



Submission to the Inspector of Custodial Services

Inquiry into the Banksia Hill incident

Background

The Commissioner for Children and Young People in Western Australia (the Commissioner) was appointed in December 2007 under the Commissioner for Children and Young People Act 2006 (the Act).

The Commissioner has a statutory responsibility under section 19 of the Act:

- To advocate for children and young people
- To promote the participation of children and young people in the making of decisions that affect their lives
- To promote and monitor the wellbeing of children and young people
- To monitor complaints and complaints handling related to children and young people
- To monitor and review legislation, policies and services affecting the wellbeing of children and young people
- To conduct research into matters relating to the wellbeing of children and young people.

The Act contains a number of guiding principles. Section 3 of the Act provides:

In performing a function under this Act the Commissioner or any other person must regard the best interests of children and young people as the paramount consideration.

Other principles follow in section 4:

- (a) children and young people are entitled to live in a caring and nurturing environment and to be protected from harm and exploitation;
- (b) the contributions made by children and young people to the community should be recognised for their value and merit;
- (c) the views of children and young people on all matters affecting them should be given serious consideration and taken into account;
- (d) parents, families and communities have the primary role in safeguarding and promoting the wellbeing of their children and young people and should be supported in carrying out their role.

Under section 20 of the Act:

In performing the Commissioner's functions, the Commissioner must –

- (a) Give priority to, and have special regard to, the interests and needs of
 - (i) Aboriginal children and young people and Torres Strait Islander children and young people.
 - (ii) Children and young people who are vulnerable or disadvantaged for any reason.

Due to the profound impact the justice system can have on young people, and the vulnerability of those children and young people who are coming into contact with the criminal justice system, youth justice has been a priority area for the Commissioner since the establishment of the office in 2007.

The Commissioner appreciates this opportunity to make a submission on youth justice issues in Western Australia and the Banksia Hill Detention Centre incident.

The Commissioner's position on youth justice

The Commissioner has made ongoing and consistent representations, advocating for changes to the youth justice system to promote better outcomes for children and young people.

In 2009 the Commissioner contracted Professor Harry Blagg to research a paper on youth justice in WA¹, and since 2008 the Commissioner has published an issues paper on youth justice, published several policy briefs on matters relating to youth justice and has continued to advocate through submissions and speeches for improvements to youth justice in WA.

The Commissioner has worked closely with a wide range of stakeholders in government and the non-government sector to advance the interests of children and young people coming into contact with the criminal justice system.

Whilst there have been some improvements in youth justice in WA in the last five years there remains major structural and implementation issues which require a concerted effort from all agencies related to youth justice to achieve better outcomes for children and young people coming into contact with the youth justice system.

The Commissioner has consistently identified the following as priority areas for action:

Investing in programs that divert children and young people away from the criminal justice system is a critical priority area.^{2 3}

Safe houses in communities across WA where children can go when it is not safe for them to be at home.⁴

Establishment of a state-wide 24 hour bail service.⁵

The significant over-representation of Aboriginal children and young people in contact with the justice system.⁶

The high rate of detention in WA compared to other states and territories.⁷

¹ Blagg H 2009, Youth Justice in Western Australia, Commissioner for Children and Young People WA.

² Commissioner for Children and Young People 2012, Youth Justice, Policy Brief March 2012

³ Blagg H 2009, Youth Justice in Western Australia, Commissioner for Children and Young People WA, p.6

⁴ Commissioner for Children and Young People 2010, Annual Report 2009-10, Commissioner for Children and Young People, pp.16 and 44

⁵ Commissioner for Children and Young People 2010, Submission to the Department of the Attorney General's review of the Bail Act 1982: Issues Paper and Questions, Commissioner for Children and Young People, pp.30-32

⁶ Letter, Commissioner for Children and Young People to Attorney General, 22 October 2008

⁷ Appendix 1

To address the 'correctionalising' of youth justice, responsibility for youth justice should be transferred from the Department of Corrective Services to either a stand-alone department or to the Department of Child Protection to address more appropriately the underlying causes of children and young people offending, improve accountability for outcomes and reduce government expenditure.^{8 9}

Improved coordination and collaboration between agencies working with young people in the justice system.

Children and young people appearing before the Children's Court of Western Australia must have access to appropriate, comprehensive mental health assessment, referral and treatment services; and that a dedicated forensic mental health unit be established.¹⁰

It is important to remember that very few young people actually have contact with the justice system. Around 96 per cent of children and young people have little or no formal contact with the justice system.¹¹ Much offending by young people is impulsive and transient – this is not to diminish the effects of their behaviour, but to illustrate the need for a proportionate response for offending by children and young people.

Where children and young people do have persistent and ongoing contact with the justice system, it is rarely in isolation from other factors. The same factors that can lead a child or young person into the justice system are largely the same as those that can lead them into state care – that is, dysfunction at home and in the community, alcohol and drugs, violence, disadvantage and poverty. These issues are covered in detail in the Joint Australian Commissioners and Child Guardians (ACCG) submission to the Inquiry into the over representation of Aboriginal young people in the justice system.¹²

The Auditor General's performance examination: The youth justice system

In 2008 the Auditor General tabled a report in the Parliament of WA, *The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994: Performance Examination*.¹³ The report found that there had been a loss of momentum in implementing and maintaining interventions and policies which supported the intent of the Young Offenders Act 1994 (YO Act) to ensure the minimum appropriate contact with the justice system for young people who offended or were at risk of offending.¹⁴

⁸ Commissioner for Children and Young People 2009, Submission to the Economic Audit Committee

⁹ Blagg H 2009, *Youth Justice in Western Australia*, Commissioner for Children and Young People, p.8

¹⁰ Commissioner for Children and Young People 2011, *Report of the Inquiry into the mental health and wellbeing of children and young people in Western Australia*, Commissioner for Children and Young People 2011, pp.80-83

¹¹ Office of the Auditor General 2008, *The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994: Performance Examination*, Office of the Auditor General, p.17

¹² Australian Children's Commissioners and Guardians 2010, *Submission to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander affairs: Inquiry into the high levels of involvement of Indigenous juveniles and young adults in the justice system*, Australian Children's Commissioners and Guardians, http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=atsia/sentencing/subs/sub059.pdf

¹³ Office of the Auditor General 2008, *The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994: Performance Examination*, Office of the Auditor General

¹⁴ Office of the Auditor General 2008, *The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994: Performance Examination*, Office of the Auditor General, p.5

The YO Act sets out a number of guiding principles including:

Encouraging police and courts to use alternative measures than judicial proceedings for dealing with a young person if it is appropriate to do so (s 7(g)).

Detention to be considered a last resort for children and young people, and if imposed, should be for as short a time as possible (s 7(h)).

Young people should be dealt with in ways which are appropriate to their sense of time (s 7(k)), their age, maturity and cultural background (s 7(l)).

Young people should be dealt with in such a way as to encourage them to accept responsibility for their conduct (s 7(b)) and to develop a sense of social responsibility (s 7(j)).

The YO Act sets out interventions which are appropriate for children and young people, ranging from formal cautions by police, through Juvenile Justice Teams (JJT) and finally to arrest and detention.

The Auditor General's report made a number of important findings:

Although there were tools in place to enable the effective use of all these interventions, the rate of directing young people away from formal proceedings had declined between 2003 and 2008.

Police diversion of young people to JJTs had also declined, and in some cases there was not effective monitoring of a young person's JJT action plan to support that young person's rehabilitation.¹⁵

The rate of young people being granted bail by police had declined, resulting in more young people being remanded in custody.¹⁶ This was in part due to police focussing on enforcement of bail conditions, and of the need to find a responsible adult to whom the young person could be released.¹⁷

The report also found that mental health services for young people were lacking, which was particularly concerning given that significant numbers of young people who were offenders had mental health and/or substance abuse problems.¹⁸

The Auditor General's report made 12 recommendations:

The Department of Corrective Services and Western Australia Police work together to establish strategies for young people who continually breach bail so that they do not return to environments in which they are not supervised effectively.

Government agencies that have contact with young people in the justice system (that is, Department for Child Protection, Department of Corrective Services, Department of Health and Western Australia Police) work together to ensure that young people who offend repeatedly are identified and case managed until the mental health, substance abuse and other problems that are associated with their offending are successfully managed.

¹⁵ Office of the Auditor General 2008, The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994: Performance Examination, Office of the Auditor General, p.7

¹⁶ Office of the Auditor General 2008, The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994: Performance Examination, Office of the Auditor General, p.7

¹⁷ Office of the Auditor General 2008, The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994: Performance Examination, Office of the Auditor General, pp.7-8

¹⁸ Office of the Auditor General 2008, The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994: Performance Examination, Office of the Auditor General, p.7

Western Australia Police, Department of Corrective Services and Department of the Attorney General progressively improve the extent to which they record data on ethnicity and indigenous status to enable better monitoring and evaluation of the impact of initiatives on young people from diverse backgrounds.

Western Australia Police ensure that officers consider redirection options in line with the YO Act, particularly by ensuring that officers:

- use notices to attend (court) to direct young people towards court only when they have considered all redirection options
- refer young people to juvenile justice teams where this is appropriate for the young person's offence and circumstance.

Western Australia Police ensure that officers fully apply the YO Act provisions which require them to usually refer young people who have not previously offended to juvenile justice teams.

Department of Corrective Services improve the juvenile justice team program, by improving timeliness and ensuring that action plans support the young person's rehabilitation and address the nature and causes of their offending.

Department of Corrective Services and Western Australia Police work together to establish clear responsibilities for ensuring that:

- all victims of juvenile crime have the opportunity to become involved in juvenile justice teams, including participation which does not involve them appearing in person
- these participants receive the support they need to meaningfully participate
- the reasons why victims do not wish to become involved are evaluated and used for continuous improvement purposes.

Department of the Attorney General's Victim Support Service records assistance provided to victims of crime involved in juvenile justice teams, so that it can monitor and improve the support it provides to victims.

Department of Corrective Services and Department for Child Protection work together to provide state-wide alternatives to detention for young people who need supervision and accommodation while on bail.

Department of Corrective Services and Western Australia Police explore further ways of locating responsible adults, including the use of non-sworn staff for this purpose.

Department for Child Protection review their practices to ensure that no children under the protection of the Director General are refused bail on 'no responsible adult' grounds.

Western Australia Police develop and apply protocols for young people's long distance transport arrangements, including choice of transport, journey preparation and contingency planning, prisoner risk assessment, notification of responsible adult, overnight stay accommodation and supervision of the young person.

The Auditor General noted:

It is now time to take a fresh look at the main elements of the juvenile justice system, so that it better serves young people and their families, and inevitably the whole community.

The required changes will not be achieved if agencies take a narrow view of their roles in preventing and dealing with juvenile crime. They can only be successful if

agencies work together and recognise their joint responsibility for young people who have entered the juvenile justice system.¹⁹

Following the release of the OAG report the Commissioner wrote to the Department of the Attorney General (DotAG) advocating action to address the findings of the report, and recommended that the report be referred to the existing interagency Juvenile Justice Project Group.^{20 21}

In addition, the Commissioner wrote to the Attorney General outlining particular areas of concern for youth justice. The Commissioner noted:

The declining rate of cautioning of Aboriginal children and young people.
The decline in the use of diversionary options for Aboriginal children and young people.
The increase in arrest and remand of Aboriginal children and young people.
Refusal of bail on the grounds of 'no responsible adult' or no appropriate accommodation.
Transportation of young offenders from regional and remote areas to Perth.
Shortage of police officers and corrections officers to participate in Juvenile Justice Team meetings, particularly in remote and regional areas.
Lack of a comprehensive, routine assessment of mental health, substance abuse issues, or intellectual disability for young people in the justice system.²²

The Commissioner also referred to the establishment of the Pilot Youth Justice Initiative through the work of the President of the Children's Court. This program was intended to improve the case management of young people in the justice system and address systemic issues in their lives to address their offending behaviour.

The Commissioner again stated her strong view that youth justice had to be treated as a priority issue, noting the significant gaps which the Auditor General's report had highlighted. As well as providing more effective services to young people, a better focus on youth justice would ultimately represent a cost saving for government. The Commissioner also called for the development of an overarching comprehensive strategic plan for the future direction of youth justice. The lack of such a plan made it likely that young people would be subject to disconnected service responses rather than a coordinated, effective response.²³

In September 2008 the Department of Corrective Services (DCS) began the process of an internal realignment to bring a stronger focus on provision of services for young people in the justice system. The Commissioner was identified as a key stakeholder in the realignment process, and her input was sought by the Department and by the consultant group advising

¹⁹ Office of the Auditor General 2008, *The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994: Performance Examination*, Office of the Auditor General, p.5

²⁰ Letter, Commissioner for Children and Young People to Director General Department of the Attorney General, 19 June 2008

²¹ The particular focus on Aboriginal young people was a consequence of the significant over-representation of Aboriginal children and young people in the justice system. The Commissioner referred to her correspondence with DotAG from March 2008, in which she had called for that agency to address issues raised in a submission by the Aboriginal Legal Service of WA into issues for young people in the justice system. The Juvenile Justice Project Group was formed to investigate these matters, and when the Auditor General's report was released, it was referred to that same group for their attention and action.²¹

²² Letter, Commissioner for Children and Young People to Attorney General, 22 October 2008

²³ Letter, Commissioner for Children and Young People to Attorney General, 22 October 2008

on the realignment.²⁴ As a result of this proposal the Community and Juvenile Justice Division was restructured to separate youth justice into one area, overseen by an Assistant Commissioner. The Commissioner welcomed that change, and the stronger focus on young people in the justice system, believing it was a positive step for improving youth justice.²⁵

During this time there was also some considerable effort within government to produce a strategic framework on youth justice. DCS began developing a strategy in December 2008, and at that time DOTAG was also progressing work on this area through the Juvenile Justice Project Group.

The Attorney General advised the Commissioner on 10 December 2008²⁶ that the Commissioner for Corrective Services would have the lead role in juvenile justice within government and would oversee development of the strategy.

Notwithstanding this the Juvenile Justice Project Group continued to take a lead role in the development of the strategy and this was initially completed in 2009, but due to a number of issues and clarifications, was not endorsed by Cabinet until June 2011.²⁷

It is unclear what the status of the strategic framework is or whether there has been any monitoring of its achievements.

Public Accounts Committee – Parliament of WA

In July 2009 the Public Accounts Committee reviewed progress on the implementation of the OAG's recommendations. The Committee received and considered evidence from a number of government agencies in relation to this matter. In addition the Committee 'resolved to accept an offer from the Commissioner for Children and Young People to provide commentary on agencies implementation of the recommendations in the Auditor General's report'.²⁸

The Commissioner noted her satisfaction with several of the actions and responses that had taken place, including the implementation of the Regional Youth Justice Service in Geraldton, the proposed development of an overarching strategy, and the realignment of DCS.

The Commissioner provided the Committee with her view regarding areas which required continued work and identified three 'fundamental principles' of youth justice:

- That the distinction between young offenders and adult offenders be maintained
- That consistent with the YO Act detention is always a last resort, with focus on prevention, diversion and rehabilitation
- That the over-representation of Aboriginal young people be addressed.

²⁴ Letter, Deputy Commissioner Community and Juvenile Justice to Commissioner for Children and Young People, 30 September 2008

²⁵ Letter, Commissioner for Children and Young People to Chairman, Public Accounts Committee, 29 July 2009

²⁶ Letter, Attorney General to Commissioner for Children and Young People 10 December 2008

²⁷ Western Australian Youth Justice Framework 2010-2015

²⁸ Public Accounts Committee Review of the Reports of the Auditor General 2008 - 2009, Report No 5 tabled Legislative Assembly 26 November 2009 p.98

The Commissioner stated:

A philosophical agreement to these statements is not enough. They need to be practically implemented, embedded in agency culture, and used to guide the development of all youth justice policies and programs. Until this happens we are unlikely to see any significant (and much needed) change in youth justice in Western Australia.²⁹

It is unclear what progress the Department of Corrective Services and other agencies have continued to make in relation to the Auditor General's recommendations since 2009.

Further developments

The Pilot Youth Justice Initiative (PYJI) was established in 2008 as an initiative of His Honour Judge Reynolds, President of the Children's Court. The intention of the project was to explore how a case management model, applied to a selected number of complex cases, could be used to effectively address offending behaviour and provide better services to young people.³⁰ The pilot project which was independently evaluated was found to have had little, if any, effect in terms of reducing the volume or severity of offending by those young people.³¹ It was considered that although there had been enhanced interagency collaboration at the beginning of the project, as time went on there were issues with sustainability, including resource allocation. The evaluation report suggested that this may have been due to the pilot project being seen as outside normal business for agencies.³² It recommended that there be a Memorandum of Understanding for agencies involved, to show at the highest level there was a commitment to an interagency approach, and that furthermore dedicated financial and human resources should be allocated to sustain the project.³³

It is unclear what action the Department of Corrective Services has taken to remedy the deficiencies identified in the evaluation of the Pilot Youth Justice Initiative.

There have been a number of other developments that the Commissioner has welcomed:

Expansion of the after-hours bail service

In 2011 the Department of Corrective Services advised that the Supervised Bail Unit would change its name to the Metropolitan Youth Bail Service (MYBS), and that its services would expand from a five day a week, 8am-5pm service to a seven day a week service from 8am-5pm with services on Fridays and Saturdays to 11pm. This expansion was intended to provide greater coverage for times of greatest need.³⁴

²⁹ Letter, Commissioner for Children and Young People to Chairman, Public Accounts Committee, 29 July 2009

³⁰ Quantum Consulting Services 2011, Outcome Evaluation of the Pilot Youth Justice Initiative: Final Report, Department of Corrective Services, p.18

³¹ Quantum Consulting Services 2011, Outcome Evaluation of the Pilot Youth Justice Initiative: Final Report, Department of Corrective Services, pp.7-8

³² Quantum Consulting Services 2011, Outcome Evaluation of the Pilot Youth Justice Initiative: Final Report, Department of Corrective Services, p.12

³³ Quantum Consulting Services 2011, Outcome Evaluation of the Pilot Youth Justice Initiative: Final Report, Department of Corrective Services, pp.12-13

³⁴ Letter, Department of Corrective Services to Commissioner for Children and Young People, 9 May 2011

Regional Youth Justice Services

In 2008 the Department of Corrective Services established Regional Youth Justice Services as pilots in Geraldton and Kalgoorlie. The intention of these services was to provide better management of young people on community orders; an extended-hours family support services for young people at risk of offending; an extended-hours bail service to assist police in locating a responsible adult for children and young people eligible for bail; emergency short-stay accommodation for young people who have been bailed but have no responsible adult; juvenile justice teams; and psychological support.³⁵

In 2010 additional funding of \$43.4m was provided over four years to expand the services to the Kimberley and Pilbara.³⁶

WA Police changes to instructions regarding bail provisions for young people

In May 2012, the Commissioner wrote to the Commissioner of Police, expressing concern that Police were not utilising the Metropolitan Youth Bail Service (MYBS) as a matter of course, but on an ad hoc basis depending on the individual police officer. The Commissioner suggested that the Police Operational Manual be amended to direct Police to contact the MYBS wherever any young person was granted bail and a responsible person could not be found.³⁷

As a result of the Commissioner's representations, WA Police amended the Operational Manual in November 2012, to make it mandatory for Police to contact the MYBS where this situation arose.³⁸

Mental Health Court Service

The Commissioner's 2011 Inquiry into the mental health and wellbeing of children and young people in Western Australia found that the absence of a mental health service located at the Children's Court was a major mental health service gap and area of need for young people.³⁹ The Commissioner noted estimates of up to 50 per cent of children and young people in detention having mental health problems.

The Inquiry made two specific recommendations in relation to this matter:

Recommendation 19: Children and young people appearing before the Children's Court of Western Australia have access to appropriate, comprehensive mental health assessment, referral and treatment services.⁴⁰

Recommendation 20: A dedicated forensic mental health unit for children and young people be established.⁴¹

³⁵ Department of Corrective Services, Regional Youth Justice Services, <<http://www.correctiveservices.wa.gov.au/youth-justice/regional-youth-justice.aspx>>

³⁶ Porter C 2010, State Budget 2010-11: \$43.9million to expand regional youth justice services, Ministerial Media Statements, WA Government, <http://www.mediastatements.wa.gov.au/Pages/StatementDetails.aspx?StatId=2600&listName=StatementsBarne>

³⁷ Letter, Commissioner for Children and Young People to Commissioner of Police, 29 May 2012

³⁸ Police Gazette, 14 November 2012

³⁹ Commissioner for Children and Young People 2011, Inquiry into the mental health and wellbeing of children and young people in Western Australia, Commissioner for Children and Young People, pp.78-83

⁴⁰ Commissioner for Children and Young People 2011, Inquiry into the mental health and wellbeing of children and young people in Western Australia, Commissioner for Children and Young People, p80

In the 2012 State Budget, the Government announced \$1.7m over two years for mental health experts to be placed at the Perth Children's Court to establish an early intervention pilot project to support the needs of the court. This project would provide assessments, referrals and treatment, with the intention of diverting young people away from the justice system.⁴²

Young People with Exceptionally Complex Needs YPECN

In Western Australia, the People with Exceptionally Complex Needs (PECN) pilot comprised six individuals with exceptionally complex needs including a range of disabilities including mental illness, intellectual disability and acquired brain injury.⁴³ They are also those who tend to use a range of services provided by government and non-government organisations including health, disability, drug and alcohol, housing, police and corrective services.

An evaluation of the pilot in 2010 found that with appropriate support and assistance, people with exceptionally complex needs are able to make and maintain positive changes in their lives including compliance with medication and reduction in admissions into emergency department.⁴⁴ Further that the changes can also produce positive outcomes for the community including reduction in contact with the criminal justice system and improved relationships. PECN is an example of a whole of government approach and tailoring services to meet the needs of the client.

In 2012 the YPECN program was established in response to a recommendation of the Commissioner's Inquiry into the mental health and wellbeing of children and young people in Western Australia. This program targets young people with two or more of - a mental health issue; an acquired brain injury; an intellectual disability; a significant substance abuse problem; and in addition pose a significant risk of harm to themselves or others; require extensive support and would benefit from receiving coordinated services; and for whom the existing system is not working as it should.

The Banksia Hill Incident

Banksia Hill Detention Centre (Banksia Hill) is the largest and most complex youth detention facility in Australia. Appendix 2 provides an overview of youth detention facilities in each jurisdiction in Australia.

The Commissioner has consistently cautioned against the co-location of all young people in one facility. In a letter to the Commissioner Corrective Services dated 7 August 2009⁴⁵ the Commissioner stated:

Officers from the Department of Corrective Services (the Department) have briefed me on the extension plans for Banksia Hill and I have some concerns. There are

⁴¹ Commissioner for Children and Young People 2011, Inquiry into the mental health and wellbeing of children and young people in Western Australia, Commissioner for Children and Young People, p83

⁴² Porter C and Morton H 2012, State Budget 2012-13: Supporting our Community – Mental health court diversion program first for WA, Ministerial Media Statements, <http://www.mediastatements.wa.gov.au/Pages/StatementDetails.aspx?StatId=5884&listName=StatementsBarrett>

⁴³ Western Australian Mental Health Commission 2010, People with Exceptionally Complex Needs (PECN): Interim Evaluation Report, 2010, p.6

⁴⁴ Western Australian Mental Health Commission 2010, People with Exceptionally Complex Needs (PECN): Interim Evaluation Report, 2010, p.12

⁴⁵ Letter, Commissioner for Children and Young People to Commissioner for Corrective Services, 7 August 2009

significant issues in relation to having girls and boys on the one site, as well as combining remand and sentenced children and young people. The approach being contemplated poses risks and challenges. I would be interested in being briefed on best practice in other jurisdictions and whether the approach in Western Australia will be consistent with this.

As indicated in my recent meeting with your officers, my view is that the establishment of a new prison for 18 to 22 year olds provides a unique opportunity to reposition the provision of juvenile justice services.

As you are aware, Western Australia has one of the highest rates of detention of young people,⁴⁶ and also the highest level of overrepresentation of Aboriginal young people in detention.⁴⁷ These two statistics alone clearly indicate that new approaches to youth justice are required.

Below I have set out my primary concerns about the proposed Banksia Hill expansion, and I would be happy to discuss them with you further.

Continuing high remand population

The number of young people on remand is increasing, as is the average length of remand detention.⁴⁸ I have been advised that more than 60% of the young people in Banksia Hill are there on remand⁴⁹ and that more than 80% of young people in detention on remand will not receive a custodial sentence when they appear in court.⁵⁰

It appears to be generally accepted that remand is not being used solely for its intended purpose: to detain a young person who has been refused bail because of the serious nature of the offence. Instead, and as the figures above would suggest, remand continues to be seen as an acceptable option for a young person if a responsible adult cannot be found, or if authorities are concerned for the young person's safety. The lack of accommodation alternatives for children at risk must be addressed not by detaining children in a juvenile detention centre but by other measures.

Continuing high detention population

I refer to the United Nations Convention on the Rights of the Child and the principles of the Young Offenders Act 1994 which both specifically stipulate that detention should be a last resort and, if required, should be for as short a time as is necessary.

⁴⁶ Report on Government Services 2009, Productivity Commission, 2009, p.15.56 (2006-07 data)

⁴⁷ Taylor, N., *Juveniles in Detention in Australia 1981-2007*, Australian Institute of Criminology, 2009

⁴⁸ The average length of remand detention at Rangeview has increased from three days in 1994 to 17 days in 2007: Office of the Inspector of Custodial Services, 2008, Report of an Announced Inspection of Rangeview Juvenile Remand Centre, Report No. 50, Office of the Inspector of Custodial Services, p.1

⁴⁹ Office of the Inspector of Custodial Services, 2008, Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre, Report No. 58, Office of the Inspector of Custodial Services, p.6

⁵⁰ Email advice from Mr Lex McCulloch, Assistant Commissioner Youth Justice, Department of Corrective Services, to the Commissioner for Children and Young People, 27 October 2008

However, as mentioned above, Western Australia continues to have one of the highest rates of children and young people in detention despite the State's relatively small population (the daily average detention population in Western Australia is 132 compared with Victoria's 48).⁵¹

In addition, Western Australia's juvenile detention centres are mostly functioning at or above capacity.⁵² Once again, this highlights that something in Western Australia's approach is not working, and there is a desperate need for new strategies.

Cost

Accommodating a child or young person in detention costs the Government almost \$500 per day,⁵³ and the total cost reduction realised by diverting young people from court and using detention as a last resort is close to \$9 million per year,⁵⁴ I believe that it is also a prudent financial decision to examine alternatives to the expansion of Banksia Hill.

It is for these reasons that I do not support building the equivalent remand beds in Banksia Hill. I am of the view that the Department has a rare opportunity to facilitate a different, more effective and less costly range of alternatives.

I believe that with the funding allocated to replacing the Rangeview beds, the Department has a brief but invaluable opportunity to present some alternative options for consideration by Government. The alternatives, as the Auditor General's Performance Examination into the Young Offender's Act 1994 in June 2008 found, are considerably cheaper.

The recent juvenile justice initiatives (Youth Justice Services) in Geraldton and Kalgoorlie are welcome and, according to the information that has been provided to me, are proving effective in diverting children away from the justice system and encouraging more substantial agency collaboration. It is critical that initiatives such as these are maintained, supported and established in the metropolitan area and other regions. They are a cheaper and more effective alternative than detaining children in remand beds in a juvenile detention centre.

I understand that there are a range of other agencies that must be involved in this process, but I encourage the Department to take a leadership role in forging a new direction.⁵⁵

In absolute terms, WA has one of the highest rates of youth detention in Australia. For the quarter March to June 2012 WA had a daily average of 168 young people 10 to 17 years old

⁵¹ Report on Government Services 2009, Productivity Commission, 2009, p.15.56 (2006-07 data)

⁵² Office of the Inspector of Custodial Services, Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre: Report 58, 2008, piii

⁵³ Advice from Department of Corrective Services, 18 June 2009

⁵⁴ Auditor General of Western Australia, A Cost Benefit Analysis of Proactive Redirection Measures in The Juvenile Justice System, (Supporting paper for Auditor General's performance examination The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994, Volume 2, June 2008), p9

⁵⁵ Letter, Commissioner for Children and Young People to Commissioner for Corrective Services, 7 August 2009

in detention, exceeded only by NSW with 266. Victoria, with more than double WA's population, had a daily average of less than half WA's, at 63.⁵⁶

On 17 January 2013, the last weekly census date prior to the Banksia Hill incident, there were 200 young people detained. Of these 101 were sentenced and 99 un-sentenced; 135 were Aboriginal; and 19 were female.

Further broken down, 93 were sentenced males and 88 un-sentenced males; 10 were sentenced females and 9 un-sentenced females; 119 were Aboriginal males, 16 Aboriginal females, 62 non-Aboriginal males and 3 non-Aboriginal females.⁵⁷

Following the serious incident at Banksia Hill on the evening of 20 January 2013, on 21 January 2013 the Commissioner requested a briefing on the welfare of the young people involved and those affected by the incident.

The Commissioner met with and wrote to the Commissioner for Corrective Services on a number of occasions expressing her concern about the wellbeing of children and young people who were in detention, both those remaining at Banksia Hill and those who had been moved to Hakea. These letters also referred to complaints that had been received from parents regarding the wellbeing of the children including how the children had been treated following the incident, the lack of timely and regular information about their child, and expressing concern regarding the lockdown and visiting regime following the incident.

The Commissioner also spoke with and wrote to the Ombudsman Western Australia on a number of occasions:

- to advise that complaints that had been received from parents and other interested parties
- to enquire what mechanisms and strategies were in place for the Ombudsman to receive complaints from young people and their parents and
- to request that the Ombudsman conduct an investigation into the visiting restrictions that have been imposed on children and young people at Hakea Prison.

Following the Commissioner's representations, both the Ombudsman Western Australia and the Department of Corrective Services designated a specific contact person for complaints regarding the Banksia Hill incident. The contact details of these officers were forwarded to those individuals and organisations who made contact with the Commissioner's office regarding specific concerns.

In accordance with the Act the Commissioner has continued to advocate for the needs of children and young people in detention, and for their families, and to seek detailed information from the Department of Corrective Services on the welfare and wellbeing of the young people in detention at Banksia Hill and Hakea specifically in relation to the following areas:

The return of children and young people to Banksia Hill Detention Centre.

⁵⁶ Australian Institute of Health and Welfare 2012, Juvenile Detention Population in Australia 2012, Juvenile justice series no. 11, Cat. No. JUV 11, Australian Institute of Health and Welfare, Table S8

⁵⁷ Department of Corrective Services 2013, Weekly Offender Statistics, 17 January 2013. Note that although the total is correct, in the breakdown there are two more sentenced young people and two less un-sentenced young people than the summary records. This discrepancy appears in the source document.

<<http://www.correctiveservices.wa.gov.au/files/about-us/statistics-publications/statistics/2013/cnt130117.pdf>>.

Details regarding the lockdown for young people at both Banksia Hill and Hakea adult prison.

The specific details of counselling and psychological support for children and young people who may have been affected by the incident.

The specific programs available to the children and young people at both sites and when they will be resumed.

The specific educational opportunities available for the children and young people at both sites and when they will be resumed.

The specific recreational and exercise activities for the children and young people at both sites and when they will be resumed.

The arrangements that have been put into place to allow family and social visits.

The arrangements to communicate with parents and carers regarding changes arising from the altered detention arrangements.

It is appreciated that the Banksia Hill incident is a challenging situation requiring careful management. In the immediate aftermath the safety of workers, the community and the young people had to be balanced and considered.

However, the Commissioner has yet to receive a detailed response to her concerns about the wellbeing of children and young people. Refer to Appendix 3 for copies of this correspondence.

There is no clarity regarding the decision-making processes undertaken by DCS and whether the interests of children and young people were considered in regard to:

The decision to transfer almost all of the children and young people to Hakea adult prison, regardless of their age, seriousness of the charges, whether the children and young people were on remand or had been sentenced.

The impact on children and young people of transferring them to Hakea adult prison.

The communication strategy to keep parents and family members informed.

Restricting visits by family members.

Ongoing lockdowns before the incident and following the incident.

Priority areas

The Banksia Hill incident provides an opportunity to review youth justice arrangements in Western Australia:

WA continues to have one of the highest incarceration rates of young people in Australia.

WA has a considerable over representation of young Aboriginal people in the youth justice system.

WA has the largest and most complex juvenile detention facility in Australia.

WA has not invested sufficiently in diversionary programs

Other states have reviewed their youth justice systems and developed coordinated and innovative programs, recent reviews have been conducted in Queensland, ACT and NSW. In late February 2013 the NSW Attorney General announced Youth on Track – an early intervention program which provides a holistic approach. The program was developed by the Department of Attorney General and Justice, in consultation with NSW Police and the Ministry for Police and Emergency Services, the departments of Education and Communities, Family and Community Services, and Health, and with non-government agencies.

Targeted services will respond to the underlying causes of crime which can be changed, and help these young people deal with issues like substance abuse, educational problems, anger issues, mental illness, and family dysfunction...it is about improving community safety by breaking the cycle of reoffending. It is about turning them away from crime and getting them back on track,⁵⁸

In February 2013 the WA Council of Social services, the Youth Affairs Council of WA and the Youth Legal Service produced a report and recommendations of the 2012 Youth Justice Think Tank⁵⁹. This report also calls for:

- A change of approach to youth justice in WA.
- Increased collaboration and cooperation between agencies working with young people in the youth justice system.
- Increased funding and supports to young people to prevent them coming into contact with the youth justice system.
- Improved services to young people during detention and post release from detention.

Of particular importance is the call for the establishment of a Youth Justice Partnership Forum. The Forum would seek innovative approaches to youth justice issues, improve service delivery and facilitate co-operation and collaboration across government and non-government agencies.

In 2013 the management of youth justice in Western Australia requires immediate change.

There are strategic and implementation issues which require a concerted effort from all agencies related to youth justice to achieve better outcomes for children and young people coming into contact with the youth justice system.

Any reforms must be based on the best available evidence. Evidenced based policy and practice is critical to improving the wellbeing of young people. Across Australia there are examples of youth justice programs and services that have been evaluated and demonstrated to work. In February 2012 the Commissioner tabled in the Parliament of WA the report Building Blocks: Best practice programs that improve the wellbeing of children and young people – edition one⁶⁰. This report provides a selection of evaluated best practice programs and includes information and data that can assist in making informed decisions.

It is clear is that there is no comprehensive approach to youth justice in WA. This submission notes previous efforts to develop such a framework in WA (page 7).

In 2011 an Inquiry into the youth justice system in the ACT, including the Bimberi Youth Justice Centre and Community Youth Justice, and an accompanying audit into conditions of detention in Bimberi Youth Justice Centre was undertaken by the ACT Human Rights Commission. This review included extensive work from the ACT Commissioner for Children

⁵⁸ Smith G and Gallacher M 2013, Early Intervention to keep youth on track, Ministerial Media Statements, NSW Government, <[http://www.lawlink.nsw.gov.au/lawlink/Corporate/ll_corporate.nsf/vwFiles/27022013_MR13_Youth_on_Track.pdf/\\$file/27022013_MR13_Youth_on_Track.pdf](http://www.lawlink.nsw.gov.au/lawlink/Corporate/ll_corporate.nsf/vwFiles/27022013_MR13_Youth_on_Track.pdf/$file/27022013_MR13_Youth_on_Track.pdf)>

⁵⁹ WACOSS 2013, The report and recommendations of the 2012 Youth Justice Think Tank

⁶⁰ Commissioner for Children and Young People, 2012 Building Blocks: Best practice programs that improve the wellbeing of children and young people – edition one, Commissioner for Children and Young People

and Young People. The report indicated the need for coordinated services in youth justice and promoted a whole of government and whole of community approach.⁶¹ Key points included:

The need for whole-of-government coordination for youth justice and for responses to systemic issues.⁶²

An emphasis on evidence-based policy and programs.⁶³

Response to the needs of individuals in the system.⁶⁴

The need for a shift in practices in the detention centre to ensure the safety of young people in custody.⁶⁵

The use of remand in custody as a welfare response, rather than a response to the seriousness of the offence.⁶⁶

Following the review the ACT government established an Implementation Taskforce, on 15 August 2012 the ACT Minister for Community Services released the Blueprint for Youth Justice in the ACT 2012-22.⁶⁷ The Blueprint provides clear strategic direction, a three year action plan and details the whole of government response to youth justice in the ACT. The Blueprint details six goals in relation to youth justice:

Youth offending and re-offending is reduced.

The over-representation of Aboriginal and Torres Strait Islander children and young people in the youth justice system is reduced.

Children and young people are diverted from the formal youth justice system.

Detention rates are reduced.

Children, young people and their families are helped early and provided with the supports and services they need.

Children and young people are given every possible chance to be successfully reintegrated into the community upon leaving detention.⁶⁸

Similarly in Western Australia, following the Review of referral to and the discharge and transfer practices of public mental health facilities/services in Western Australia conducted by Professor Bryant Stokes AM, the Mental Health Commission advised that the Minister for

⁶¹ ACT Human Rights Commission 2011, The ACT Youth Justice system 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission

⁶² ACT Human Rights Commission 2011, The ACT Youth Justice system 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission, pp.3 and 6

⁶³ ACT Human Rights Commission 2011, The ACT Youth Justice system 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission, pp.7-8

⁶⁴ ACT Human Rights Commission 2011, The ACT Youth Justice system 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission, pp.10-11

⁶⁵ ACT Human Rights Commission 2011, The ACT Youth Justice system 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission, pp.15-16

⁶⁶ ACT Human Rights Commission 2011, The ACT Youth Justice system 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission, p.189

⁶⁷ ACT Government 2012, Blueprint for youth justice in the ACT 2012-22, ACT Government

⁶⁸ ACT Government 2012, Blueprint for youth justice in the ACT 2012-22, ACT Government pp.6-7

Mental Health had endorsed the establishment of an executive Implementation Partnership Group to oversee the implementation of the 117 recommendations. This group is to be chaired by Mr Barry MacKinnon AM.⁶⁹

What is now required in Western Australia is a whole of government collaborative approach in relation to youth justice, incorporating a strategic framework or blueprint, and focussing on addressing underlying causes of offending behaviour and the provision of diversionary programs, as well as addressing the offending behaviour itself. Such a framework should include culturally appropriate programs and incorporate community engagement.

As a priority the following is required:

Comprehensive strategic framework for youth justice in WA

Development of a whole of government collaborative approach in relation to youth justice, incorporating a strategic framework or blueprint and implementation plan.

Diversionary programs

Significant investment in programs that divert children and young people away from the criminal justice system.^{70 71}

Safe houses in communities across WA where children can go when it is not safe for them to be at home.⁷²

Funding for programs to address the significant over-representation of Aboriginal children and young people in contact with the justice system.⁷³

Significant investment in effective programs that reduce recidivism.

Bail services

Improved resources provided for the provision of a state-wide 24 hour bail service.⁷⁴

Management of youth justice in Western Australia

Consideration of the removal of youth justice from the Department of Corrective Services to either a stand-alone department or to the Department of Child Protection to address more appropriately the underlying causes of children and young people offending, improve accountability for outcomes, and reduce government expenditure.^{75 76}

The establishment of a Youth Justice Partnership Forum to develop innovative approaches to youth justice issues, improve service delivery and facilitate co-operation and collaboration across government and non-government agencies.

⁶⁹ Letter from the Mental Health Commissioner to the Commissioner for Children and Young People, 6 February 2013

⁷⁰ Commissioner for Children and Young People 2012, Youth Justice Policy Brief, March, Commissioner for Children and Young People

⁷¹ Blagg H 2009, Youth Justice in Western Australia, Commissioner for Children and Young People WA, p.6

⁷² Commissioner for Children and Young People 2010, Annual Report 2009-2010, Commissioner for Children and Young People, pp.16 and 44

⁷³ Letter, Commissioner for Children and Young People to Attorney General, 22 October 2008

⁷⁴ Commissioner for Children and Young People 2010, Submission to the Department of the Attorney General's review of the Bail Act 1982: Issues Paper and Questions, Commissioner for Children and Young People, pp.30-32

⁷⁵ Commissioner for Children and Young People 2009, Submission to the Economic Audit Committee, Commissioner for Children and Young People

⁷⁶ Blagg H 2009, Youth Justice in Western Australia, Commissioner for Children and Young People, p.8

Change to youth detention facilities to ensure the separation of girls and boys and the separation of young people on remand from those who are sentenced.

Support to children and young people in contact with the youth justice system

Rapid expansion of the Court diversionary program. Children and young people appearing before the Children's Court of Western Australia must have access to appropriate, comprehensive mental health assessment, referral and treatment services; and that a dedicated forensic mental health unit be established.⁷⁷

Significant improvement and focus on rehabilitation and therapeutic services in detention facilities this would include:

- Employment and training programs
- Psychiatric and psychological services
- Mental health services
- Drug and alcohol services
- Education programs
- Relationship and family support programs.

Conclusion

For the last five years the governance of youth justice in Western Australia has lacked rigour. Despite the Auditor General's report and the development of a strategic framework on any objective measure the achievements in youth justice have been minimal over the last five years.

It is critical that any recommendations arising from the Inspector of Custodial Services Inquiry into the Banksia Hill Detention Centre incident are subject to thorough implementation and rigorous monitoring.

⁷⁷ Commissioner for Children and Young People 2011, Report of the Inquiry into the mental health and wellbeing of children and young people in Western Australia, Commissioner for Children and Young People, pp.80-83

Appendix 1: Statistics on Youth Justice in Western Australia

Western Australia has a considerably higher rate of youth detention than most other states and territories in Australia, exceeded only by the Northern Territory.

In the case of Aboriginal young people, WA's rate of youth detention is the highest overall and exceeds the Australian average. However, the rate for non-Aboriginal young people is only slightly different to the Australian average. WA's figures have been consistent since at least 2008.⁷⁸

Table 1: Detention of children and young people 10 to 17 years: average daily rate per 1,000 population, and number in detention on an average night, all states and territories, March–June 2012 (last quarter 2011-12).

	Total	Aboriginal	Non-Aboriginal	Aboriginal over-representation rate	Number
NSW	0.37	4.92	0.16	30.75	266
Vic	0.12	2.23	0.09	24.78	63
Qld	0.32	3.45	0.10	34.50	152
WA	0.69	8.90	0.20	44.50	168
SA	0.41	6.21	0.20	31.05	66
Tas	0.33	n.a.	0.30	n.a	17
NT	1.55	3.29	n.a.	n.a	41
ACT	0.63	7.97	0.45	17.71	22
Australia	0.35	4.60	0.15	30.67	794

Source: AIHW 2012, Juvenile detention population in Australia 2012, Juvenile justice series no. 11, cat. No. JUV 11, AIHW, table S10

⁷⁸ Australian Institute of Health and Welfare 2012, Juvenile detention population in Australia 2012, Juvenile justice series no. 11, cat. No. JUV 11, AIHW, table S10

The rate at which young people are placed in detention in WA has increased between 2006 and 2010.

Table 2: Detention of males 10 to 17 years: average daily rate per 100,000 population, Western Australia, 2006 to 2010⁷⁹

	Total	Aboriginal	Non-Aboriginal	Aboriginal over-representation rate
2006	90.2	1142.1	29.0	39.4
2007	102.9	1411.3	26.7	52.8
2008	109.4	1483.5	29.4	50.5
2009	101.7	1365.1	28.1	48.5
2010	118.6	1545.8	35.6	43.5

Source: Data supplied by Department of Corrective Services WA, custom report

Table 3: Detention of females 10 to 17 years: average daily rate per 100,000 population, Western Australia, 2006 to 2010⁸⁰

	Total	Aboriginal	Non-Aboriginal	Aboriginal over-representation rate
2006	10.9	9.0	3.0	48.9
2007	13.3	10.5	4.3	39.1
2008	15.3	13.1	4.1	51.3
2009	11.7	9.9	3.2	48.0
2010	11.6	11.4	1.9	94.2

Source: Data supplied by Department of Corrective Services WA, custom report

⁷⁹ Data provided by the Department of Corrective Services, custom report, published in Commissioner for Children and Young People 2012, The State of Western Australia's children and young people, Commissioner for Children and Young People, p.173

⁸⁰ Data provided by the Department of Corrective Services, custom report, published in Commissioner for Children and Young People 2012, The State of Western Australia's children and young people, Commissioner for Children and Young People, p.173

Appendix 2: Youth Detention arrangements in Australian states and territories

Western Australia

In WA, youth justice is the responsibility of the Department of Corrective Services which also administers adult custodial and community correctional facilities.

All children and young people on remand or sentenced to detention are held at the Banksia Hill Detention Centre (Banksia Hill). Banksia Hill is the largest single facility in Australia, with 220 beds.

New South Wales

Management of youth justice in New South Wales (NSW) has been under the Department of the Attorney General and Justice since April 2011. Adult prisons are managed by the NSW Department of Corrective Services.

NSW has eight detention centres, one for girls and seven for boys, and one remand centre at Broken Hill. Four of the centres are located in greater metropolitan Sydney, with others in South Grafton, Gosford, Dubbo and Wagga Wagga.⁸¹ The largest, Frank Baxter Detention Centre in Gosford, has a capacity of 120 people.

NSW is the only state in which girls have an entirely separate facility. All girls are held at the Juniperina Juvenile Justice Centre in western Sydney. Young males on remand are held at Cobham in western Sydney or at Broken Hill. Boys under 16 on 'control orders' (sentenced) are usually held at the Reiby Juvenile Justice Centre.⁸² Males 16 to 21 can be accommodated at the other centres – in NSW people up to 21 can be held in juvenile detention centres if their offence was committed when they were under 18.

However, young people 16 to 21⁸³ years who are considered very serious offenders and not able to be managed in other centres are transferred to the Kariong Juvenile Correction Centre. This centre is managed by the Department of Corrective Services, rather than the Department of the Attorney General and Justice.

Reports on the youth justice facilities are provided through the Official Visitor Scheme, which presents formal written reports every six months on standards of care related to detainees' security, welfare and rehabilitation.⁸⁴

A strategic review of the youth justice system in NSW was published in 2010. Key issues raised in this report were:

The need for coordination of services by departments and agencies under a broad strategic framework to ensure better outcomes for young people;⁸⁵

⁸¹ NSW Juvenile Justice, Information about centres, <http://www.djj.nsw.gov.au/centres_information.htm>, viewed 8 February 2013

⁸² NSW Juvenile Justice, 'My child has been sent to a juvenile justice centre', Information for families, <http://www.djj.nsw.gov.au/family_info_kit_jjc.htm> viewed 8 February 2013

⁸³ Select Committee on Juvenile Offenders 2005, Report on the Inquiry into Juvenile Offenders, Legislative Council of NSW, p.37

⁸⁴ Noetic Solutions 2010, A Strategic Review of the New South Wales Juvenile Justice System: Report for the Minister for Juvenile Justice, Noetic Solutions Pty Ltd, p.122

⁸⁵ Noetic Solutions 2010, A strategic review of the New South Wales Juvenile Justice system: Report for the Minister for Juvenile Justice, Noetic Solutions Pty Ltd, p.vii

The need for a bipartisan approach to youth justice, rather than the 'law and order auction' approach;⁸⁶

The need for evidence-based policies and legislation;⁸⁷

The significant disadvantage and risk factors to which some young people are subject, and how these should be addressed to prevent children entering the justice system;⁸⁸ and

The increasing use of bail as a welfare measure, rather than in regard to the severity of the offence.⁸⁹

The report includes the recommendation that the NSW Government consider a Justice Reinvestment approach to youth justice, to address underlying causes of crime and offending.⁹⁰

In February 2013 the NSW Government announced the implementation of the Youth on Track program, arising in part from the findings of the strategic review. The Youth on Track program is designed around early intervention for young people who have had some formal contact with police, although had not at the time committed a serious offence. The program engages with the appropriate agencies, including Department of Education, Department of Communities, Department of Family and Community Services, Department of Health, and non-government organisations, to address underlying issues for the young person which may pose risk factors for their future offending behaviour. Young people can be referred by Police (and in future by schools) if they are considered to be at risk of offending. The program involves case management of the young person and provision of services to address underlying causes.⁹¹

Victoria

Youth justice matters in Victoria are managed by the Department of Human Services. Victoria has the lowest rate of young people in detention in Australia, in part due to the strong emphasis on non-custodial interventions. Victoria has a 'dual track' system, which means that a young person up to the age of 21 can be sent to a youth facility rather than an adult prison.

There are two youth custodial facilities in the state. Malmsbury Youth Justice Precinct is around 100km north of Melbourne, and houses young men 18 to 21 years old who have been sentenced by an adult court. The Parkville Youth Justice Precinct combines two custodial centres – the Parkville Youth Residential Centre, housing young men 10 to 14 years old on remand and in detention and young women 10 to 17 years old on remand or

⁸⁶ Noetic Solutions 2010, A strategic review of the New South Wales Juvenile Justice system: Report for the Minister for Juvenile Justice, Noetic Solutions Pty Ltd, p.43

⁸⁷ Noetic Solutions 2010, A strategic review of the New South Wales Juvenile Justice system: Report for the Minister for Juvenile Justice, Noetic Solutions Pty Ltd, pp.44-46

⁸⁸ Noetic Solutions 2010, A strategic review of the New South Wales Juvenile Justice system: Report for the Minister for Juvenile Justice, Noetic Solutions Pty Ltd, p.87

⁸⁹ Noetic Solutions 2010, A strategic review of the New South Wales Juvenile Justice system: Report for the Minister for Juvenile Justice, Noetic Solutions Pty Ltd, pp.71 and 74

⁹⁰ Noetic Solutions 2010, A strategic review of the New South Wales Juvenile Justice system: Report for the Minister for Juvenile Justice, Noetic Solutions Pty Ltd, p.ix

⁹¹ Department of the Attorney General and Justice 2013, Youth on Track Fact Sheet, <http://www.youthontrack.lawlink.nsw.gov.au/agdbasev7wr/assets/yot/m771002l2/yot_fact_sheet.pdf> viewed 27 February 2013

10 to 20 years old on detention; and the separate Melbourne Youth Justice Centre which houses young men 15 to 17 years old on remand or detention.⁹²

Victoria's youth justice system shifted to its current model following the release of A Balanced Approach to Juvenile Justice in Victoria in 2000. This strategy emphasised diversion for young offenders; better rehabilitation of high-risk offenders; and expanded pre-release, transition and post-release support programs for young people in custody.⁹³

The Victorian model has been cited as an example of overall best practice in providing youth justice services. In 2008 the Victorian Auditor-General conducted an audit of services to young offenders in Victoria.⁹⁴ This audit noted that the model included:

A clearly articulated strategic plan including: clear aims and objectives; effective engagement of key agencies and other stakeholders; processes to review trends and identify emerging needs; and assignment of key outcomes and milestones.⁹⁵

Effective coordination of services across multiple agencies.⁹⁶

An assessment tool for young people (Victorian Offender Needs Indicator for Youth or VONIY) which examined underlying risk factors and engaged the young person in the assessment process. VONIY is considered best practice as a needs and assessment tool.⁹⁷

Good practice in case management and case planning for the young person.⁹⁸

Queensland

Queensland's youth justice system is managed by the Department of Justice and the Attorney General, with adult facilities managed by the Department of Corrective Services.

In Queensland, a 'juvenile' is considered to be 10 to 16 years old, with 17 year olds incarcerated in the adult prison system. The Queensland Commissioner for Children and Young People has consistently advocated for 17 year olds to be removed from the adult system and for them to be dealt with in the youth justice system.⁹⁹

Queensland's youth justice population of 10 to 17 year olds is similar to WA's (152 compared to 168), although because of its higher population, Queensland's rate of young people in detention per 1,000 is considerably lower.

Queensland maintains two youth justice detention centres – the Brisbane Youth Detention Centre, which accommodates males from south of Rockhampton and females from across the state; and the Cleveland Youth Detention Centre in Townsville, which holds young men

⁹² Victoria Department of Human Services, Youth Justice, <<http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/youth-justice>> viewed 11 February 2013

⁹³ Victorian Auditor-General 2008, Services to Young Offenders, Victorian Auditor-General, p.9

⁹⁴ Victorian Auditor-General 2008, Services to Young Offenders, Victorian Auditor-General

⁹⁵ Victorian Auditor-General 2008, Services to Young Offenders, Victorian Auditor-General, p.18

⁹⁶ Victorian Auditor-General 2008, Services to Young Offenders, Victorian Auditor-General, pp.22-23

⁹⁷ Victorian Auditor-General 2008, Services to Young Offenders, Victorian Auditor-General, p.25

⁹⁸ Victorian Auditor-General 2008, Services to Young Offenders, Victorian Auditor-General, pp.31-33

⁹⁹ Commissioner for Children and Young People and Child Guardian Queensland 2012, Annual Report, Commissioner for Children and Young People and Child Guardian, p.46

from north of Rockhampton.¹⁰⁰ Brisbane has 102 beds; currently Cleveland has 48, although that centre is currently being expanded to add another 48 beds.¹⁰¹

Queensland's youth centres are inspected every three months by the Youth Detention Inspection Team, in accordance with the provisions of the Youth Justice Act 1992 (QLD).¹⁰²

South Australia

The youth justice system in South Australia is managed by the Department for Communities and Social Inclusion.

The Magill Training Centre houses all young people on short-term remand, and is also a detention facility for young men 10 to 14 years and young women 10 to 18 years. Young men 15 years and older on long-term remand or who had been sentenced were held at the Cavan Training Centre. In anticipation of increasing numbers, the agency has begun development of a new Youth Training Facility near the current Cavan Training Centre. On completion, this 60 bed facility will replace the 46 bed Magill Training Centre, and supplement the 36 bed Cavan Training Centre.¹⁰³

Tasmania

Youth justice in Tasmania is managed by the Department of Health and Human Services.

The Department manages the Ashley Youth Detention Centre, a 51 bed facility which houses young people of both genders and sentenced or on remand. Ashley is in the north of the state, near Deloraine and in the vicinity of Launceston.

Northern Territory

The Northern Territory Department of Correctional Services manages the youth justice facilities in the NT.

There are two youth detention centres – Alice Springs, a 16 bed facility for young men from the area who are on remand or sentenced, and the Don Dale Juvenile Detention Centre in Darwin, which has 38 beds and holds male and female young people on detention or in remand.¹⁰⁴ A third centre, Aranda House, is located in Alice Springs, and is a 10 bed maximum security facility used only as required to address immediate behavioural issues.

¹⁰⁰ Queensland Government, Youth Justice Services, <<http://www.justice.qld.gov.au/youth-justice/youth-justice-services>> viewed 11 February 2013

¹⁰¹ Quagliata C 2008, 'Beds for Townsville's youth inmates', Townsville Bulletin, Wednesday 4 June 2008, <http://www.townsvillebulletin.com.au/article/2008/06/04/13650_news.html>; Galloway A 2012, 'Expansion delayed as detention centre fills', Townsville Bulletin, Tuesday 11 December 2012, http://www.townsvillebulletin.com.au/article/2012/12/11/371867_news.html

¹⁰² Queensland Department of Communities, Operational Procedure: Inspection and Monitoring of Queensland Youth Detention Centres, <http://www.justice.qld.gov.au/data/assets/pdf_file/0009/155673/youth-detention-insp-procedure.pdf> viewed 11 February 2013

¹⁰³ South Australia Department for Communities and Social Inclusion, New Youth Training Centre, <<http://www.dcsi.sa.gov.au/pub/tabId/342/itemId/2487/New-Youth-Training-Centre.aspx>> viewed 11 February 2013

¹⁰⁴ Northern Territory Department of Correctional Services, Youth Justice, <<http://www.correctionalservices.nt.gov.au/YouthJustice/Pages/default.aspx>> viewed 11 February 2013

The young people detained at Aranda have access to the same services as young people at Alice Springs Juvenile Detention Centre.¹⁰⁵

The youth justice system in the NT was reviewed in 2011 and a report presented to government.¹⁰⁶ The report noted that there was considerable fragmentation and discontinuity in delivery of services, and that government departments tended to focus only on their areas of responsibility.¹⁰⁷ As well, the report stated that therapeutic interventions for young people can be successful, but that success can be limited if the young person returns to a dysfunctional environment. Any intervention needs to include the families as well as the young person to maximise the possibility of successful outcomes.¹⁰⁸

Australian Capital Territory

Youth justice in the ACT is managed by the Office for Children, Youth and Family Support.

The ACT has one youth justice detention centre – the Bimberi Youth Justice Centre, a 40 bed facility opened in 2008.¹⁰⁹ Bimberi houses both young men and young women.

In 2011 an Inquiry into the youth justice system in the ACT, including the Bimberi Youth Justice Centre and Community Youth Justice, and an accompanying audit into conditions of detention in Bimberi Youth Justice Centre was undertaken by the ACT Human Rights Commission. This review included extensive work from the ACT Commissioner for Children and Young People. The report indicated the need for coordinated services in youth justice, promoting a whole of government and whole of community approach.¹¹⁰

Key points included:

The need for whole-of-government coordination for youth justice and for responses to systemic issues;¹¹¹

An emphasis on evidence-based policy and programs;¹¹²

Response to the needs of individuals in the system;¹¹³

¹⁰⁵Northern Territory Department of Correctional Services, Aranda House, <<http://www.correctionalservices.nt.gov.au/YouthJustice/ArandaHouse/Pages/default.aspx>> viewed 11 February 2013

¹⁰⁶ Northern Territory Government 2011, Review of the Northern Territory Youth Justice System: Report, Northern Territory Government

¹⁰⁷ Northern Territory Government 2011, Review of the Northern Territory Youth Justice System: Report, Northern Territory Government, p.v

¹⁰⁸ Northern Territory Government 2011, Review of the Northern Territory Youth Justice System: Report, Northern Territory Government, p.vi

¹⁰⁹ <<http://www.dhcs.act.gov.au/ocyps/bimberi>> viewed 12 February 2012

¹¹⁰ ACT Human Rights Commission 2011, The ACT Youth Justice System 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission

¹¹¹ ACT Human Rights Commission 2011, The ACT Youth Justice System 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission, pp.3 and 6

¹¹² ACT Human Rights Commission 2011, The ACT Youth Justice System 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission, pp.7-8

¹¹³ ACT Human Rights Commission 2011, The ACT Youth Justice System 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission, pp.10-11

The need for a shift in practices in the detention centre to ensure the safety of young people in custody;¹¹⁴ and

The use of remand in custody as a welfare response, rather than a response to the seriousness of the offence.¹¹⁵

Following the review the ACT government established an Implementation Taskforce, on 15 August 2012 the ACT Minister for Community Services released the Blueprint for Youth Justice in the ACT 2012-22.¹¹⁶ The Blueprint provides clear strategic direction, a three year action plan and details the whole of government response to youth justice in the ACT. The Blueprint details six goals in relation to youth justice:

Youth offending and re-offending is reduced.

The over-representation of Aboriginal and Torres Strait Islander children and young people in the youth justice system is reduced.

Children and young people are diverted from the formal youth justice system.

Detention rates are reduced.

Children, young people and their families are helped early and provided with the supports and services they need.

Children and young people are given every possible chance to be successfully reintegrated into the community upon leaving detention.¹¹⁷

¹¹⁴ ACT Human Rights Commission 2011, The ACT Youth Justice System 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission, pp.15-16

¹¹⁵ ACT Human Rights Commission 2011, The ACT Youth Justice System 2011: A report to the ACT Legislative Assembly by the ACT Human Rights Commission – Bimberi Youth Justice Centre, ACT Human Rights Commission, p.189

¹¹⁶ ACT Government 2012, Blueprint for youth justice in the ACT 2012-22, ACT Government

¹¹⁷ ACT Government 2012, Blueprint for youth justice in the ACT 2012-22, ACT Government pp.6-7

