

GOVERNMENT RESPONSE TO NSW JUVENILE JUSTICE REVIEW

Introduction

The NSW Government welcomes the Noetic Group's *Strategic Review of the New South Wales Juvenile Justice System* (the Report). The Government acknowledges the Report's finding that the number of young people in custody is rising, there is significant over representation of Aboriginal young people in custody and that more effective options may be available to reduce recidivism amongst young people. As the Report notes, effectively reducing juvenile crime is a complex undertaking requiring a strategic approach and coordinated action across government agencies, non-government organisations, and the community.

The Government places a strong emphasis on preventing juvenile crime and rehabilitating young offenders using diversionary and restorative justice programs rather than the traditional criminal justice system. The principles underpinning the NSW justice system specify that juveniles are only sentenced to detention as a last resort. However, the Government makes no apology for using detention to protect the community from those who commit serious, violent crime, even when they are juveniles.

In addressing juvenile offending, as in other policy areas, the Government is embedding the principle of prevention and early intervention into its decision-making. The Government continues to seek ways to shift resources to prevention and early intervention programs, and to gain a better understanding of the costs and benefits of early intervention, particularly when benefits can flow across agencies and outcomes can be improved for children, young people and the community as a whole.

The Report puts forward three overall options for reform, with a set of recommendations grouped under each option. In developing this response, recommendations have not been considered according to these specific options. Rather, all recommendations have been considered on their individual merits.

Current landscape in the NSW juvenile justice system

The Government continues to implement evidence based approaches to reduce juvenile crime and re-offending. The implementation of the State Plan has served as a catalyst for our efforts to ensure agencies work together to reduce re-offending. A number of new programs and initiatives are being implemented through the *Keep Them Safe* reforms of the child protection system and the prevention and early intervention strategies under the State Plan. However, it is clear that more work needs to be done to reduce the number of children and young people entering the juvenile justice system, in particular to reduce the over representation of Aboriginal young people in the juvenile justice system.

In NSW, criminal responsibility legally commences at the age of 10. Under criminal law, a child is defined as a person under 18 years of age. Various aspects of criminal justice are administered in NSW by different government agencies including the NSW Police Force, the Department of Justice and Attorney General and Juvenile Justice. These agencies work closely together to reduce re-offending among young people.

Juvenile Justice works with young offenders, the majority of whom are between ten and seventeen years old, who have admitted, been charged with, or found guilty of, criminal offences. These young people include those who are referred and accepted for youth justice conferences, those who are remanded in custody pending appearance at court, and those sentenced by a court to community based supervision or to a period in custody in a juvenile justice centre.

The Auditor General's Performance Audit (2007) recognised that the ability of Juvenile Justice to impact on juvenile re-offending is highly dependent on other agencies' willingness to work with juvenile offenders. Research also demonstrates that the most effective way of interrupting the cycle of re-offending in young people is to first identify criminogenic needs and to respond to those needs with targeted interventions.

The services delivered by Juvenile Justice aim to reduce the risk of young people re-offending, and to assist them in addressing the underlying issues and behaviours that contribute to re-offending. There are significant overlaps between young people with care and protection issues and those who have offended. In addition, many young offenders are disengaged from the education system, and many have complex health, disability and mental health issues that bring them into contact with the health and disability service systems – often prior to their involvement in the formal justice system. Further, it is known that a relatively small group of juvenile offenders are responsible for a disproportionate amount of crime. These young people and/or their families are known to most human service and justice agencies. They are the families that are likely to require intensive and ongoing support and assistance.

Agencies like the Department of Health, Housing NSW, the Department of Education and Training, Community Services and Ageing, Disability and Home Care will typically know those young people who will end up in the juvenile justice system. The Government is working to better coordinate early intervention and prevention services to these young people who are at risk of offending.

For example, since 2006, the Government has run the Anti-Social Behaviour Pilot Project. The project seeks to improve case coordination across agencies regarding the management of complex cases and crisis cases involving children, young people and families. Based on early intervention, it allows agencies to respond rapidly at the local level and provide at-risk young people with intensive multi-agency support.

While most public attention is paid to the custodial services provided by Juvenile Justice, it should be noted that around 90 per cent of young people under Juvenile Justice supervision are not in custody but dealt with in the community.

While Aboriginal over-representation is highest in the sentenced to detention population, Aboriginal offenders are over represented in all of the Juvenile Justice service streams (conferencing, remand, community supervision and custody). However, the lowest level of participation for Aboriginal offenders is in the diversionary scheme, youth justice conferencing. Research indicates that entrenched socio-economic disadvantage and differential impacts of the law on Aboriginal people are the persistent drivers of Aboriginal over representation.¹

¹ Baker, J., *The scope for reducing indigenous imprisonment rates*, NSW Bureau of Crime Statistics and Research, Crime and Justice Bulletin, Number 55, March 2001

Response to Report Recommendations

Evidence- based approach

Efforts to reduce juvenile offending should be based on available evidence. The Government strongly supports this approach. The Report refers to a wide range of national and international research on strategies to reduce juvenile offending behaviour and aims to draw together the existing body of evidence on responses to juvenile crime.

The Government seeks out evidence on effective juvenile justice practice from many sources including internal research and reviews, other jurisdictions – national and international, academia, non-government organisations and the Bureau of Crime Statistics and Research (BOCSAR). The evidence base for all new legislation, policy and programs is subject to rigorous examination within Government. In addition, the Legislative Review Committee scrutinises all Bills introduced to Parliament and all regulations subject to disallowance provisions in the *Legislation Review Act 1987*.

The Government recognises that the nature of juvenile offending, and therefore the most effective methods to prevent and address it, differ from adult offending. Research indicates that involvement in crime tends to increase with age and typically peaks at 19 years of age before tapering off. This is supported by evidence that young people's brains are still developing in ways that affect their impulse control and their ability to choose between anti-social behaviour and socially acceptable courses of action.

The Government recognises that juvenile offenders should be dealt with in an age appropriate way. The Government aims to ensure that juvenile offenders face the consequences of their actions and learn to take responsibility for their behaviour.

For those young people in custody who have not committed serious or violent crimes there is scope to provide interventions in the community. This strategy is in line with international research, which indicates that confining young people to custody is not effective in improving behaviour and may lead to increased crime and increased costs to government. Research has also found that young people given custodial orders are no more likely to re-offend than young people given non-custodial orders.

A number of recommendations in the Report identify ways to further refine existing policies and practices that allow for the appropriate diversion of juveniles from the criminal justice system.

Recommendation 1: *'The major political parties in NSW develop a bipartisan approach to juvenile justice that sets out the underpinning philosophy and principles of the NSW juvenile justice system.'*

Recommendation 2: *'The NSW Government and the Legislation Review Committee of the NSW Parliament introduce a children and young person's impact statement into legislation and policy development and amendment processes'*

Recommendation 5: *'The NSW Government conduct community forums to better educate the public on all aspects of the juvenile justice system.'*

The Government supports the development of a bipartisan approach to juvenile justice. Section 6 of the *Children (Criminal Proceedings) Act 1987* and section 7 of the *Young Offenders Act 1997* set out the principles currently underpinning the NSW juvenile justice system:

- that children have rights and freedoms before the law equal to those enjoyed by adults and, in particular, a right to be heard, and a right to participate, in the processes that lead to decisions that affect them.
- that children who commit offences bear responsibility for their actions but, because of their state of dependency and immaturity, require guidance and assistance.
- that it is desirable, wherever possible, to allow the education or employment of a child to proceed without interruption.
- that it is desirable, wherever possible, to allow a child to reside in his or her own home.
- that the penalty imposed on a child for an offence should be no greater than that imposed on an adult who commits an offence of the same kind.
- that it is desirable that children who commit offences be assisted with their reintegration into the community so as to sustain family and community ties.
- that it is desirable that children who commit offences accept responsibility for their actions and, wherever possible, make reparation for their actions.
- that, subject to the other principles described above, consideration should be given to the effect of any crime on the victim.
- that the least restrictive form of sanction is to be applied against a child who is alleged to have committed an offence, having regard to matters required to be considered under the *Young Offenders Act*.
- that children who are alleged to have committed an offence are entitled to be informed about their right to obtain legal advice and to have an opportunity to obtain that advice.
- that criminal proceedings are not to be instituted against a child if there is an alternative and appropriate means of dealing with the matter.
- that criminal proceedings are not to be instituted against a child solely in order to provide any assistance or services needed to advance the welfare of the child or his or her family or family group.
- that, if it is appropriate in the circumstances, children who are alleged to have committed an offence should be dealt with in their communities in order to assist their reintegration and to sustain family and community ties.
- that parents are to be recognised and included in justice processes involving children and that parents are to be recognised as being primarily responsible for the development of children.
- that victims are entitled to receive information about their potential involvement in, and the progress of, action taken under this *Young Offenders Act*.
- that the over representation of Aboriginal and Torres Strait Islander children in the criminal justice system should be addressed by the use of youth justice conferences, cautions and warnings.

In addition, the Government seeks to reduce juvenile crime and re-offending by embedding the principle of prevention and early intervention into its decision-making and service delivery.

The Government recognises the importance of ensuring the community understands how the juvenile justice system is working to make communities safer.

Juvenile Justice will work with the NSW Police Force to provide information on the juvenile justice system to the community through forums such as Community Safety Precincts Committees and Crime Prevention Partnerships. This will include explaining how Juvenile Justice assists in the management and prevention of youth related crime. This includes the role of Juvenile Justice, management of juveniles, the nature of juvenile offending and support programs being offered to address the offending behaviour of juveniles.

Community Safety Precincts Committee forums are conducted in Local Area Commands to address any issues or concerns the community may have about crime or a crime related issue.

Crime Prevention Partnerships coordinate whole of government responses to crime and crime related issues.

More generally, comprehensive information on the NSW juvenile justice system is available on the Juvenile Justice website, www.djj.nsw.gov.au. This includes information for families whose children have come into contact with the system. Characteristics of the population within the NSW juvenile justice system and the activities and strategies of NSW Juvenile Justice are also set out in the agency's annual report.

The Government established the Commission for Children and Young People to ensure that the needs and interests of children are fully taken into account in Government decision making. The Commission reports to the Minister for Youth who represents the interests of children and young people in formal decision making processes, including the Cabinet.

The Government, through the Commission, will keep under review the matter of whether there is a need to complement existing mechanisms for assessing impacts on children and young people with a formal impact statement.

Recommendation 3: 'No juvenile justice pilot program be approved without an evaluation framework and associated funding.'

Recommendation 4: 'A common evaluation framework for all programs and pilots related to juvenile justice is developed.'

Juvenile justice pilots and programs are monitored on an ongoing basis. In addition, independent evaluations and reviews are conducted where appropriate. The continuation of each pilot is considered annually in determining funding arrangements for the following year. It should be noted that the nature of the evaluation for each pilot will be dependent upon a range of factors including the size of the program.

Legislation

This section of the Report discusses the operation of three pieces of NSW legislation: the *Young Offenders Act 1997*, *Bail Act 1987* and *Children (Criminal Proceedings) Act 1987*.

The *Young Offenders Act 1997* provides the legislative framework for dealing with certain juvenile offenders through the use of warnings, cautions and youth justice conferences, rather than through court proceedings.

The *Bail Act 1978* outlines the requirements relating to bail to be applied by the courts and NSW Police.

The *Children (Criminal Proceedings) Act 1987* outlines procedures for criminal matters dealt with in the Children's Court.

Young Offenders Act scheme

Recommendation 8: *'The Department of Justice and Attorney General monitor the effectiveness of cautioning and any unintended consequences caused by limiting the amount of cautions that can be received.'*

The Young Offenders Act was amended in 2002 in order to limit the number of cautions that a young offender could receive. The then Attorney General explained the rationale for this change in introducing the amending Bill to Parliament. The Attorney stated that the change was made in recognition of the fact that, if a young person was repeatedly receiving cautions, a more intensive form of intervention might be necessary in order to assist them to address their offending behaviour. The Attorney noted that, in such cases, conferences might have a better outcome than issuing further cautions, and in others, it might be more appropriate to prosecute the young offender before the court.

As the Report notes, in 2005, the Law Reform Commission reviewed the limit on cautions and found no evidence that the limit was causing injustice. The Commission recommended that the effects of the limit be monitored.

In 2006, BOCSAR completed an examination of re-offending rates over five years among young people cautioned by police or who participated in a youth justice conference. The study noted that the re-offending rate of young people who received cautions appeared to be lower than that of young people who appeared in the Children's Court.

The Government is not aware of any injustice caused by the three caution limit but will continue to monitor this issue. It should be noted that the majority of juvenile offenders are dealt with under the *Young Offenders Act 1997*.

Recommendation 13: *'The Department of Justice and Attorney General review the Law Reform Commission's recommendations regarding specific exclusions and inclusions of offences covered by the Young Offenders Act 1997.'*

The Government notes that the Law Reform Commission was not persuaded that any of the offences currently excluded by section 8(2) of the Young Offenders Act should be included. The Commission recognised that these offences are more

appropriately dealt with outside the diversionary process provided for by the Act, and that more targeted diversionary programs may be more appropriate for particular types of offences (e.g. drug offences).

Notwithstanding this, the Department of Justice and Attorney General (DJAG) will consider the justifications for the exclusions and inclusions contained in the Act to ensure that young offenders are not inappropriately denied access to diversionary options, and that victims are given the opportunity to be involved in the criminal justice process where appropriate.

Youth Justice Conferencing

Recommendation 9: *'Juvenile Justice incorporate targets for the improvement of completion of outcome plans into its Strategic Plan.'*

Recommendation 10: *'Juvenile Justice, with the assistance of NSW Police and the Children's Court, explicitly incorporate the improvement of participation of victims in youth justice conferencing into their Strategic Plan.'*

Recommendation 11: *'Juvenile Justice, in conjunction with the NSW Police Force and the Children's Court, develop a plan to reduce delays in the conduct of youth justice conferences in order to meet the timeframes stipulated by the Young Offenders Act 1997.'*

Recommendation 12: *'Juvenile Justice strengthens the youth justice conferencing process to incorporate an improved risk and needs assessment. This will involve the establishment of necessary systems (people, process and technology) to allow information to be gathered, and where appropriate, action taken to provide additional support to individuals and families.'*

Youth Justice Conferencing is one of the most direct and proven to be effective justice options available to ensure young people confront the consequences of their actions. Youth Justice Conferencing is based on restorative justice principles. Young people must face their victims. Victims have the opportunity to express their view on the impact of the crime and to have a say in outcome plans.

In 2008/09, Juvenile Justice achieved a 4 per cent increase in the number of outcome plans successfully completed, from 91.2 per cent in 2007/08 to 95 per cent in 2008/09. Since 2004/05, the rate of completion of outcome plans has consistently been above 90 per cent.

The Juvenile Justice Corporate Plan includes measures to assess performance in each of its arms of supervision, including Youth Justice Conferencing, community based services and custodial services. Youth Justice Conferencing targets relate specifically to reducing re-offending through increased completion of outcome plans, increased referrals and victim participation.

In 2000, the Bureau of Crime Statistics and Research found that 91 per cent of conference participants surveyed believed that their conference was "somewhat fair" or "very fair" to the victim. International research also reports that restorative justice conferencing helps victims to recover more quickly from the trauma of crime, benefitting both the victim and the community.²

² Restorative Conferences Reduce Trauma From Crime - Angel 2006 International Institute for Restorative Justice.

Research by BOCSAR indicates that the beneficial effects of conference participation over court appearance are larger for violent crime. Aboriginal juveniles are also less likely to re-appear in court or conference following participation in a conference.

Conferencing produces a reduction of up to 15-20 per cent on both the rate of re-offending and risk of reappearance compared with going to court.³

The Juvenile Justice Corporate Plan has a range of strategies in place to continually improve the operation of youth justice conferencing including;

- Increasing the proportion of conferences that involve victims and relevant individuals and organisations.
- Maintaining a systematic program of promotion of youth justice conferences with peak agencies and the community.
- Identifying and analysing the reasons victims choose not to participate in conferences and using this information to inform practice.

Furthermore Juvenile Justice has developed a Strategic Information System that will allow it to better monitor, amongst other things, the referrals, progress and outcomes of Youth Justice Conferencing.

For some offences no person has suffered direct harm as a result of an act committed by a young person. These offences might include drug or knife possession or offensive language. In 2008/09, 18.2 per cent of referrals to a youth justice conference were for 'victimless offences'. In the same year, 50 per cent of conferences held included participation of victims or their representatives. Juvenile Justice provides support to victims who choose to participate in youth justice conferences (noting that it is always the victims' choice whether or not to participate) and works continually to improve victim attendance. Victim participation is one of the key tenets of restorative justice.

Victim Services provides a range of information and support to assist victims through the criminal justice system. This includes a 24 hour Victims Access Line providing information and referral to support services, access to free counselling and compensation for victims of violent crime.

In 2007, Juvenile Justice instituted a Needs Checklist for Youth Justice Conference convenors to identify the underlying causes of a young person's offending behaviour. Addressing these factors increases the opportunities for early diversion of appropriate young people away from the formal criminal justice system.

Juvenile Justice is developing a number of strategies to improve the timeliness of youth justice conferences. Juvenile Justice is currently undertaking recruitment action to increase the number of convenors for conferences. The recruitment of additional convenors will increase the agency's capacity to respond to referrals and reduce the time between referral and conference.

Juvenile Justice continues to be committed to working with the NSW Police Force and courts to deliver an effective diversionary scheme.

³ Reducing Juvenile Crime: Conferencing versus Court - G.Luke & B. Lind, Crime & Justice Bulletin, NSW Bureau of Crime Statistics and Research, April 2002.

In July 2009, the Government amalgamated 160 separate NSW Government agencies into 13 super-departments. As a part of this process the Department of Human Services (DHS) was formed, which brings together Aboriginal Affairs, Ageing, Disability and Home Care, Community Services, Juvenile Justice, Housing NSW and the Aboriginal Housing Office.

A focus for the new DHS is to support better service delivery and achieve better service outcomes, with a particular emphasis on early intervention and prevention. As DHS develops a road map for better service provision, supporting adolescents with complex needs will be an important priority.

Bail

Recommendation 6: *'Amend the Children (Criminal Proceedings) Act 1987 (Section 50) and Bail Act 1978 (Section 5) to reverse the precedence so that children specific legislation applies to all aspects of bail proceedings.'*

Recommendation 7: *'If Recommendation 6 is not accepted, then amend the Bail Act 1978 to introduce separate criteria for young people, consistent with the principles in Section 6 of the Children (Criminal Proceedings) Act 1987.'*

Recommendation 17: *'Information sharing protocols and systems are established to enable a single point of contact at the Children's Court to source all the required information for a bail determination, and provide it to Magistrates and/or solicitor.'*

Recommendation 18: *'The NSW Police Force and Department of Justice and Attorney General establish ongoing monitoring arrangements to ensure that appropriate bail conditions are being imposed on children and young people (i.e. bail conditions that are commensurate with the offence and are no more onerous than is required by the Bail Act 1978). The NSW Police Force and the Department of Justice and Attorney General provide regular reports to the Bail Working Party to inform its research.'*

Recommendation 19: *'The systems and protocols are established to ensure that all children and young people have the capacity to understand and comply with bail conditions before they are imposed.'*

Determinations regarding the granting of bail and the appropriate conditions, if any, to place on a grant of bail, are not made lightly by the courts or police. In making determinations, the decision maker must assess the risk to the community including whether or not the accused will appear as required at court, whether further offences may be committed or if witnesses or evidence will be interfered with. The decision maker is however also required under the *Bail Act* to take into account the personal circumstances of the accused.

The *Children (Criminal Proceedings) Act (C (CP) Act)* requires a court exercising jurisdiction under that Act to be governed by the principles set out in section 6, which are uniquely applicable to children. Decisions under the *Bail Act* are one determination made by a court exercising jurisdiction under the *C (CP) Act*. The principles set out in section 6 therefore apply except to the extent that there is any inconsistency with the *Bail Act*. In addition the *Bail Act* itself provides additional protection to children and explicitly requires the decision maker to take into

consideration any special needs of the offender arising from the fact that they are under 18 (section 32(1)(b)).

The Government has put in place a number of support services and strategies to assist young people in meeting their bail conditions, including legislative requirements relating to young people in police custody, advice services and legal representation. The Bail Act also enables a person to seek a review of a bail decision in the Supreme Court. This includes seeking a review of a decision to impose bail conditionally. This provision enables the Supreme Court to exercise a supervisory role over lower courts and other bail decision-makers as a means of ensuring that the law is properly adhered to, including requirements under the *Bail Act* that conditions must be commensurate with the offence and no more onerous than required under the Act.

Legislation also currently provides that children in police custody must have the benefit of a support person to whom any bail conditions can be explained and that the person responsible for the welfare of the child must be contacted upon arrest. Legal Aid NSW also provides a telephone advice line which can be contacted at any time by children who are under arrest. Children in the custody of a court are entitled to a lawyer provided by Legal Aid NSW if they do not have their own lawyer. The lawyer has a duty to explain to their client any bail conditions.

District and Supreme Courts address issues regarding fitness to plead for all persons (including children) on remand or on bail. Under the *Mental Health Forensic Provisions Act* people can be referred to the Mental Health Review Tribunal if found unfit to plead. Provisions under the Act allow courts, prior to conducting a fitness inquiry to grant a person bail, to request that the person undergo psychiatric examination, or that a psychiatric report be written on the person. The Tribunal can also make recommendations to courts regarding a person's care or treatment, and courts can make various orders regarding suitable arrangements for a person's placement or bail, depending on the Tribunal's advice. The Government will examine existing mechanisms and investigate whether any further measures may be required to assist young people to better understand their bail conditions.

The Government is also committed to an ongoing process of review and evaluation of the *Bail Act* and it is anticipated that a Review of the Act will be released for public comment.

Recommendation 22: 'Juvenile Justice work closely with the NSW Police Force as part of the implementation of the Bail Hotline to ensure its ongoing utilisation and success.'

Juvenile Justice is working closely with the NSW Police Force as part of the implementation of the Bail Assistance Line to ensure its ongoing utilisation and success. The Bail Assistance Line will commence in late 2009-10.

Accommodating Young People

Recommendation 20: 'Juvenile Justice assume the legislative responsibility for placing children and young people in suitable accommodation when they are given reside as directed bail conditions. Juvenile Justice be appropriately funded through the Keep Them Safe reforms to undertake this responsibility in conjunction with the community sector.'

Recommendation 21: *'Juvenile Justice review the situation of every child and young person remanded in custody because of a lack of suitable accommodation every 48 hours to ascertain whether an accommodation option has become available.'*

Recommendation 23: *'Juvenile Justice establish service level agreements with existing accommodation service providers to guarantee placements for children and young people who would be held on remand if they were unable to find suitable accommodation. Sufficient funding be provided to ensure that current and future demand is met.'*

Recommendation 24: *'As part of the service level agreements described in Recommendation 23, Juvenile Justice provide personnel for additional supervision requirements and advice on court processes and support during bail hearings.'*

Juvenile Justice staff assess the reasons that each young person is remanded into custody. Where a lack of suitable accommodation is identified as a reason a young person has been remanded into custody, Juvenile Justice staff work on addressing their accommodation needs.

Juvenile Justice utilises the Youth Accommodation Line, which identifies vacancies on a daily basis in youth accommodation services for young people within Juvenile Justice custody. Casework staff regularly review young people's circumstances to determine whether bail variations may be necessary and appropriate in order to facilitate the release of the young person.

Juvenile Justice utilises brokerage funds to purchase additional support / services for young people who would otherwise be remanded in custody. Community-based staff can use 'brokerage' funds to purchase accommodation, material aid, specialist services and/or other essential services to support the young person to meet and comply with their bail conditions. Research indicates that many young people are refused bail due to the lack of stable accommodation and disconnection from family and community. The brokerage funds facilitate the provision of these important support services where they are available.

Juvenile Justice is in the process of developing a Bail Assistance Line (BAL) to address a range of factors including accommodation issues that may result in Police remanding a young person into custody.

To ensure a young person can meet bail and avoid a night in a Juvenile Justice Centre or in a police cell, the Bail Assistance Line staff will speak directly to the young person and liaise with non-government organisations to seek suitable accommodation, transport and case management support.

Recommendation 53: *'If the Review's recommendations on reducing the number of juveniles on remand are not implemented, Juvenile Justice develop contingency plans incorporating capital strategies and policy approaches to handle greater numbers than they can accommodate.'*

Juvenile Justice has a Total Asset Management (TAM) Plan that focuses the agency's management of public assets on supporting the current and future delivery of services. Effective implementation of the TAM Plan gives agencies a planned approach to managing assets more efficiently and ensures the asset base is best

configured to support staff, technology and other resources required to deliver services.

The TAM Plan records the forward planning of the use of the agency's assets to support service delivery in a changing environment. It is reviewed and updated to reflect key changes to the service delivery environment on an annual basis.

Recommendation 54: *'The NSW Government conduct an independent evaluation of the management and operation of the Kariong Juvenile Correctional Centre as recommended by the Select Committee on Juvenile Offenders.'*

The Government will continue the current management regime for Kariong Juvenile Correctional Centre (JCC). Kariong JCC will continue to hold young offenders on serious charges and those whose behaviour warrants higher security. The transfer of detainees between Kariong JCC and juvenile justice centres will continue.

Corrective Services NSW reviews the operation of Kariong JCC on an ongoing basis, as does the Ombudsman. The Official Visitor to Kariong JCC attends the centre at least every fortnight. The Children's Legal Service and Aboriginal Legal Service visit the centre at least weekly.

Recommendation 55: *'Juvenile Justice is funded to ensure that conditions at Emu Plains Juvenile Justice Centre comply with Australasian Juvenile Justice Administrators' standards for juvenile justice facilities.'*

Since Juvenile Justice took occupation of the Emu Plains site, approximately \$5.8 million has been expended on improvements to the physical environment. Juvenile Justice has:

- Increased security systems for the safe operation of the Centre;
- Converted space to ensure the Centre can house remandees;
- Upgraded the kitchen and food service areas;
- Modified the accommodation areas;

Work has recently been completed to convert an accommodation unit into program and education rooms, providing space for an expanded education program and other rehabilitative programs for detainees. Further significant improvements are currently underway including new fencing, lighting and creation of further recreation space for physical activity.

These building works bring the Centre in line with legislative and international requirements.

Strategic Approach to Children and Young People

This section of the Report discusses the need for a strategic approach to children and young people which operates across government and engages the non-government sector. The Government supports this position. We are constantly making improvements both to our overall approach and its practical implementation.

Recommendation 28: *'The NSW Government develop a formal response to this report that outlines the required actions, accountabilities, timeframes and required resourcing (based on a detailed economic appraisal) to implement the Review recommendations.'*

This document provides the Government's response to the Report.

Recommendation 27: *'Develop a Government strategic approach to children and young people in NSW that is underpinned by a series of operational level plans that will lead to the long term achievement of the strategy's goals.'*

Recommendation 29: *'The strategic approach to children and young people detailed in Recommendation 27 include a mechanism to involve children and young people in Government decision-making.'*

The Government has a strategic approach to children and young people. The Government's primary strategy is the State Plan. The State Plan documents what we want for the future of our State and how we will deliver it. It is the result of consultation with more than 3,500 groups and individuals who provided their views and local knowledge. The State Plan sets out 44 clear priorities identified by the community to focus Government decision-making and resource allocation, and 90 targets against which to measure success. There are also detailed delivery plans for each region in NSW responding to the local priorities of those communities.

The State Plan identifies children and young people as a priority group with specific needs. It includes specific goals to improve outcomes for children and young people, including:

- increase the proportion of children with skills for life and learning at school entry
- increase levels of attainment for all students
- ensure more students are completing Year 12 or a recognised vocational qualification
- improve access to jobs and training for young people to reduce youth unemployment
- stop the growth in childhood overweight and obesity
- strengthen Aboriginal communities, through reducing the victimisation rate for domestic violence for Aboriginal persons (0–17 years), and closing the gap between Aboriginal and non-Aboriginal students in educational and health outcomes
- *Keep Them Safe* targets to enable early identification of family support needs to protect children.

The State Plan is supported by a range of strategic policy documents including *Keep Them Safe*, *Two Ways Together* and *A Way Home: Reducing Homelessness in NSW*. All of these strategic policies take into account the needs and interests of children and

young people. These policies are underpinned by clear and concrete actions to help achieve the Government's strategic aims.

The Government already employs a range of mechanisms to involve children and young people in Government decision-making.

Best Practice Principles for Youth Participation

The Government's Best Practice Principles for Youth Participation seek to encourage and support young people to participate in Government decision-making, in implementing the NSW State Plan, and in providing input to the development of programs and services that impact on their lives.

The Best Practice Principles for Youth Participation must be observed by all Government Ministers, Chief Executives and agencies where relevant and appropriate. The main elements of the Principles are as follows:

- Recognise young people's rights to participate in developing Government policy, programs and services that impact upon them
- Promote respect by listening to young people's views and taking them seriously
- Build and maintain strong relationships with the young people we consult with
- Provide young people with appropriate and timely information on Government processes
- Build on young people's knowledge and skills
- Recognise young people's different situations and backgrounds, particularly those:
 - from Aboriginal and/or Torres Strait Island backgrounds
 - from culturally diverse backgrounds
 - with disabilities
 - in out-of-home care, and
 - from vulnerable or marginalised groups
- Organise participation processes that take into account the needs of young people, such as training and transport
- Encourage young people to provide feedback on the effectiveness of participation processes.

The NSW Commission for Children and Young People

The NSW Commission for Children and Young People has developed a body of knowledge and expertise around the participation needs of young people in decisions appropriate to their age.

The Commission supports government agencies to implement the Best Practice Principles for Youth Participation.

The Commission involves children and young people in a range of ways.

The Young People's Reference Group (YPRG) is one of the ways the Commission involves young people in its work. Each year, 12 young people aged between 12 and 17 years are chosen to help the Commission keep in touch with the views of young people in NSW.

The YPRG meets every two months to give the Commissioner and Commission staff their ideas and opinions on what the Commission is doing and how they do it.

All young people are different and have their own ideas and opinions. That is why members of the YPRG come from all over NSW and have different backgrounds, interests, and experiences.

Other ways that children and young people are involved are found on the Commission's website: <http://kids.nsw.gov.au>.

The NSW Youth Advisory Council

The NSW Youth Advisory Council was established in 1989 under the *Youth Advisory Council Act 1989* to ensure that young people participate in the development of Government policies and programs which concern them.

The Council has twelve members from around NSW. All Council members for 2010 are under 25 years of age and have diverse experiences and backgrounds.

The Council advises the Government on matters of concern to young people and Government policies and programs concerning young people. The Council also provides a channel of communication between the community and the Government in relation to matters concerning young people.

The Young Aboriginal People's Regional Roundtables

The Young Aboriginal People's Regional Roundtables (YAPRR) were created to provide advice to the Minister for Aboriginal Affairs on matters of interest to young Aboriginal people, and to give young Aboriginal people the chance to discuss the impact of Government policies, services and programs.

The objectives of the YAPRR are:

- To advise the Minister on the planning, development, integration and implementation of government policies and programs relevant to young Aboriginal people and their communities.
- To develop an understanding of the operations of government, increase the capacity of future leaders to engage with government and to provide practical experience in leadership as well as an opportunity to influence decision making at the regional and local level.

The YAPRRs are regionally based, covering North Coast - New England - North West, Sydney, Western Region - Murdi Paaki, South Coast - Riverina and Central West.

The NSW Expert Advisory Group on Drugs and Alcohol

The NSW Expert Advisory Group on Drugs and Alcohol, which is a group of independent experts and researchers, provides advice to the Minister for Health on key issues regarding drug and alcohol misuse in NSW. The group includes a youth representative, and also representation from the Inspire Foundation, which is a non government organisation focussed on young people's issues.

NSW Youth Health Policy

Under the current youth health policy, *Young People's Health: Our Future*, the involvement of young people in decision making is a key principle. Examples of how young people have been involved in the drafting of the new Policy include:

- Two young people participate in the Policy development advisory group which meets monthly.
- 25 per cent of the stakeholders who attended the policy consultation forum, which was opened by the former Minister for Health, were young people.
- 20 young people have participated in a four week online focus group process to inform the Policy.

Children in Out-of-Home Care

The Charter of Rights for children in out of home care is available from the Community Services website. The Charter includes the statement '*You have the right to take part in making important decisions affecting your life*'. It has been developed in two comic-style booklets for children aged 7 to 12 and for young people aged 13 to 18. It is available in Arabic, Chinese, English, Samoan, Spanish, Tongan, Turkish and Vietnamese.

The Charter of Rights is given to all children (over the age of six) and young people who are in out-of-home care under an order of the Children's Court. Flyers about the Charter are also available for Carers.

Participation by children and young people in decisions regarding their lives (including case planning) is embodied in the NSW Out-of-Home Care Standards, administered by the NSW Children's Guardian, and in the principles set out in the *Children and Young Persons (Care and Protection) Act 1998*.

Juvenile Justice case planning

Juvenile Justice develops case management plans for young people under supervision and ensures young people contribute directly to decisions on their case plans. Case management plans focus on the young person's needs as they relate to their offending behaviour, while ensuring that the young person's welfare and safety are addressed. Throughout case planning the case manager collaborates with the young person, family and significant others, as well as other government and non-government service providers.

NSW State Student Representative Council

The Student Representative Council (SRC) is regularly consulted by senior officers from the Department of Education and Training on student and school issues. The SRC meets with the Director-General annually. Each year two state SRC students are included as members of the CCYP's Young People's Reference Group.

Student Equity Advisory Team

This group provides a voice for students from targeted low socio-economic school communities. It advises the Department of Education and Training Director-General's Equity Advisory Group on equity issues related to public education.

Government Targets and the Young Offenders Advisory Council

Recommendation 14: *'The Young Offenders Advisory Council establish a modified terms of reference in legislation to include a monitoring role of the juvenile justice system, including the use of diversionary options available under the Young Offenders Act 1997.'*

Recommendation 15: *'The number of members on the Young Offenders Advisory Council is reduced to organisations directly involved in the juvenile justice system (as per paragraph 203) and they be appropriately represented by senior Government representatives.'*

Recommendation 16: *'The Young Offenders Advisory Committee establish and monitor diversionary targets for the NSW juvenile justice system. These targets should be reviewed and incorporated into the next version of the NSW State Plan.'*

Recommendation 26: *'The findings of this Review be incorporated into relevant State Plan Priority Delivery Plans and subsequent reviews of the State Plan.'*

Recommendation 51: *'Juvenile Justice, with assistance from other agencies involved in the juvenile justice continuum, establish targets to reduce re-offending rates for children and young people under supervised orders and a five year plan be implemented to meet these targets.'*

Under the NSW State Plan the Government has set itself the target of reducing the proportion of offenders who re-offend within 24 months by 10% by 2016. As discussed throughout this response, a range of evidence-based measures are being employed across portfolios to meet this target, including early intervention and diversionary programs for young offenders. The Government measures and reports on performance against this target in relation to both adult and juvenile offenders.

The State Plan was reviewed in late 2009 and a revised Plan was publicly released in March 2010. The State Plan will be reviewed every three years to make sure the priorities remain relevant. When the State Plan is next reviewed, consideration will be given to whether additional targets are necessary in this area.

The Young Offenders Advisory Council's (YOAC) terms of reference are to provide the Government with independent advice on issues, policies and legislation likely to impact on the operations of the juvenile justice system and young offenders, and to monitor and review issues, trends and research on strategies for reducing re-offending. The Government considers that these terms of reference already encompass a role for YOAC in monitoring the use of diversionary options available to young people.

The Government does not accept the Report's suggestion that the membership of YOAC should be severely limited. The Government highly values the advice of victims' representatives and community members and will not seek to exclude them from the Council. There are currently senior Government representatives on YOAC.

The current membership of YOAC is as follows:

- A Magistrate
- The President of the Children's Court
- The Chief Executive of Juvenile Justice
- The Director General of Department of Human Services
- A Senior Executive from the Department of Justice and Attorney General
- A Superintendent from the NSW Police Force
- The CEO of Police Community Youth Clubs
- A person representing victims' interests
- Three community representatives.

The Non-Government Sector

Recommendation 30: *'The NSW Government plans currently being developed for working with the NGO sector reinforce that capacity needs to be built to work with children and young people with complex needs, including those that are, or have been, involved in the juvenile justice system.'*

The Government is undertaking a number of projects to build the capacity of the Non Government Organisation (NGO) sector to work with children and young people with complex needs. For example, as part of the implementation of *Keep Them Safe*, KPMG have been contracted to develop a Not-For-Profit Sector Workforce Development and Capacity Building plan. This work is largely focussed on building the skills of the Not-For-Profit child protection sector and includes the following aspects:

- Service quality – indicators and performance contracting
- Building governance capacity
- Tools to support/guide meeting deliverables
- Risk based intervention model to target capacity building to Not-For-Profits that need support
- Joint training networking and skill development, including face-to-face training and on-line / e-training resources for shared issues (e.g. cultural competency, working with complex needs clients including adolescents, information sharing), establishing local networks and forums
- Supporting access to tertiary education, and program design, and the development of specialist skills in working with adolescents with complex needs, and
- Tools and guidelines for workforce.

NSW Health has a number of initiatives in place to improve the capacity of NGOs working with people with mental health and drug and alcohol problems. These issues are often a key aspect of issues facing children with complex needs.

The Mental Health Infrastructure Grant Program was established in late 2006 to allocate small one off grants to individuals to promote the capacity of mental health NGOs to implement infrastructure or service quality improvements and progress towards accreditation with recognised quality standards. Implementation of projects is being monitored by the peak body, the Mental Health Coordinating Council. The first round of funding was in early 2007 with \$1.1m provided to 26 non-government service providers for infrastructure enhancement projects, and the second round was in mid-2008 with \$1.6m provided to 28 non-government service providers for local service improvements.

Funding has also been provided to the NGO sector to develop and deliver mental health and drug and alcohol cross training within the sector. The program aims to provide skills based training to mental health and drug and alcohol service providers to improve their confidence and capacity when addressing the needs of clients with both mental health and drug and alcohol problems. This project will also include cross-cultural consultancy to address issues such as language and cultural differences, religious and social matters.

Young People and Children – The Juvenile Justice Continuum

This section of the Report discusses the need to intervene early to address the risk factors associated with juvenile offending and re-offending. The practices of police, the courts system and Juvenile Justice are also discussed as well as some particular juvenile justice programs.

Evidence shows that success in breaking the cycle of offending is dependent on interagency collaboration to deliver high quality and effective services, simultaneously for young offenders in the community and in custody.

According to research, including that undertaken by BOCSAR, dynamic risk factors that are predictive of overall juvenile offending include:

- Education, training and employment problems
- Mental health and intellectual disabilities
- Alcohol and other drug misuse
- Accommodation problems
- Relationship problems including family dysfunction
- Criminal lifestyles and associates
- Distorted and irrational thinking including pro-criminal attitudes, and
- Lack of structured leisure and recreational pursuits.

BOCSAR studies also show that a number of other factors were also found to be associated with the risk of further offending. These included:

- being under 14 years of age
- being of Aboriginal or Torres Strait Islander descent
- not living with both natural parents
- having experienced some form of trauma
- having been placed in out-of-home care
- having been the subject of a confirmed report of neglect or abuse
- having one or both parents deceased
- not attending school at the time of the court appearance
- having been suspended or expelled from school
- having been convicted of a theft offence, and
- having had several prior contacts with the justice system.

The Government recognises the importance of early intervention to improve the lives of children and young people and reduce the number of young people coming into contact with the criminal justice system. The Government is embedding the principle of prevention and early intervention into Government decision-making, and continues to seek ways to shift resources to prevention and early intervention programs, and to gain a better understanding of the costs and benefits of early intervention, particularly when benefits are across agencies.

Prevention and Early Intervention Programs

Recommendation 32: *'The Department of Human Services investigate evidence-based approaches to reduce the risk of offending and resource additional early intervention and prevention based services and programs for 9-17 year olds.'*

Recommendation 52: *'NSW Government adopt a justice reinvestment policy based on diverting funds that would otherwise be spent on additional juvenile justice centres, to*

preventative and early intervention programs that address the underlying causes of crimes in communities.'

The Government continues to invest significant effort and resources in prevention and early intervention services and programs. The Government is working across portfolios to improve life outcomes for children and young people so that they do not turn to crime. The Government is:

- increasing the proportion of children with skills for life and learning at school entry
- increasing levels of attainment for all students ensuring more students are completing Year 12 or a recognised vocational qualification
- improving access to jobs and training for young people to reduce youth unemployment
- strengthening Aboriginal communities, through reducing the victimisation rate for domestic violence for Aboriginal persons (0–17 years), and closing the gap between Aboriginal and non-Aboriginal students in educational and health outcomes
- enabling early identification of family support needs to protect children.

In addition, the Government is enhancing early intervention and support services for young people with mental illness. The Government is examining ways to better support children and young people with an intellectual disability to reduce their contact with the criminal justice system, through improved identification, assessment of intellectual disabilities and earlier intervention. Where possible, accessible and culturally appropriate diversionary options will be provided for these young people.

The Government is also expanding the use of early intervention programs to reduce the number of juvenile offenders who go on to commit further crimes. For example, the Intensive Supervision Program involves intensive work with young offenders and their families to address the reasons behind their offending such as substance abuse, reengagement in education and vocational pursuits, health and welfare issues, housing needs, family conflict and negative peer pressure.

Juvenile Justice provides counselling and developmental programs with a focus on alcohol and other drug misuse, generalist counselling, group work and living skills and the provision of forensic and other psychological testing and assessment, and specialist programs including a Sex Offender Program and Violent Offender Program. Psychologists and counsellors provide psychological services to young people, including assessment, counselling and group work. Cognitive behaviour therapies and supports from a number of different agencies and the community increase the likelihood of young people leading lives free of crime. These programs target the issues that put young people at higher risk of re-offending. It should be noted that these services are only available after the young person has entered the juvenile justice system, ie after being charged and placed before a Court. Apart from any 'pilot program' a young person would not come into contact with Juvenile Justice staff to enable them to be assessed and placed into these suitable programs.

Justice Health's Court Diversion Program is being expanded from six to 11 Children's Courts across NSW, particularly in remote and rural areas, with the aim of improving access to the service by Aboriginal young people. These additional sites will be operational by July 2010. The Court Diversion Program aims to divert, where

appropriate, young people with mental health concerns from the criminal justice system into mental health treatment services.

The Justice Health Adolescent Community Consultation Clinic now accepts referrals from across all of NSW. The aim of this service is to provide comprehensive mental health and risk assessments and treatment recommendations for young people with mental health and/or risk concerns who are in contact, or are at risk of contact, with the criminal justice system.

The Community Integration Team is expanding to an additional seven rural and remote sites across NSW. The aim of this service is to support the reintegration of young people with mental health and/or drug and alcohol problems exiting custody into appropriate health and welfare services within their local community. The target group is Aboriginal young people, however all young people who meet the suitability criteria will be accepted by the Community Integration Team.

In addition to these initiatives within the justice sector, a range of mainstream mental health programs are underway which involve early intervention and support services for young people with mental illness, or at risk of developing mental illness.

For example, enhancements to Child and Adolescent Mental Health Services aim to improve links between inpatient and community services for children and adolescents and their families to improve transition to the community and reduce hospitalisation rates. In 2005/06, funding for Child and Adolescent Mental Health Services represented 10.3 per cent of the overall mental health program budget compared to only 6 per cent in 1997/98. The 2008/09 Budget provided a further \$2.6m enhancement for community and inpatient services and to target priority needs.

The Youth Mental Health Service Model provides youth mental health services for young people 14-24 years of age in youth-friendly settings, co-located with primary health, drug and alcohol and other services, where possible. It focuses on:

- early intervention and prevention;
- flexible approaches to service provision;
- access as easily and as early as possible to a range of mental health and other health services for young people.

In 2006/07, a prototype Youth Mental Health Service Model (Y-Central) was piloted and evaluated on the Central Coast. Y-Central was formally launched on 9 October 2008 and is co-located with Headspace (a Commonwealth funded initiative to provide youth mental health infrastructure, not clinical mental health services). Youth Mental Health Services have now commenced in each of the Area Health Services with enhanced funding supporting 62 new clinical positions.

In addition, the *NSW School-Link Initiative* is a collaborative partnership between NSW Health and the Department of Education and Training to improve the mental health of children and young people in NSW. School-Link has three main areas of focus:

- Assisting to strengthen formal and informal links at local and area level between TAFE Institutes and colleges, schools, school and TAFE counsellors, and Area Health Service Mental Health Services for children, adolescents and young people.
- Training programs for mental health workers and school and TAFE counsellors to enhance skills in the recognition, treatment, support and prevention of mental health problems in children and young people.
- Supporting the implementation of programs in schools for the prevention of or early intervention in mental health problems.

A Memorandum of Understanding was signed by NSW Health and the Department of Education and Training in 2009 to provide a framework for a collaborative approach by the two agencies in improving the mental health of children and young people in NSW. The Memorandum of Understanding builds on the training component of School-Link, and strengthens the implementation of prevention and early intervention programs in schools and shared care and collaborative support arrangements, to improve the mental health of children and adolescents.

Each Area Health Service in NSW, including Justice Health and The Children's Hospital at Westmead, has received funding for School-Link Coordinator positions to carry out the initiative. NSW Health has funded the provision of state-wide training which is a partnership between NSW Health, the NSW Institute of Psychiatry and the NSW Department of Education and Training. Approximately 2,000 school and TAFE counsellors, mental health workers, psychologists from other Human Services agencies and drug and alcohol workers across NSW participate together for each phase of the School-Link training, which focuses on important adolescent mental health clinical problems. NSW Health continues to fund training and is transferring the current 5 phases into an online format. NSW Health is also reviewing other sustainable educational processes.

NSW Health has funded the Brain and Mind Research Institute to construct a purpose built Youth Mental Health Facility at Camperdown in Sydney to provide clinical services and research during the early phases of mental illness such as psychotic disorder, depression and bipolar disorder as well as other neurological disorders including multiple sclerosis. The facility was opened in September 2009.

Furthering our focus on prevention and early intervention, the Government provides additional targeted support for those students at risk of disengaging, or who have already disengaged, from school. While a relatively small number of students truant from school, non-attendance at school can place children and young people at greater risk of becoming victims of crime and of being exposed to negative influences. In addition, students who do not attend school regularly are less likely to meet educational outcomes, limiting their post school options and placing them and their families at further risk of economic and social disadvantage in the longer term.

The Department of Education and Training engages specialist staff to support the attendance of students at school and reduce the level of truancy. Home school liaison officers work with students, schools and families and Aboriginal student liaison officers work with Aboriginal students, their schools and communities to improve school attendance. As part of the Government's *Keep Them Safe* initiatives, the

number of home school liaison officers has recently been increased from 85 to 110 and the number of Aboriginal student liaison officers increased from 11 to 26.

Also as part of the *Keep Them Safe* reforms, the Government is implementing Family Case Management (FCM), with the aim of strengthening overall family functioning and reducing the risk of harm to children and young people. FCM is an integrated case management response to families who frequently come into contact with multiple government agencies and non-government organisations and show little improvement in their situations. There is a focus on improving agency collaboration so that procedural, policy and systemic barriers do not prevent frontline staff from effectively helping families.

There will be a staged implementation of FCM. In the first stage, FCM will run in eight sites in three regions: South West Sydney, South East NSW and Western NSW. FCM will be supported by Coordinators in each region. Coordinators are now in place in South West Sydney and South East NSW and are working to support the regional implementation of FCM. In Western NSW, Mission Australia will soon employ a Coordinator to support the project in this region.

In addition, Community Services is expanding the Brighter Futures early intervention program which provides support to vulnerable families to prevent problems from escalating. The program aims to promote healthy development in children, promote strong, functional, and well-supported families, and reduce child abuse and neglect.

Recommendation 31: *'The Department of Human Services develop lead indicators to inform trends for the demand of juvenile justice services and programs.'*

A range of reliable indicators are currently used to determine future capacity requirements of Juvenile Justice detention centres, programs and services. These indicators are considered satisfactory for managing capacity issues. Juvenile Justice custodial projections have in fact proven to be remarkably accurate since forecasting began. Juvenile Justice has also developed trend indicators for community-based orders and Youth Justice Conference referrals. The creation of the Department of Human Services (DHS), however, provides a platform to review existing indicators across DHS agencies to further refine assessments of the future demand for detention, programs and services.

Compulsory School Leaving Age

Recommendation 33: *'The Department of Education and Training review the changes to compulsory school leaving age legislation to better understand the implications for disadvantaged youth, particularly children and young people involved in the juvenile justice system. Consideration should be given to providing additional support to re-engage these children and young people in the education system, and as a last resort, provide further exceptions for disadvantaged youth.'*

There is a significant focus on school leaving age and transition from school at the national and state level with the Council of Australian Governments (COAG) agreed outcome that *Young people make a successful transition from school to work and further study*. COAG targets for 2015, are to have 90 per cent of young people in the 20-24 year age group to have achieved a Year 12 or Certificate II or above, and for 2020, 90

per cent of young people in the 20-24 year age group to have achieved a Year 12 or Certificate III or above.

The raising of the school leaving age in NSW is being accompanied by significant developments and investments across the Department of Education and Training. As part of a tri level implementation strategy, schools and TAFE colleges have been looking at both short term and long term actions to support the engagement of students of the new compulsory school age at school and, where appropriate, in TAFE NSW.

Young people in Juvenile Justice Centres will benefit from the requirement to remain in some form of learning until 17. Innovative delivery of Higher School Certificate (HSC) and/or TAFE courses packaged to meet their needs will assist. Completion of Certificate II or HSC will meet Centrelink requirements for learning and provide these young people with a range of options. Developments in the area of transition planning will also assist young people in Juvenile Justice Centres move from a school curriculum to TAFE or the workforce by providing appropriate pathways.

The *Education Act 1990* provides for instances where “the child was participating in an alternative educational program approved by the Minister for children unable for social, cultural or other reasons to participate effectively in formal school education”. The alternative programs provision can cater for young people unable for social, cultural or other reasons to participate effectively in formal school education. These programs would include the totally disengaged young people who have become alienated from mainstream education and are now in Juvenile Justice Centres. Their participation in these programs can be recognised as fulfilling the requirement to remain in learning.

A research project carried out by Dr John Mitchell, *Benefits of the New School Leaving Age*, looked at innovative programs in 12 NSW schools and identified from these a model for innovation and continuous improvement. The Department of Education and Training is encouraging schools, including those schools in Juvenile Justice Centres, to be innovative in the ways they seek to engage young people. Schools are being encouraged to look at the innovative practices in Dr Mitchell’s report, and elsewhere, to see how these practices can inform what schools are doing to keep young people engaged in learning.

There are evaluation and sustainability components in the tri level implementation strategy which will provide valuable information about the most effective initiatives to support disadvantaged youth remaining in education.

The Department of Education and Training is planning to review the new compulsory schooling legislation in two years and will ensure that the review has a focus on the impact of the legislation on disadvantaged youth, particularly children and young people involved in the juvenile justice system. It will examine how additional programs that engage disadvantaged youth might be recognised under Section 23(2)c of the Education Act.

Recommendation 34: *‘Juvenile Justice, in conjunction with the Department of Education and Training, incorporate new compulsory school leaving age legislative requirements into its case management process for children and young people reintegrating into the community.’*

Recommendation 63: *'The Department of Education and Training establish a service for children and young people exiting community orders or custody to enrol them in education and training opportunities.'*

Juvenile Justice and the Department of Education and Training already assist young people to enrol or maintain existing involvement in education and training following their release from custody or community orders.

Juvenile Justice has issued directions to Juvenile Justice frontline staff to ensure the school leaving age changes are addressed in each young person's case planning. To assist the Department of Education and Training in implementing the amendments to the compulsory schooling age, Juvenile Justice Centre staff encourage detainees who are at the compulsory school age, and have been risk assessed as suitable to attend school, to participate in developmental programs or activities which include:

- TAFE;
- Vocational programs;
- Living Skills; or
- Activity Based programs.

Juvenile Justice and the Department of Education and Training will continue, through their Memorandum of Understanding, to improve the provision of education and training opportunities for children and young people exiting community orders or custody. Juvenile Justice is also working to improve links with Commonwealth funded job service providers.

Policing

Recommendation 35: *'The NSW Police Force update, or develop a new, Youth Policy Statement based on evidence-based strategies for policing children and young people.'*

Recommendation 36: *'The NSW Police Force Spokesperson for Youth position be made an Assistant Commissioner.'*

Recommendation 37: *'The NSW Police Force combine all functions relating to children and young people, including the current Youth Command, School Liaison Police and Youth Liaison Officers into a single Command.'*

Recommendation 38: *'The NSW Police Force consider increasing the number of dedicated officers in youth engagement and crime prevention.'*

Recommendation 39: *'The NSW Police Force measure Local Area Commands' utilisation of diversionary options under the Young Offenders Act 1997 through the Command Performance Accountability System.'*

Recommendation 40: *'The NSW Police Force increase training and education on the intent and operation of the Young Offenders Act 1997.'*

Recommendation 41: *'The NSW Police Force develop a risk management framework, and associated education and training, to apply a risk-based approach to children and young people found to be breaching their bail conditions.'*

The NSW Police Force has a strong commitment to developing positive relationships between police and young people.

The NSW Police Force has undertaken a number of successful programs focused on young people to help reduce youth crime and prevent reoffending. These programs are implemented by local youth liaison officers, school liaison police and crime prevention officers, often in conjunction with Police & Community Youth Clubs (PCYCs).

The Police Youth Command has also developed innovative programs through PCYCs to help reduce reoffending among young offenders, helping them become responsible members of the community. For example, the Switchback program (Blacktown PCYC) rewards young offenders for attending school, taking part in the program and reducing their contact with local police. The reward is a go-kart outing at the end of each month. In partnership with the Holden Racing Team, participants also receive motivational advice from V8 Supercar champions. The program works hand in hand with case management, and has seen several of the participants rejoin mainstream schooling.

The NSW Police Force is currently developing a new Youth Policy Statement. In developing this statement, the NSW Police Force is currently participating in the National Youth Policing Model project, which is being coordinated by the Federal Attorney General's Department.

This is an evidence based strategic approach to youth related issues. It is anticipated the NSW Police Force will include identified strategies from this project into the Youth Policy Statement. In addition, the NSW Police Force will consult with other government agencies during this process.

Police will ensure the needs of the community and young people are addressed in this statement. It will further assist police to develop and use strategies to prevent and reduce youth crime and divert young people away from crime.

The recommendation that the NSW Police Force's Corporate Spokesperson for Youth be raised to Assistant Commissioner is supported. An officer of the appropriate rank will be appointed as Corporate Spokesperson for Youth later in 2010.

The position of Youth Commander will remain at the rank of Superintendent.

There are more than 50 Corporate Spokespersons within the NSW Police Force covering important issues ranging from bush fires to mental health to organised crime to child protection. It should be noted that all of the NSW Police Force's Corporate Spokespersons on issues have other operational responsibilities. This is appropriate, particularly for officers at the rank of Assistant Commissioner.

The NSW Police Force supports the measurement of Local Area Commands' use of diversionary options under the *Young Offenders Act 1997*. However, the Command Performance Accountability System (known as COMPASS), named in the recommendation, is not the appropriate tool to use.

The NSW Police Force provides statistical information on the number of juveniles dealt with by police each year. This information is broken down by the numbers who

proceed to court; the numbers that are diverted; the numbers issued with infringement notices; and the numbers issued a warning. This information is published in the NSW Police Force Annual Report. This information is also provided to BOCSAR and is freely available.

The NSW Police Force deploys officers in specialist roles, including Youth Liaison Officers, Specialist Youth Officers, School Liaison Police and Youth Case Managers (attached to PCYC).

Where appropriate, police divert young people from the court system as standard practice. Under the *Young Offenders Act 1997*, investigating police, in consultation with Youth Liaison Officers must consider giving a warning or a caution for dealing with children (aged 10-17 years) who commit certain offences.

Considerable training and education is provided to officers regarding the intent and operation of the Young Offenders Act. For example, new recruits partake in the Associate Degree in Policing Practice run in conjunction with Charles Sturt University. The course involves the following subjects relating to youth:

- Communication involving youth and the Young Offenders Act;
- Police Crime and Society – Youth Issues;
- Problem Orientated Policing – Vulnerable People – Youth.

In addition, approximately 14% of sworn officers have completed the specialist youth officers training, which equates to approximately 2,300 sworn police officers. This specialist youth officer course is co-facilitated by Juvenile Justice NSW and is regularly run across the state.

The NSW Police Force will continue to provide training and education for its officers on the intent and operation of the Young Offenders Act.

The NSW Police Force regularly reviews the quality and content of all of its training and education programs, including those relating to the Young Offenders Act. Regular reviews help drive continuous improvement in the approach to and outcomes of police training.

Recommendation 42: *‘The Commission for Children and Young People conduct a special inquiry into NSW police practices affecting children and young people and their impact on community relationships.’*

One of the principal functions of the Commission for Children and Young People is to promote and monitor the overall safety, welfare and well-being of children in the community and to monitor trends in complaints made by or on behalf of children.⁴ There may be capacity for the Commission to monitor trends in complaints made by or on behalf of children and young people and their impact on community relations.

The Ombudsman’s review, from which the Report draws its recommendation for a special inquiry into police practices affecting children and young people, took place in 2002. Since this review many of the recommendations of the NSW Ombudsman have been incorporated into the NSW Police Force Aboriginal Strategic Direction

⁴ Section 11(b) *Commission for Children and Young People Act 1998*.

2007-2011. The NSW Ombudsman's office continues to play an active role in monitoring this process.

It is noted that the Ombudsman's report only related to Aboriginal communities in 14 Local Area Commands across rural NSW and not the general population of young people across the state.

While the Ombudsman did comment on inconsistencies in processes used by police to address Aboriginal issues, this was explained as being due to different social and environmental factors within each of the target locations. The Ombudsman stated the NSW Police had shown a commitment to delivering practical solutions to build relationships with the Aboriginal community. Additionally he complemented Commands on their strategies to date.

The NSW Police Commissioner uses the Police Aboriginal Strategic Advisory Committee (PASAC) forum, which is a state-wide advisory committee to NSW Police on Aboriginal issues, to monitor the performance of Commanders in relation to their implementation of Aboriginal Strategic Direction objectives in their commands. The PASAC comprises key members of the Aboriginal community, key government agencies, the NSW Police Force Commissioner and the corporate spokesperson for Aboriginal issues, as well as at least 3 members of the NSW Ombudsman's office.

Court Proceedings Against Young People

Recommendation 25: *'A study is conducted on the impacts of amending legislation to hear traffic offences for children and young people in the Children's Court.'*

DJAG will consider the feasibility of this proposal, in consultation with BOCSAR, the Local and Children's Courts, the NSW Police Force, and the Roads and Traffic Authority. This study will include consideration of the sentences received by young people for traffic offences, the policy basis behind the recommendation, workloads, resources and procedural impacts.

Recommendation 43: *'Community Services attend court with children and young people under the care of the Minister for Community Services or Chief Executive of Community Services.'*

In relation to not only court appearances, but all criminal matters involving children and young people in the care of the Minister for Community Services or the Chief Executive of Community Services, the Government makes all reasonable efforts to ensure that a person responsible for the child is present.

In many cases, that person will be a Community Services caseworker. However, the Government considers it important that children and young people attending court participate in the decision as to who might be the appropriate responsible person to be present. It should be noted that the child or young person may prefer that a carer or significant family or community member be present at court with them rather than a Community Services caseworker. Likewise, sometimes the young person's legal representative is preferable in lieu of, or in addition to, another responsible adult.

Recommendation 44: *'An independent study is undertaken into the current capacity of the Legal Aid Commission to adequately represent children and young people and ensure they understand the court process.'*

All children and young people facing criminal charges can receive legal aid, and all solicitors representing legally aided children and young people must meet certain criteria demonstrating their ability to provide quality legal representation specifically to children and young people.

All children facing criminal charges can receive legal aid, as the granting of aid in these circumstances is not subject to a means test or merits test. The Legal Aid Commission provides legal representation through its in-house lawyers or through grants of aid to enable children and young people to be represented by private practitioners. Additionally, the Commission provides a duty solicitor service at every Children's Court and Local Court. A duty solicitor can provide initial legal advice and information on applying for legal aid and, if necessary, can seek an adjournment from the court until the child or young person has legal representation.

The Legal Aid Commission has a specialist Children's Legal Service, which provides representation in the majority of legally aided matters heard in specialist Children's Courts in the Sydney metropolitan area. The Children's Legal Service includes a community legal education solicitor, whose role includes developing publications and educating children and young people about the juvenile justice system.

Private practitioners who represent legally aided children and young people at specialist Children's Courts are required to be a member of the Legal Aid Commission's Children's Criminal Law Panel. To be appointed to the Panel, a private practitioner must meet specialist selection criteria, including demonstrated knowledge of the criminal law as it applies to children, and demonstrated experience as an advocate in criminal law matters before the Children's Court. Private practitioners appointed to the Panel enter into a service agreement which requires them to provide services in accordance with a set of practice standards.

The Government is committed to ensuring that the Legal Aid Commission continues to have the capacity to provide quality legal representation and services to children and young people.

Recommendation 45: *'The NSW Government review the services delivered by the Aboriginal Legal Service and determine whether any additional special purpose funding is required to deliver NSW specific requirements. Future policy and/or legislative change should also consider funding implications for the Aboriginal Legal Service.'*

The Commonwealth Government directly funds legal services for Aboriginal people. It would therefore be inappropriate for the NSW Government to review the services delivered by the Aboriginal Legal Service or the funding arrangements in place between the Commonwealth Government and the Aboriginal Legal Service.

The NSW Attorney General will write to the Commonwealth Attorney General asking that the Commonwealth review the adequacy of funding for the Aboriginal Legal Service and ensure that there are processes in place for reviewing the adequacy of funding over time.

Recommendation 46: *The Children's Court be given its own status separate from Local Courts, and specialist Children's Court magistrates hear all children's matters through the implementation of a circuit rotation system."*

The Government does not support the first part of the recommendation, which is to establish a Children's Court separate to the Local Court. The Report of the Special Commission of Inquiry into Child Protection Services in NSW ("the Wood Report") did not recommend this change, recommending instead the appointment of a District Court Judge as the senior judicial officer in the Children's Court. The Government accepted that recommendation and District Court Judge Mark Marien SC was appointed as the President of the Children's Court on 1 June 2009. The Government considers that the current model for the Children's Court is an effective one.

The Government does not support the second part of the recommendation, which is for specialist Children's Court Magistrates to hear all children's matters through a circuit system. As part of its response to the Wood Report, the Government appointed two additional Children's Court Magistrates to enable specialist Children's Magistrates to hear more complex and contested care and protection matters in rural and regional areas through a circuit system. However, it is not cost-effective or efficient to operate a circuit system for all children's matters across the state. The Government believes a better way to achieve the intent of the recommendation is to ensure that all Magistrates have the training and skills to hear children's matters. The Government notes that the appointment of the two additional specialist Children's Court Magistrates brings the total number of specialist Children's Magistrates to 15.

Recommendation 47: *'The requirements for the education and development of magistrates in hearing Children's Court matters are strengthened. This includes ensuring these requirements are adhered to and that a magistrate cannot sit in a Children's Court unless they have successfully completed the training and education requirements.'*

The Attorney General will seek the views of the President of the Children's Court and the Chief Magistrate to consider whether any changes are needed to the education and development requirements for magistrates in hearing Children's Court matters.

Specific Programs

Recommendation 48: *'The utilisation of sentencing options in rural and remote communities is monitored to establish whether an increased allocation of resources is required to facilitate a more comprehensive application of sentencing options under the Children (Criminal Proceedings) Act 1987. This is as per the recommendation made by the Law Reform Commission.'*

DJAG, Juvenile Justice and BOCSAR will investigate the use and availability of community-based sentencing options in rural and remote areas. The investigation will specifically consider whether an increased allocation of resources is required.

Recommendation 49: *'The NSW Government undertake an independent evaluation of the Youth Drug and Alcohol Court to determine its effectiveness in reducing offending and drug use, and make recommendations regarding its ongoing role in the NSW juvenile justice system.'*

The Youth Drug and Alcohol Court has been evaluated on two occasions with the most recent having been completed by Health Outcomes International in 2008. The evaluation reviewed the program's effectiveness as well as the roles and responsibilities of partner agencies in the program. A report back to Government proposing action in relation to the evaluation's findings and recommendations will be made in mid to late 2010.

Recommendation 50: *'The Bureau of Crime Statistics and Research conduct an evaluation of the Work and Development Orders.'*

The Government notes that an evaluation by BOCSAR of Work and Development Orders is already planned.

Recommendation 56: *'The Intensive Supervision Program is comprehensively evaluated, and if found to be effective, funded to expand to other suitable areas of New South Wales.'*

An independent evaluation of the Intensive Supervision Program (ISP) is being conducted by BOCSAR. The evaluation commenced in January 2009 and is due for completion in December 2013.

Early indications are promising. A preliminary internal Juvenile Justice review of a cohort of ISP participants in 2008 indicated that the re-offending rates for those young people participating in the program decreased significantly. This initial review indicates the following outcomes:

- Offending rates dropped by 60% while families were receiving ISP Services
- Offending dropped further, by 74%, 6 months after families terminated services with ISP.

To date, 17 Aboriginal families have participated in the ISP. Of these;

- Offending dropped by 55% while families were receiving ISP services
- Offending dropped further, to 67%, 6 months after families terminated services with ISP

Research indicates that these types of family interventions may have a preventative effect on younger siblings in a family as parents learn the skills to parent more effectively.

The Government will consider the possible expansion of the program following the completion of the evaluation.

Recommendation 59: *'Ageing, Disability and Home Care and Juvenile Justice work together to improve the rate of referrals and acceptances of children and young people into the Criminal Justice Program. This may involve developing a separate evaluation criteria [sic] for entry into the program for children and young people and the setting of targets to monitor performance.'*

Ageing, Disability and Home Care (ADHC) and Juvenile Justice are working together to improve the rate of referrals and acceptances of children and young people into the Community Justice Program (formerly known as the Criminal Justice Program). Specifically, agencies are reviewing the current intake criteria to identify and remove barriers to acceptance for high needs young people with intellectual disabilities involved in the criminal justice system.

Juvenile Justice and ADHC will continue to work together to ensure the rate of referrals and access for juveniles to the Community Justice Program improves.

Recommendation 57: *'The evaluation of Youth Conduct Orders investigate any adverse impacts on the overall operation of the Young Offenders Act 1997 and specifically, whether children and young people eligible for less intrusive diversionary options were placed on Youth Conduct Orders.'*

Recommendation 58: *'The evaluation of Youth Conduct Orders investigate the effectiveness of the Anti-Social Behaviour Pilot Project, the extent to which it compliments/duplicates Youth Conduct Orders and any erosion of the Young Offenders Act 1997.'*

The Youth Conduct Orders (YCOs) scheme and the Anti-Social Behaviour Pilot Program are being independently evaluated.

The evaluation will contribute to the knowledge of stakeholders through collecting and interpreting statistical and comparative baseline data and a process of stakeholder engagement. This approach will assist in measuring the impacts of the programs and in identifying opportunities for improving program processes.

The evaluation will consider the impact of the operation of the YCO scheme on the operation of the *Young Offenders Act 1997*. In particular, the evaluation will compare local rates of police and court referral to conferencing before YCOs commenced and examine any movement in referral rates during operation against regional and state trends.

The Anti-Social Behaviour Pilot Program is not a court based process and as such should not have an impact upon the local operation of the Young Offenders Act. However, the evaluation will consider the potential impacts of participation in the Anti-Social Behaviour Pilot Program upon diversion from a Children's Court appearance.

The evaluation of both programs commenced in December 2009 a final report is to be delivered by 30 September 2011.

Agency Action Plans

Recommendation 60: *'In light of the 2009 health surveys, Juvenile Justice review the Disability Action Plan 2007-2011 to ensure it will address the intellectual disability issues of children and young people in custody.'*

Juvenile Justice, in conjunction with the Centre for Research in Criminal Justice (CRCJ) Justice Health has replicated the successful 2003 *Young People in Custody Health Survey*.

The second *Young People in Custody Health Survey*⁵ undertaken in 2009 will provide a range of data for both Juvenile Justice and Health that will assist in improving service delivery as well as expanding the evidence base regarding the juvenile

⁵ *Young People in Custody Health Survey* is a comprehensive health survey of young people in custody conducted by Juvenile Justice and Justice Health in conjunction with the University of Sydney. The survey was first conducted in 2003 and replicated in 2009. A similar survey was also conducted of young people on community orders in 2006.

offender population. The results of the survey will inform policy and will be incorporated into the Juvenile Justice Disability Action Plan.

Preliminary results of the 2009 Survey have found:

- A level of intellectual disability - that is a functioning IQ of less than 70 - in 13.5 per cent of the young people in custody - this is reasonably consistent with the previous surveys undertaken in 2003 and 2006.
- Of particular concern is the preliminary finding of a further 32 per cent who have an IQ between 70 and 79 - by definition a borderline intellectual disability.
- By comparison, in the general population those scoring under 79 make up less than 9 per cent of the population. In Juvenile Justice it is almost half of the custodial population.

This presents particular challenges for the management of these young people and for the effectiveness of rehabilitation programs. It also demonstrates the need to ensure assistance is provided to young people to understand their bail conditions and the consequences of failing to comply.

The report of the survey results will be available in mid 2010.

Recommendation 64: *'Juvenile Justice prepare a Strategic Workforce Plan to 2020 in order to develop a sustainable and capable workforce.'*

Juvenile Justice is developing a long term Workforce Development Plan to equip its workforce to meet the challenges of the future juvenile justice system.

Recommendation 65: *'The role of Juvenile Justice is extended to provide services and programs to young offenders on a voluntary basis beyond their court ordered mandate (control and supervised orders) in order to ensure successful reintegration into the community and reduce re-offending. This will involve additional funding of approximately \$1.932 million for the delivery of internal and NGO delivered services.'*

A focus for the newly formed DHS is to support better service delivery and achieve better service outcomes, with a particular emphasis on early intervention and prevention. As DHS develops a road map for better service provision, supporting adolescents with complex needs will be an important priority, including those exiting Juvenile Justice supervision. This recommendation will be considered in that context.

The Adolescent Court and Community Team

Recommendation 61: *'The Justice Health Adolescent Court and Community Team develop an action plan to address the issues identified as part of the Bureau of Crime Statistics and Research evaluation.'*

Recommendation 62: *'The Justice Health Adolescent Court and Community Team is funded to expand their court liaison and diversion services for children and young people with mental health problems to all NSW Local Courts, including regional areas.'*

The BOCSAR evaluation has made the following recommendations regarding the Justice Health Adolescent Court and Community Teams (JH-ACCT), against which action is already occurring:

- *Additional resources to increase service provision for non-custodial cases appearing at Court:*

The JH-ACCT clinicians see both custodial and non-custodial young people at Court if they are referred to the service.

- *Making the services available on a consultation/support basis when mental health issues arise in more serious/indictable matters*

This is outside of the remit for the JH-ACCT. The role of the JH-ACCT is to divert young people with mental health problems into appropriate treatment as an alternative to custody. If a young person is on an indictable offence with no possibility of a non-custodial sentence then the JH-ACCT is not able to divert that young person.

Justice Health also provides health care services to children and young people in custody. A registered nurse is based at each juvenile justice centre. Justice Health also delivers health education programs in centres. Services cover a range of adolescent health issues including: sexual development and sexually transmitted diseases; contraception; childbirth and parenting skills; food and nutrition; and dental health.

- *Improvement in communication and contact with court-based stakeholders and external agencies regarding the service and any relevant mental health issues.*

The JH-ACCT clinicians attend regular meetings with community services such as Child and Adolescent Mental Health, Community Services, Youth Networks, and Aboriginal Medical Services local to the court where they are located.

The Manager Adolescent Mental Health and Drug and Alcohol Programs (MAMHDAP) attend the Court Users Meetings at relevant courts where all agencies are represented and any issues regarding services delivered in the courts are discussed.

All JH-ACCT clinicians and the MAMHDAP regularly provide training / education sessions to partner agencies on both the role of JH-ACCT and current mental health issues.

The MAMHDAP, Service Director Adolescent Health and the Clinical Director Adolescent Mental Health provide specific mental health training and education to the Children's Courts Magistrates at the Magistrates Annual Forum and to the Children's Legal Services when requested.

- *The current JH-ACCT is entirely referral based, some respondents suggested expanding the breadth of the adolescent service to include screening of young people to identify those with mental health issues.*

JH-ACCT has obtained ethics approval from Justice Health the AHMRC and Juvenile Justice to conduct a 'screening tool project' as per the above point. This screening tool

project will be undertaken once JH-ACCT has recruited to fill vacant clinician and psychiatry positions. It is anticipated this project will be completed and a report available by December 2010.

- *Establishing more formal agreements between Juvenile Justice and Justice Health for accessing information and reports for overlapping cases.*

Work is underway under the auspices of a Joint Clinical Governance meeting, and measures are being put in place to give JH-ACCT clinicians access to the relevant Juvenile Justice database.

- *Exploring methods to expand service provision into Juvenile Justice Centres to facilitate the identification of young people with mental health issues who may be appropriate for diversion.*

This action is completed. All Juvenile Justice Centres have Justice Health psychiatry services. Good links have been established between Justice Health custodial staff and JH-ACCT clinicians to ensure the JH-ACCT clinician is aware when a young person in custody with a mental health concern is appearing before the Court.

- *Identifying new sites with regard to areas most in need of the service.*

This action is completed. JH-ACCT has further expanded to include Sutherland and Port-Kembla Children's Courts and there are plans for a further extension to include Broadmeadow, Dubbo, Wagga-Wagga and Bourke Children's Courts. The services in these courts will be operational by July 2010.

Indigenous Over representation

This section of the Report discusses the Government's work to address the over representation of Aboriginal juveniles in the criminal justice system.

Recommendation 66: *'Aboriginal Affairs incorporate the findings of this report into the current review of Two Ways Together.'*

Recommendation 67: *'The NSW Police Force improve the monitoring and evaluation of 'Objective Four: Divert Aboriginal youth from crime and anti-social behaviour' of the Aboriginal Strategic Direction 2007-2011.'*

Recommendation 68: *'The Department of Human Services Executive provide oversight for the Juvenile Justice Aboriginal Strategic Plan 2007-2011.'*

Recommendation 69: *'The Juvenile Justice Aboriginal Strategic Plan 2007-2011 be aligned with the Department of Justice and Attorney General Aboriginal Justice Plan.'*

Recommendation 75: *'The NSW Government engage with Indigenous communities to develop long-term strategies to address the underlying causes of juvenile offending. Preventative and early intervention strategies are to be funded in local communities based on the justice reinvestment approach outlined in Recommendation 52.'*

Since the Royal Commission into Aboriginal Deaths in Custody, Governments and communities across Australia have sought to address the high levels of involvement of Aboriginal juveniles and young adults in the criminal justice system.

In NSW, Aboriginal juveniles are significantly over represented in the criminal justice system. For example, as at 30 June 2007, Aboriginal juveniles were 28 times more likely to be detained than non-Aboriginal juveniles.⁶ Between 2000/01 and 2007/08 there was a 24 per cent increase in court appearance rates for Aboriginal juveniles and a 71 per cent increase in the daily average number of Aboriginal juveniles in detention in NSW. Of the 5210 young people admitted into custody in 2007/08, 2,363 were Aboriginal juveniles.

Significantly, Aboriginal young people are more likely to have their matter go to court than be otherwise dealt with. In 2007-08, 48 per cent of Aboriginal young people apprehended by the NSW Police Force went to court compared with 21 per cent of non-Aboriginal young people.⁷

As the Report notes, the NSW Government has committed significant effort and funding to address the over- representation of Aboriginal children and young people in the juvenile justice system.

A number of NSW Government programs have been successful in reducing contact of Aboriginal juveniles and young adults with the criminal justice system. For example, NSW operates programs under the Illicit Drug Diversion Initiative including the Youth Drug and Alcohol Court and the Magistrates Early Referral into

⁶ Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2009*, Productivity Commission, 2009

⁷ Richards, K, *Juveniles' contact with the criminal justice system in Australia*, Australian Institute of Criminology, 2009 p27, p41

Treatment Program. These programs involve a significant number of Aboriginal participants and have been associated with a significant drop in re-offending, particularly drug-related re-offending. Evaluations of the programs have also demonstrated a range of other benefits including improvements in participants' health, wellbeing and social functioning.

In November 2009 Justice Health received funding to conduct the two following projects:

1. Expansion of the Justice Health Adolescent Court and Community Team. The expansion focuses on Aboriginal young people to support the diversion of young people away from detention and into health services.
2. Transition Release Plan – Expansion of the Community Integration Team. To work with young Aboriginal people in custody to develop a release plan to transition them back into their community through referral to local health and support services. This will ensure that these young people have access to a range of services, including primary health services, to increase their level of overall function.

Despite these successful initiatives, the disproportionate rate of Aboriginal juvenile detention is an ongoing concern. The over representation of Aboriginal children and young people in the juvenile justice system is intrinsically linked to disadvantage in the Aboriginal population more generally.

The National Aboriginal and Torres Strait Islander Social Survey (NATSISS) identified a number of contributing factors that lead to contact with the criminal justice system, including alcohol and substance misuse and abuse, unemployment, financial stress, welfare dependency, removal from family, intergenerational offending and residence in crime prone areas.

All government agencies providing services to Aboriginal communities share responsibility for addressing Aboriginal over representation in the juvenile justice system. For example, the NSW Police Force hold responsibility for responding to individual criminal acts, while Juvenile Justice are responsible for dealing with young people after they have entered the criminal justice system. However, these agencies are dealing with a symptom rather than a cause of social disadvantage. A young person's pathway towards offending usually starts much earlier in the life cycle, when other agencies – such as Education and Training, Health, and Community Services – can play a key role.

The Government's approach is cultural, holistic and family based. Engagement with Aboriginal communities is recognised as being essential to the design and delivery of services. Our overarching strategy for reducing Aboriginal disadvantage is outlined in *Two Ways Together*, NSW's 10 year plan to improve the lives of Aboriginal people and their communities. Many individual agencies also have strategies to guide their engagement with Aboriginal people. A number of these are also discussed in the Report, and are the subject of recommendations.

Two Ways Together

Through *Two Ways Together*, the Government is improving health, education and social outcomes for Aboriginal people. Our priorities include:

- partnering with 40 communities to set up recognised community governance bodies to improve community wellbeing and respond to local needs
- providing better protection for our Aboriginal children by implementing *Keep Them Safe*, our five year plan to better support children and young people; the NSW Interagency Plan To Tackle Child Sexual Assault in Aboriginal Communities; and the Safe Families Program which delivers intensive local responses to these issues
- piloting a new consultation model with Aboriginal community groups to agree how best to keep Aboriginal children and young people safe, including community input on individual child protection decisions
- establishing four new non government operated Intensive Family Based Services to help families recognise and deal with problems before they spiral out of control
- supporting targeted Aboriginal Assistance Schemes which encourage the wider community to be involved in their children's development and education
- creating better employment opportunities with Job Compacts and increasing training opportunities providing more public sector jobs. The representation of Aboriginal people in the NSW public sector was 2.1 per cent in 2008. Our new Aboriginal employment target is 2.6 per cent by 2015
- increasing employment and business opportunities through government purchasing and government construction projects
- fixing community infrastructure including a joint NSW Government and NSW Aboriginal Land Council investment of around \$200 million over 25 years to upgrade water and sewerage in over 60 Aboriginal communities, with 22 communities to benefit over the next four years increasing Aboriginal peoples' participation in land and natural resource management and supporting Aboriginal landowners to manage their lands for socio-economic, cultural and environmental outcomes.

The Report recommends that the review of *Two Ways Together* incorporate the findings of the Report. However, a review was finalised prior to this Report being received. The review of *Two Ways Together* did highlight the need for an increased focus on justice issues. This focus, including an increased emphasis on juvenile justice, will be picked up in the ongoing state-wide implementation of *Two Ways Together*. This will reflect NSW national commitments made as part of the COAG Aboriginal Reform Agenda.

NSW Police Force Aboriginal Strategic Direction

Although the NSW Police Force has proven processes in place to divert Aboriginal youth from crime, as noted above the numbers of Aboriginal young people in the juvenile justice system remain high. Reversing this trend requires a whole of government response to address the factors leading to offending behaviour, as well as implementing effective government and non-government strategies to divert Aboriginal young people away from the justice system where appropriate.

The Aboriginal Strategic Direction (ASD) outlines the NSW Police Force's strategy for addressing the overrepresentation of Aboriginal people in the criminal justice system. Major themes of the ASD include:

- communication and understanding between Police and Aboriginal people;
- community safety and fear of crime;
- Aboriginal cultural awareness within the NSW Police Force;
- numbers of Aboriginal officers and civilian staff in the NSW Police Force;
- keeping Aboriginal youth away from crime and anti-social behaviour;
- dealing effectively with family violence and sexual assault;
- Aboriginal substance abuse; and
- how to reduce offending and over representation of Aboriginal people in the justice system.

The Report finds that ' the Aboriginal Direction provides an excellent framework for ensuring Aboriginal Youth [sic] are diverted from the criminal justice system'. It also finds that the ASD has "a comprehensive monitoring and evaluation framework" and that no changes are required to the oversight arrangements for the ASD. However, the Report does recommend that, within this framework, the monitoring of one of the key objectives of the ASD be strengthened. This is Objective Four: Divert Aboriginal youth from crime and anti-social behaviour.

Currently, monitoring includes the use of Local Aboriginal Advisory Committees (LAAC) which are formed with key members of the Aboriginal community. From these meetings a comprehensive response is provided to the Region Aboriginal Advisory Committee (RAAC) and a return is produced which is then tabled at the Police Aboriginal Strategic Advisory Council (PASAC). The PASAC comprises key members of the Aboriginal community, key government agencies, the NSW Police Force Commissioner and the corporate spokesperson for Aboriginal issues, as well as at least 3 members of the NSW Ombudsman's office.

It is the role of this Council to select three Commands quarterly. These three Commands, in addition to their regular reporting structure, are required to provide a comprehensive analysis of their ASD strategies which are then tabled at the PASAC. These strategies are subject to scrutiny from Council members. This process as a whole ensures a strong focus is maintained in accordance with the ASD.

The Police strategies outlined in the ASD were developed over time and in consultation with the NSW Ombudsman, government and non government agencies and the Aboriginal community. Reaffirmed in the ASD is the commitment of the NSW Police Force to continue to play a role in diverting young persons from crime.

The NSW Police Force is responding to the static diversion rates of Aboriginal youth who are under 25 yrs of age by implementing the strategies, programs and initiatives outlined in the ASD including those outlined in Objective Four, 'Divert Aboriginal youth from crime and anti-social behaviour'. The NSW Police Force's declaration, in the ASD, that it will work to improve diversion rates amongst young Aboriginal offenders, is not indicative that current strategies have been unsuccessful.

To be successful, these strategies require the continued support and assistance from all stakeholders and the broader community.

Juvenile Justice Aboriginal Strategic Plan

The Aboriginal Strategic Plan is Juvenile Justice's strategy to address the overrepresentation of Aboriginal juveniles in custody. The Report's recommendations regarding this Plan are accepted:

- the DHS Executive will provide oversight for the Juvenile Justice Aboriginal Strategic Plan 2007-2011; and
- Juvenile Justice and the Department of Justice and Attorney General will work together to align the Juvenile Justice Aboriginal Strategic Plan 2007-2011 and DJAG Aboriginal Justice Plan.

Recommendation 70: *'Juvenile Justice incorporate the development of Aboriginal Cultural Support Plans into case planning processes for all Aboriginal children and young people under community and control orders.'*

This recommendation will be considered by Juvenile Justice in the review of their Aboriginal Strategic Plan. The review of Juvenile Justice's Aboriginal Strategic Plan is due for completion in early 2010-11 and will identify ways to improve the outcomes for Indigenous young people case managed by Juvenile Justice.

The review process will include an examination of the outcomes for Community Services clients resulting from the use of Cultural Support Plans in their Out of Home Care case management.

As Cultural Support Plans have relevance to the wider Department of Human Services' care of Aboriginal people, this recommendation will also be considered by DHS more broadly.

Recommendation 71: *'The Department of Justice and Attorney General develop and implement a model for community based sentencing of Indigenous juvenile offenders.'*

The Attorney General has approved the establishment of an expert working group to provide advice on opportunities for involving members of the Aboriginal community in criminal proceedings involving Aboriginal juveniles. The working group will consider whether members of Aboriginal Community Justice Groups could play a role in diversion processes, bail, sentencing and post-sentence support.

Recommendation 72: *'The Department of Human Services develop and implement a Reconciliation Action Plan as per Reconciliation Australia's guidelines.'*

The Government is satisfied that existing Government policies and actions, including *Two Ways Together* and co-operation with the Commonwealth on Closing the Gap initiatives, represent a sound basis to continue tackling Aboriginal disadvantage and promoting reconciliation. DHS will nonetheless further investigate the merits of developing a Reconciliation Action Plan (RAP). Should a RAP be considered able to practically aid service provision improvements and reduce disadvantage in Aboriginal communities, it will be pursued.

Recommendation 73: *'Ageing, Disability and Home Care review its Justice Services Policy to ensure that the best practice principles outlined in the 'Indigenous Young People with Cognitive Disabilities and Australian Juvenile Justice Systems' report are incorporated and translated into specific strategies and actions.'*

Ageing Disability and Home Care will review its Justice Services Policy to ensure that the best practice principles outlined in the Aboriginal Young People with Cognitive Disabilities and Australian Juvenile Justice Systems report are incorporated and translated into specific strategies and actions.

Recommendation 74: *'The NSW Government conduct a stocktake of programs and services currently being delivered to Indigenous communities.'*

Closing the gap in Aboriginal disadvantage is a priority of the Commonwealth, State and Territory Governments and is being pursued through the Council of Australian Governments (COAG). To inform this work the NSW Government has undertaken a stocktake of the services and programs provided specifically to Aboriginal Australians in NSW, and the associated funding.

The Government will expand this work by identifying the programs and services the Commonwealth Government provides to Aboriginal communities in NSW. This will provide a comprehensive, all-agency, state-wide overview of Aboriginal-specific programs and services in NSW.

In addition, detailed information about programs and services being delivered to Aboriginal communities was provided by the Department of Premier and Cabinet in September 2008 in its public submission to the Legislative Council Social Issues Committee's Inquiry into Overcoming Indigenous Disadvantage. This submission is available online at:

<http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/3385EC0997694FB4CA25750B001122BA>

The NSW Budget for 2009-10 includes Aboriginal-specific funding of more than \$290 million. Further detail is available online at:

<http://www.daa.nsw.gov.au/news/40.html>

Young Women and Culturally Diverse Groups

This section of the Report discusses the particular needs of young women and juveniles from culturally diverse backgrounds entering the juvenile justice system.

Recommendation 76: 'Juvenile Justice develop a Juvenile Justice Girls' and Young Women's Action Plan that provides a renewed policy framework for responding to the needs of girls and young women.'

Whilst young women make up a small percentage of juveniles in custody, rising slightly to just over seven per cent in 2008-09, Juvenile Justice has developed many strategies that are responsive to young women's needs. These strategies will be developed into a consolidated strategic framework for working with Young Women within Juvenile Justice.

The average daily number of young women in custody in 2008/09 was 31. Girls and young woman make up 15 per cent of the young people on community based orders.

Despite the small numbers of girls and young women under the supervision of Juvenile Justice, the agency has comprehensive policies and programs targeting girls and young women in the juvenile justice system. Juvenile Justice monitors the effectiveness of programs and is responsive to the issues that are the underlying cause of offending behaviour for young women.

Juniperina Juvenile Justice Centre at Lidcombe provides accommodation for girls and young women in detention on control orders or remand. It is the only such facility in Australia.

Young women at Juniperina participate in a range of therapeutic and developmental programs including counselling and group work programs focusing on issues that might lead to offending, including stress, anger and alcohol and drug use.

Juvenile Justice provides a range of programs and services to support young women in their transition from custody to the community. Examples of some of the programs provided to young women in custody or the community are listed below:

Supported accommodation programs

Juniperina Shared Access Trial (JSAT)

The Juniperina Shared Access Trial (JSAT) is a program for girls and young women aged between 16 and 21 years. The trial began in early 2008 and aims to provide safe and secure accommodation for young women who are leaving custody or who are at risk of offending or of entering custody.

The trial involves partnerships with Juvenile Justice, Housing NSW and Community Services and with Catholic Care. All partnership agencies meet monthly.

The trial involves provision of supported accommodation through Housing NSW to assist young women to gain the necessary skills to transition into independent living.

Joint Tenancy Assistance Program (JTAP)

The aim of the Joint Tenancy Assistance Program (JTAP) is to stabilise homeless young people (16-18 years) with complex needs away from offending lifestyles by

offering them a four phased program over 12 months or more, from an initial intense joint case management approach between Juvenile Justice and Catholic Care. Ongoing support is provided by all four partners; Housing NSW, Juvenile Justice, Catholic Care and Bridge Housing for the length of the young person's engagement with the program.

JTAP is a responsive, successful and financially efficient program in supporting young people's transition from enmeshment in the juvenile justice system to independent living. In the 11 years of its history Aboriginal young women had done particularly well on the program. Aboriginal young women have been helped to manage their domestically violent relationships and some have successfully moved on from these relationships and had healthy babies with no Community Services interventions.

Family Matters Program

Juvenile Justice has engaged the services of Karitane to deliver a program that aims to assist young women who are expecting a child or already mothers, so that they can build positive parenting relationships with their children.

The Family Matters program responds to the need for increased support and parenting education to young mothers in custody. The program also recognises that young mothers need support before, during and after visits with their children.

The program aims to:

- Build positive parent-child relationships;
- Ensure child safety during the visit and following mother's discharge;
- Enhance the mother's capacity to understand the needs of her child and care for her child;
- Reduce re-offending and the risk of re-entering custody;
- Reduce the risk of intergenerational contact with the Juvenile Justice/Corrective Services systems;
- Better equip young mothers with knowledge and parenting skills to effectively manage extended-day visits with their child or children.

Mental health issues

Justice Health provides mental health services to young women in custody and determine what child and adolescent services would help the young women successfully re-integrate back into the community. Mental health services are delivered via visiting child and adolescent psychiatrists and mental health clinical nurse consultants. Juvenile Justice provides specific psychological and drug and alcohol services and work in collaboration with Justice Health to deliver mental health and other psychological services to young women in custody at Juniperina Juvenile Justice Centre.

The Bronte Adolescent Unit will provide acute adolescent beds for up to 16 adolescents.

Other programs

In partnership with Sydney Community College Juvenile Justice provides a wide variety of courses including photography, cooking and dance classes. This partnership provides young women with a variety of programs that caters for their differing interests. In addition, the Inside Out Program, run by Juvenile Justice, provides young women with the skills necessary to live independently and be resourceful after they have been released. The program teaches living skills such as job preparation, budgeting, home cooking and peer relations.

Recommendation 77: 'Juvenile Justice ensure their plan for gathering and analysing data on culturally and linguistically diverse groups is cognisant of localised issues, and ensuring the effectiveness of their work with groups from over-represented culturally and linguistically diverse backgrounds.'

Juvenile Justice places a high value on the identification, development and implementation of culturally appropriate, innovative and evidence-based programs that specifically targets areas of offending risk within the Aboriginal youth population.

Juvenile Justice recognises that interventions need to be responsive to the issues underlying offending behaviour in each local area.

Juvenile Justice endeavours to recruit staff from across the community, especially Aboriginal and Torres Strait Islanders and culturally and linguistically diverse people.

Juvenile Justice has a statutory obligation to maintain a Multicultural Action Plan and to report progress to the Community Relations Commission.

This Action Plan promotes the principles of multiculturalism throughout the agency with the following objectives:

- Reducing re-offending by young people from culturally diverse backgrounds in line with the goals of the NSW State Plan.
- Developing, improving and maintaining practices which reduce any negative impact on young offenders because of their multicultural background.
- Continually improving professionalism of staff and managers in working with young offenders from culturally diverse backgrounds.

Cultural programs and recreational activities are aligned to cultural groups represented in each local area. Juvenile Justice Centre staff work with local community leaders of various cultural backgrounds to mentor young people. Juvenile Justice provides a range of culturally relevant educational, vocational, recreational and other programs to young people. Where young people self report their cultural or religious background, Juvenile Justice supports religious and cultural observance where reasonable.

Juvenile Justice works with the Community Relations Commission to engage community representatives to assist in the preparation of conferences for young people from culturally and linguistically diverse backgrounds, to ensure the agency best meets the needs of this client group.

All non-government organisations providing services to young people in detention are required to be responsive to the needs of a culturally diverse client group. Funding agreements include a clause requiring NGOs to ensure that the particular needs of girls and young women, young people with disabilities and young people from culturally and linguistically diverse backgrounds are met. NGOs must develop an Equity Plan which demonstrates how clients from each of these groups can access and benefit from services provided. Services include accommodation, employment support, alternative educational placements, youth mentoring, cultural programs, adolescent counselling, and support to parents and families of young offenders.

Each year, Juvenile Justice reviews its multicultural activities to ensure that goals are achieved and best practice is maintained. Results are reported in the Annual Report and to the Community Relations Commission. Additionally, an analysis of intake statistics is conducted on an ongoing basis to detect trends in the representation and over-representation of various cultural and linguistic groups.