.

These consultations were undertaken using a pathfinders (peer research) model. The Youth Coalition has also consulted with youth and community services to

inform our ACT Government Budget Submissions, our Policy Forum and bi-annual Conference, and our Policy Platform.

For the purposes of this submission, the Youth Coalition consulted with a range of service providers. We also drew upon previous Youth Coalition consultations, including one involving young people affected by homelessness. The Youth Coalition's 2005/06 Budget Submission provided the background and made recommendations regarding the juvenile justice process, and as such, we resubmit this work throughout the submission.

In 2003, the Youth Coalition prepared a response to the Sentencing Review Working Group's *ACT Sentencing Review*. We have included our response as an attachment to this submission (**Attachment A**) as we believe it provides a good overview of the Youth Coalition's position on sentencing in the ACT.

Summary of Recommendations

Recommendation 1

That the ACT Government recognise that young people with dual diagnosis make up a significant proportion of ACT young offenders, and as such develop policy to reflect this:

That the ACT Government commissions an independent review of the nature of dual diagnosis in adolescents and treatment models by an expert in the field, as recommended by the Review of Service Arrangements for Child and Adolescent Mental Health in the ACT. This review should focus on culturally and linguistically diverse young people and young Aboriginal and Torres Strait Islanders.

That formal links be made between the *ACT Mental Health Strategy and Action Plan*, the *ACT Alcohol, Tobacco and Other Drug Strategy* to improve treatment outcomes for young people with dual diagnosis.

That in considering future strategies for mental health and alcohol and other drug issues, the ACT Government develop an ACT strategy for dual diagnosis.

Recommendation 2

That the ACT Government promote the evidence on existing alternative sentencing options to the broader community, to increase knowledge and understanding about the outcomes of such options.

Recommendation 3

That the ACT Government commits funding to mental health and alcohol and other drug services and initiatives in the 2006/07 Budget, consistent with its commitment to early intervention and prevention.

Recommendation 4

That the ACT Government addresses sector viability as a significant and important issue which affects the ability of the sector to deliver programs and support to all young people. In particular, that the ACT Government make a commitment to increase salary increments and pay rates for the Youth Sector.

Recommendation 5

That magistrates consider social factors in young people's lives to ensure they deliver the most appropriate sentence to enhance the well being of the young person and encourage rehabilitation.

Summary of Recommendations (continued)

Recommendation 6

That the Children's Court develop mechanisms whereby young people can inform courts of related issues and their specific needs prior to sentencing.

That solicitors and magistrates are encouraged to use the *Guidelines for Solicitors Working with Children and Young People*. These are available from the Law Society of the ACT.

Recommendation 7

That the Children's Court review the mechanisms available to the magistrates to ensure that they are kept informed of the latest research and information regarding alternative sentencing options and programs.

That the Children's Court consider implementing a research unit which would research and develop programs and interventions that are effective in reducing involvement in crime.

Recommendation 8

That the ACT Government invest in therapeutic programs to be run in Quamby which target the offending behaviour and its causes, and assists the young person to positively participate in community life. Programs should have a specific focus on teaching young people life skills which will support them in carrying out day-to-day tasks and also their re-integration into the community.

Recommendation 9

That the ACT Government consider addressing gaps identified by the *Mapping ACT Government Funded Programs* (2003) report including developing programs to provide:

- follow up support for young people up to 18 years when they complete youth justice orders;
- support to reintegrate young people in the youth justice system back into formal education and training;
- age specific support for young adults aged 18 to 25 years in the corrections system; and
- support for young people who have been in the youth justice system and have turned 18 years old, to discourage them from moving to the adult system.

Recommendation 10

That the Committee review the Human Rights Office's audit of Quamby as part of their work for this inquiry.

Summary of Recommendations (continued)

Recommendation 11

That the ACT Government directs funding towards early intervention and prevention programs for mental health and alcohol and other drug abuse.

1. Introduction

While preparing a submission to the recent ACT Legislative Assembly Standing Committee on Health and Disability's *Inquiry into Mental Health and Accommodation*, the Youth Coalition consulted with a range of youth services regarding the issues facing their clients. During these consultations, many services spoke about how the combination of a young person's dual diagnosis (a definition is below) and homelessness often led to their involvement in the criminal justice system. In an attempt to accurately reflect the issues that many young people in the ACT are currently facing, we will focus the content of this submission on sentencing options and outcomes for young people experiencing dual diagnosis and/or homelessness.

We are disappointed to note that Bill Stefaniak, member of the Committee for Legal Affairs, tabled a legislative package designed to toughen penalties and sentences in the ACT, prior to the finalisation of this inquiry. We make this submission to the committee trusting that Mr Stefaniak has not pre-determined his responses to submissions for this inquiry.

1.1 A human rights basis

The Youth Coalition believes that all people, irrespective of their age, gender, race, ethnicity, class, sexuality, or disability have an equal right to those experiences and resources which support a satisfying quality of life. In particular, every individual has the right to equal, non-discriminatory access to services (Youth Coalition, 2004).

As the first jurisdiction to adopt human rights in local law, the ACT has the responsibility to uphold them in a consistent and equitable manner. The Human Rights Act recognises that everyone has the right to enjoy their human rights without distinction or discrimination of any kind.

The Human Rights Act 2004 (ACT) recognises that people also have other rights under domestic and international law, for example, under other treaties to which Australia is a party (ACT Human Rights Office, 2004). Examples include the United Nations Convention on the Rights of the Child (UNCROC) (ratified by Australia in 1990), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines). UNCROC recognises that children should be deprived of their liberty only as a last resort and for the shortest amount of time appropriate, and that children should have a say in decisions that affect them.

It is essential that the rights and interests of children and young people are protected at all times, especially when they are involved in the criminal justice system, where there is the risk that their rights may be taken away (regardless of the intent of the system). The Youth Coalition does recognise that the protection

of the rights and interests of children and young people must be balanced with the protection of other members of the community from real harm.

1.2 The Children and Young People Act (1999)

As raised in our 2003 response to Sentencing Review Working Group's *ACT Sentencing Review*, the Youth Coalition emphasises the need for youth justice matters to be considered in line with the main principles underpinning youth justice as outlined within the *Children and Young People Act (1999)*, specifically:

Section 68 (b) - the young person should be dealt with in a way that acknowledges his or her needs and that will provide the opportunity to develop in socially responsible ways;

Section 68 (d) - young offenders should be dealt with in the criminal law system in a manner consistent with their age and maturity and have the same rights and protections before law as would adults in similar circumstances; and

Section 68 (e) - on and after conviction, it is a high priority to give a young offender the opportunity to re-enter the community.

The Youth Coalition believes that sentencing for both young people and adults should be targeted at rehabilitation, and mindful of key conventions, rules, guidelines and legislation.

We also believe that the justice system should not be used to compensate for inadequacies in services, initiatives or programs.

2. Dual diagnosis - an influence that leads to crime

Dual diagnosis is the co-occurrence of mental health and alcohol and other drug abuse issues. Between 30% and 90% of clients seen in mental health services or alcohol and other drug services are dually diagnosed (YAPA and NAAH, 2002). In our consultations, all services reported that they see young people presenting with co-occurring mental health and alcohol or other drug issues.

Directly or indirectly, substance abuse and mental health issues have a close association with each other and together they are potent influences that lead to crime (Family and Friends for Drug Reform, 2003). There is no doubt that offenders with substance abuse and/or mental health issues make up a significant proportion of the ACT offender population, both for adult and young offenders (National Crime Prevention, 1999).

On 19 August 2002, Dr Richard Matthews, Chief Executive of the Office of Corrections Health Service of NSW reported that:

According to national mental health index 78.2% of male prisoners and 90.1% of female prisoners suffered a mental illness.

In January 2005, the Australian Institute of Criminology released their report *Drugs and crime: a study of incarcerated female offenders*, which showed that:

- mental health issues were correlated with drug dependency, violent offending and involvement in the sex trade;
- 17% of offenders had spent time in juvenile detention and this indicator of early onset of serious offending was related to drug dependency and regular property and violent offending as adults; and
- women with alcohol and drug dependencies, and those who were violent offenders, were more likely to have grown up in families with alcohol problems.

Recommendation 1

That the ACT Government recognise that young people with dual diagnosis make up a significant proportion of ACT young offenders, and as such develop policy to reflect this:

That the ACT Government commissions an independent review of the nature of dual diagnosis in adolescents and treatment models by an expert in the field, as recommended by the Review of Service Arrangements for Child and Adolescent Mental Health in the ACT. This review should focus on culturally and linguistically diverse young people and young Aboriginal and Torres Strait Islanders.

That formal links be made between the *ACT Mental Health Strategy and Action Plan*, the *ACT Alcohol, Tobacco and Other Drug Strategy* to improve treatment outcomes for young people with dual diagnosis.

That in considering future strategies for mental health and alcohol and other drug issues, the ACT Government develop an ACT strategy for dual diagnosis.

3. Sentencing options

The Youth Coalition believes that custodial sentences are inappropriate for the majority of young people coming into contact with the youth justice system (Youth Coalition, 2003).

The Beijing Rules highlight that strictly punitive approaches are not appropriate in the administration of youth justice, where considerations should always be outweighed by the fundamental interest of safeguarding the well being and the future of the young person. The Youth Coalition views custodial sentences as a

last resort where concerns regarding the safety of the public cannot be met otherwise, and understands that the courts make these decisions after considered deliberation (Youth Coalition, 2003).

The high occurrence of young people involved in the youth justice system who have multiple issues, such as dual diagnosis and homelessness, which directly contribute to their offending behaviours, means that there is a real need for non-custodial, and in particular, treatment and rehabilitation based sentencing options. It is unacceptable that young people are currently being incarcerated instead of being given appropriate treatment for their dual diagnosis.

As previously discussed, these issues are also raised in the paper the Youth Coalition submitted in response to the *Sentencing Review – Issues Paper*, which has been attached for the Committee's reference (*Attachment A*).

3.1 Evidence to show detriment of custodial sentences

Evidence shows that non-custodial sentences are more effective in reducing recidivism than custodial sentences.

Severe penalties are associated with an increased likelihood of a juvenile re-offending. For example, in the period 1986 to 1994, only 12.4% of young people appearing in the Children's Court who received a nominal penalty re-offended. The recidivism rate increased to 79.3% of offenders who received a custodial order.

In other words penalties that were 'less harsh' decreased the likelihood of re-offending. (Beyond Bars)

Research has shown (Graffam et al, 2004) that there is a descending order of desirable environments in terms of successful program deliveries to reduce recidivism:

MOST SUCCESSFUL	In the community
	In a prison that is exclusively therapeutic
	Within a therapeutic community in a conventional prison
	In a conventional prison which encourages inmate participation and self reliance and is safe for inmates
LEAST SUCCESSFUL	In a conventional prison which is neither safe nor encourages prisoners to participate in activities.

3.2 Tough penalties do not address the systemic social and health problems underlying juvenile offending

An increase of 1000 in the numbers of children subject to neglect could be expected to result in an additional 256 young people involved in crime. (Beyond Bars)

Poverty and neglect are the strongest predictors of juvenile crime. The *Sentencing Review Issues Paper* (2002) reported:

the problems confronting many ... offenders are very deep-seated and are not quickly resolved. In addition, young offenders with substance abuse and/or mental health problems may also be the victims of abusive family relationships, have delayed development and have difficulties accessing appropriate accommodation

Young people experiencing homelessness and dual diagnosis are often disenfranchised with systems that they perceive to have failed them. They do not have the supports or the resources to help them through the court system. It is these young people who are most vulnerable and require the most support throughout their involvement with the youth justice system. These young people deserve the opportunity to re-integrate into the community, undertake programs for rehabilitation and enjoy improved health outcomes and quality of life.

In a survey conducted by the NSW Corrections Health Service, it was shown that many young offenders have experienced isolation from mainstream society, with only one out of four young people with a mental health issues receiving professional help (Allerton, 2003).

I took drugs when I felt sad about my family at 11 years old... I thought my family didn't care what happened to me – young person, 17 years old, as reported in OCA, 2004.

For young people with dual diagnosis, they often have not had access to services due to a lack of youth-specific services and also due to a lack of resources. Young people experiencing homelessness face further exclusion due to their transience. Many young people are being placed at Quamby because they have no accommodation or because they are at risk of harming themselves. This can start a cycle of involvement with the criminal justice system.

These issues cannot be addressed by punitive responses to crime. Incarceration of an individual is too easily accepted as an appropriate response to broader societal issues and significant shortfalls in fundamental services and structures within the ACT community (Youth Coalition/ACTCOSS, 2003). We believe the ACT Government has a responsibility to provide education to the community on the positive results of non-custodial sentences, which are not 'going soft' on

offenders, but are a more effective way to reduce recidivism and promote rehabilitation and integration into the community.

Recommendation 2

That the ACT Government promote the evidence on existing alternative sentencing options to the broader community, to increase knowledge and understanding about the outcomes of such options.

3.3 Services and initiatives need to be available to support young people with dual diagnosis

There are existing gaps in alternative sentencing options to both the ACT Courts and Corrective Services, for those individuals with multiple issues (ie mental health, alcohol and other drug), or individuals who require special consideration (Youth Coalition, 2003).

For example, it is our understanding that the Children's Magistrate is yet to utilise Therapeutic Protection Orders (s 235 of the *Children and Young People Act* (1999)) as there are no services in the community to support the requirements of this order. This is disappointing as this order is designed to protect children and/or young people from serious harm.

The increase in the number of young people with: mental health issues, intellectual disabilities, alcohol and other drug issues, and who are involved in care and protection presenting before the Children's Court as a result of criminal matters, and entering Quamby Youth Detention Centre indicates a number of fundamental shortfalls in current policy and service delivery (Youth Coalition, 2003). The Government's response to recommendations 1 and 3 of Coroner Somes' inquest into a death at Quamby further demonstrated this.

The Youth Coalition believes that there should be an emphasis on treatment and rehabilitation of juvenile offenders affected by dual diagnosis rather than a more punitive approach.

Even though the *Children and Young People Act 1999* provides magistrates with a wide range of sentencing options, there is a lack of programs and services to give effect to these options. In our consultations, services identified a lack of:

- youth-specific dual diagnosis services (there is no dual diagnosis service in the ACT);
- youth-specific drug and alcohol rehabilitation programs;
- adolescent psychiatric inpatient unit and step-down facility;
- mild to moderate mental health services; and
- early intervention and prevention initiatives.

3.4 Sector Viability

Of course, services are limited in their capacity by the resources available to them.

The ACT Government has de-institutionalised mental health services in Canberra. The Youth Coalition (2004) supports this position as it offers "freedom, choice, autonomy, mobility, privacy, safety, and proximity to family, friends and town of origin." However, we are disappointed to note that in general, the savings resulting from de-institutionalisation have not been redirected to mental health services in the community. This lack of funding has contributed to a lack of appropriate services in the community, resulting in an increased burden on the youth justice system.

3.5 Lack of funding

Services are seriously under funded, especially non-government organisations which struggle to support consumers and their carers (Burdekin, 1993).

In the 2005/06 ACT Government Budget there was no funding directed to mental health or alcohol and other drug services and initiatives. We were particularly disappointed to note that the lack of funding in these areas considering the commitment that the ACT Government has made to early intervention and prevention.

Recommendation 3

That the ACT Government commits funding to mental health and alcohol and other drug services and initiatives in the 2006/07 Budget, consistent with its commitment to early intervention and prevention.

3.6 A reliance on community programs

Community programs and services are vital components in supporting young people experiencing homelessness and/or dual diagnosis. Cupitt et al (1999) found Governments to be relying increasingly on non-government organisations to provide services but were treating them as peripheral in the allocation of funds.

This is particularly true for mental health due to the prioritisation by specialist mental health services of moderate to severe clients. The ability of community services to respond to increased demand for services for young people with mild to moderate mental health issues is a continuing concern for the Youth Coalition, as outlined in our Budget Submissions for 2004/2005 and 2005/2006. Issues include:

- staff training;
- recruitment and retention;
- salary increments; and
- pay rates (Youth Coalition 2004, 2005).

These issues are of vital importance to the sector and need to be addressed so that it can continue to develop to become a cohesive and viable community sector in the ACT.

Recommendation 4

That the ACT Government addresses sector viability as a significant and important issue which affects the ability of the sector to deliver programs and support all young people. In particular, that the ACT Government make a commitment to increase salary increments and pay rates for the Youth Sector.

4. Magistrates must consider the social factors that contributed to the young person offending

He should have known I only took it for food – Tom, 16 , who pleaded guilty to stealing food worth \$14. He was homeless, had no form of income and was hungry (O'Connor).

In determining sentences for young people, we believe that it is vital for the magistrate to consider social factors such as:

- mental health issues;
- alcohol and other drug issues;
- homelessness;
- family circumstances including whether there is parental or significant other support;
- programmes or options for support on sentencing;
- any disability and special needs of the individual; and
- educational needs in determining sentences for young people.

It is essential for magistrates and solicitors to understand that young offenders are not a homogenous group. Research from the Australian Institute of Crime (2005) has shown that there are differences, between males and females, and younger and older offenders, in the ages of first appearance, probability of reappearance and the severity of the crime committed. These factors should be considered when handing down sentences to ensure that they are in the best interests of the young person and encourage rehabilitation.

The Youth Coalition strongly disagrees with mandatory sentencing legislation in Western Australian and the Northern Territory that sets mandatory minimum

sentences for certain offences and consequently prevents all relevant factors affecting the particular child being taken into consideration when sentencing.

Recommendation 5

That magistrates consider social factors in young people's lives to ensure they deliver the most appropriate sentence to enhance the well being of the young person and encourage rehabilitation.

4.1 Young People's participation in the Youth Justice System

The Youth Coalition believes that in determining sentences for young people, it is essential that the magistrate involves the young person in this process. This may include meeting with the young person or allowing the young person to talk about their situation.

The *Seen and Heard* report (1997) noted the:

failures, to some degree by each of the institutions of the legal process, to accommodate the changing notions of children's evolving maturity, responsibilities and abilities, and in particular a consistent failure to consult with and listen to children in matters that affect them.

Article 12.1 of CROC sets out the children and young people must have appropriate involvement in the decisions and actions affecting them. For many young people before the court, this is simply not the case:

It would be better if you were allowed to speak in court instead of sitting there and listening – Tom, 16, as reported in O'Connor.

CROC also sets out that children and young people should be fully engaged in the process, which must not be intimidating and must use accessible language. O'Connor reports that children think of themselves as being passive participants in courts:

Being 'talked about' and 'talked at', talked down to, and threatened.

Young people report that they are not given the chance to contribute to the decision-making process:

For the magistrate to ask the young person what is best for them, for example, for me to get back on the street so that I can work. I want to get an apprenticeship. Young person 16 years, as reported to the Office of the Community Advocate (OCA), 2004

Many young people do not understand the court process or even the sentence that has been delivered. This may be attributed to the fact that language in relation to sentencing can be confusing and alienating.

We commend the recently published *Guidelines for Solicitors Working With Children and Young People* (2005) and encourage their use by all solicitors and magistrates, in the hope that they will encourage increased participation of young people in the youth justice process.

Recommendation 6

That the Children's Court develop mechanisms whereby young people can inform courts of related issues and their specific needs prior to sentencing.

That solicitors and magistrates are encouraged to use the *Guidelines for Solicitors Working with Children and Young People*. These are available from the Law Society of the ACT.

4.2 Magistrates must be aware of the non-custodial sentences available to them

Magistrates dealing with young offenders must be made aware of the range of available sentencing options. They should be informed properly and systematically of the alternatives to detention. This requires regular flows of information from government departments and other organisations about relevant community programs.

4.3 Increasing the knowledge base

The Youth Coalition supports the longitudinal research study currently being undertaken by the OCA regarding transitions by young people in and out of Quamby.

The Youth Coalition believes that it is important for government, courts and Corrective Services to be kept updated on all sentencing options (both national and international) and practises which have been subject to sound evaluation. For example, the Youth Coalition believes that there is a need for more research on transition between juvenile courts and adult courts to inform magistrates' decisions.

This could be best achieved by the establishment of a research unit to service the Children's Court. This unit could research best practice mechanisms for reducing recidivism and mechanisms to improve rehabilitation. This unit could also be the mechanism through which magistrates are informed of what is happening in other jurisdictions and their applicability to the ACT.

Example – what is happening in NSW

NSW Legal Aid runs a Youth Drug and Alcohol Court which looks at a young person's needs and gives them access to:

- a caseworker to help them with their program;
- health services;
- education and employment training programs;
- accommodation assistance.

The program lasts at least six months, and at the end of the program the young person will still be sentenced, but the court will take into account that the young person has completed the program.

Very few Australian criminal justice programs have been rigorously evaluated (Chen et al, 2005). The unit described above could also include an evaluation team so that magistrates can be informed about what types of programs have been shown to be successful with certain population.

Recommendation 7

That the Children's Court review the mechanisms available to the magistrates to ensure that they are kept informed of the latest research and information regarding alternative sentencing options and programs.

That the Children's Court consider implementing a research unit which would research and develop programs and interventions that are effective in reducing involvement in crime.

5. Inappropriate detainment at Quamby

...the vast majority of young people in Quamby are on remand and are detained overnight or for a few days only (55% of all admissions to Quamby will be for five days or less) (ACT Legislative Assembly Standing Committee on Community Services and Social Equity, 2004).

A continual number of young people with multiple issues are inappropriately detained in Quamby due to what we believe is a lack of appropriate options and services in the community (such as when a young person may require therapeutic intervention). In these cases Quamby may be used by the court in an attempt to keep the young person and the community 'safe'. The issues pertinent to the young person's offending behaviours would obviously be best met through an alternative option, however there is a gap in youth specific

services for those issues in the ACT. The Youth Coalition is concerned that magistrates are forced to detain young people in Quamby because this is the only option to guarantee their safety, and believe that this situation does not safeguard the well being and the future of young people.

5.1 Inappropriate detainment due to homelessness

An inability to secure 'appropriate' accommodation has often meant that young people are remanded in custody as a direct consequence of their homelessness:

It is our understanding that if a young person charged by the police has no 'fixed' address they are likely to be remanded to Quamby overnight. The young person's accommodation status may also affect the decision of the court, where remand in Quamby may be more likely. This conflicts greatly with principles of diversion underlying the delivery of youth justice.

Bail orders requiring young people to reside in a youth refuge or in the family home are in danger of being broken if issues related to behaviour management or conflict existing within the family home are not addressed. This emphasises the fact that it is essential for magistrates to take into consideration individual issues when making bail orders.

5.2 Inappropriate detainment due to Dual Diagnosis

The Youth Coalition is particularly concerned that a large number of young people are inappropriately placed at Quamby due to a lack of appropriate supports and services in the community. The increase in young people detained at Quamby presenting with mental health issues, alcohol and other drug misuse and dual diagnosis issues (and intellectual disabilities, who are survivors of sexual/physical abuse and who are involved in the care and protection system) is a consequence of continuing gaps in services for families, children and young people in the whole spectrum of intervention. If these service needs are not addressed, Quamby will continue to be an inappropriate service response for young people with challenging and complex needs.

Incarceration in Quamby will not change the factors within the broader community which contributed to a young person's behaviour.

We believe that too many young people are being released back into the community only to face exactly the same situation as when they were sentenced. For many young people, this means enduring homelessness, dual diagnosis and a lack of support for their issues.

I didn't get any drug counselling in Quamby. The report said that I did, but I didn't – young person 16 years, as reported by OCA, 2004

Therefore, the social context of young people's offending behaviours must be considered. In order for young people to re-enter the broader community successfully, there must be consideration of the issues that resulted in their involvement with the youth justice system.

Recommendation 8

That the ACT Government invest in therapeutic programs to be run in Quamby which target the offending behaviour and its causes, and assists the young person to positively participate in community life. Programs should have a specific focus on teaching young people life skills which will support them in carrying out day-to-day tasks and also their re-integration into the community.

Further, there needs to be a continuum of care which includes follow up with the young person after they have left Quamby. OCA (2004) reported that young people expressed their need for accommodation options that provide them with security and stability, and, for those with alcohol and other drug addictions, appropriate avenues to seek drug rehabilitation.

It's hard to do things by yourself... you need help – 16 year old young person, as reported in OCA, 2004.

Mapping ACT Government Funded Programs (2003) found that there are few services tailored to provide centralised support and ongoing assistance to young people when they leave the youth justice system.

Assistance is provided to young people once they are placed on community or detention orders by the courts, but this is confined to the time the young people are on the orders. Services for young people with life risk factors are available, but could be more tailored to the needs of young offenders.

We encourage the committee to review this report, as it outlines current gaps in existing youth justice programs.

Recommendation 9

That the ACT Government consider addressing gaps identified by the *Mapping ACT Government Funded Programs* (2003) report including developing programs to provide:

- follow up support for young people up to 18 years when they complete youth justice orders;
- support to reintegrate young people in the youth justice system back into formal education and training;

- age specific support for young adults aged 18 to 25 years in the corrections system; and
- support for young people who have been in the youth justice system and have turned 18 years old, to discourage them from moving to the adult system.

We were consulted in the audit of Quamby undertaken by the Human Rights Office, and look forward to reviewing the final report. If possible, we recommend that this Committee review the findings of this audit as part of this inquiry.

Recommendation 10

That the Committee review the Human Rights Office's audit of Quamby as part of their work for this inquiry.

6. A need for early intervention and prevention

Putting resources into social service programs, programs to improve school retention rates, and programs to improve literacy would have a much more profound impact on lowering the crime rate than implementing harsh penalties. (Beyond Bars)

The Youth Coalition believes that the number of young people going through the youth justice system would decrease if services were available to provide prevention and early intervention.

The *Blueprint for Young People at Risk* refers to *What works in reducing young people's involvement in crime?* by the Australian Institute of Criminology (AIC). The report emphasises the importance of early identification of young people 'at risk' of offending and addressing their problems through interventions.

The AIC research gives the ACT Government valuable information on the features successful crime prevention programs for young people should include. It also provides a basis for assessing programs already in place in the ACT to prevent crime.

Dual diagnosis specific

Cupitt et al (1999) recommended 'added emphasis in health budgets' for mental health prevention. This need has also been identified and within the priority actions of the *ACT Mental Health Strategy and Action Plan 2003-08* 'prevention of mental health problems' and 'increased capacity for early intervention'(p45, 64, 65).

Our consultations indicate that there is a real need for early intervention and prevention initiatives for dual diagnosis. There are few resources currently being

directed to this issue. We commend programs that provide early intervention and prevention and believe that more funding should be directed towards similar initiatives.

Recommendation 11

That the ACT Government directs funding towards early intervention and prevention programs for mental health and substance abuse.

7. Conclusion

The Youth Coalition strongly believes that custodial sentences are not appropriate for the majority of young people involved in the youth justice system. The ACT Government needs to move away from punitive measures and focus on rehabilitation and integration into the community. Evidence shows this is best done in the community itself rather than in a detention facility. This is especially true when one considers the proportion of young offenders with dual diagnosis.

Magistrates require support, information and resources so that they can confidently make well-informed decisions based upon best practice when sentencing young offenders. Currently, magistrates are often forced to send young people to Quamby because there is a lack of youth-specific services available to support them in the community.

It is unacceptable that a youth detention facility is the only place young people can go to be safe and receive the supports/treatment that they require for improved health.

We recognise that community expectations impact upon ACT Government decisions regarding sentencing of all offenders. However, research shows that punitive measures are not an effective mechanism to reduce recidivism. The ACT Government needs to increase funding for youth-specific mental health and alcohol and drug services, particularly in the areas of early intervention and prevention. Until this occurs, the human rights of young people will continue to be undermined, health outcomes will not improve and there will be little opportunity for rehabilitation and reintegration into the community.

8. Attachments

Attachment A – Youth Coalition of the ACT's response to the Sentencing Review Working Group's ACT Sentencing Review

9. Extended Reference List

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