

ANZSOG



RESEARCH  
INSIGHTS

# 10 Pillars of Youth Justice

Australia &  
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# 10 PILLARS OF YOUTH JUSTICE



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## PREFACE

As part of ANZSOG's research activities we undertake a range of specific projects for individual organisations or governments on issues of public administration. Lessons from this work often have broader relevance across the public sector and ANZSOG's *Research Insights* series is designed to disseminate the work more broadly. ANZSOG is committed to both producing and translating evidence to support better policy, and we make this work publicly available as part of our mission to enrich the practice of the public sector and deliver better outcomes for citizens.

This *Research Insights* paper originated from the first of ANZSOG's planned series of Problem Solving Workshops. These are designed to draw on ANZSOG's convening power to create a safe, cross-jurisdictional space outside existing structures for constructive, confidential discussion of challenging public policy and public management issues. They will also facilitate sharing of promising approaches and innovations. Depending on the topic at hand, the workshops will bring together a combination of current and former public service leaders, thought leaders and researchers and will be underpinned by a spirit of collaboration and openness.

The first problem solving workshop, held in November 2019, took as its topic a public policy area with which every Australasian government is struggling, youth justice. This is an area where the widely accepted evidence, both international and Australasian, sits at odds with the public and media conversation dominated by 'tough on crime' rhetoric.

The workshop brought together a wide range of youth justice stakeholders including former elected officials, independent watchdogs and administrators, and explored how evidence and public discourse could be brought into closer alignment in the interests of more effective public policy.

This paper, prepared by independent consultant and youth justice expert Lisa Ward, draws on the distillation of best available evidence she was commissioned to present at the workshop. Any views expressed are the author's own.

## 10 PILLARS OF YOUTH JUSTICE

In the face of intense community and media interest in young people and crime, there are all too frequent calls for 'answers' to the problems that confront us.

Yet the reality is that we know much already, informed by a body of materials that crosses scholarly research and grey literature. Findings are synthesised in various meta-analyses, and evidence-based reviews, many of which are limited to studies that satisfy robust methodological criteria consistent with the scientific method.

This paper draws on what we know already, providing a set of practical imperatives to inform the design of Youth Justice systems. It is intended as a way of summarising current knowledge in an applied manner and articulating the rationale for why we do the things we do. It also provides a framework on which individual jurisdictions can build to assess their performance against the evidence.

The '10 Pillars' are inevitably intersecting and overlapping; their value is in their collective ability to inform Youth Justice policy and practice.



1. Keep young people away from the system
2. Treat young people differently to adults
3. Privilege engagement and relationships
4. Collaborate with family and community
5. Partner with education
6. Specialise in trauma and complexity
7. Connect service systems
8. Invest in restorative approaches
9. Tailor responses to different cohorts
10. Provide safe, structured custodial environments

## PILLAR 1: TREAT YOUNG PEOPLE DIFFERENTLY TO ADULTS

While it may appear self-evident, it is worth revisiting the rationale for a distinct criminal justice response to young people.

Neurological research shows that young people have visibly different brain architecture to adults (National Research Council 2013). Adolescents are hard-wired to test limits, act without thinking, overlook the consequences of their actions and react strongly to peer influence. On a positive note, the science of neuroplasticity indicates that young people have great potential to change behaviour patterns before they become entrenched (National Research Council 2013). Developmentally, adolescence is both a period of risk and a window of opportunity.

For these reasons, a differential approach to young people has long been enshrined in international and Australian criminal jurisprudence. Young people are considered less culpable for their criminal actions and rehabilitation is the paramount consideration in sentencing (Sentencing Advisory Council 2019).

Young people offend differently to adults: they do so in groups, in public places and typically in unplanned and impulsive ways (Richards 2011). Consequently, young people's crimes are often detected more readily than crimes committed by adults.

Finally, young people perceive time more slowly than adults and see the future as less relevant. Young people are less likely than adults to sacrifice a smaller, short term reward to get a larger, long term reward (National Research Council 2013). This has implications for how Youth Justice sanctions are structured and implemented.

Effective Youth Justice systems are designed with the distinct developmental characteristics of young people front and centre. They apply the brain science to produce more successful outcomes. Importantly, Youth Justice systems are not simply smaller versions of adult correctional systems.

What does this mean?

- Establish the Children's Court as a discrete, specialist jurisdiction, comprising expertly trained judicial officers, prosecutors and advocates.
- Simplify and fast track Children's Court processes to deliver swift, understandable justice.
- Recruit and train a Youth Justice workforce that is expert in adolescent development.
- Structure orders to apply shorter interventions in a timely manner; match the volume and nature of mandatory conditions with the young person's developmental ability and available adult support.
- Provide room to fail without mandatory breach activity.
- Invest in outreach models that recognise young people's reliance on adults for transport and practical support.
- Design and operate Youth Justice custodial facilities in way that is developmentally appropriate (see below).

## PILLAR 2: KEEP YOUNG PEOPLE AWAY FROM THE CRIMINAL JUSTICE SYSTEM

Most young people who commit offences will 'mature out' of their offending behaviour by early adulthood and commit a low number of mainly property related offences (Crime Statistics Agency 2016).

At the same time, there is strong evidence that contact with the criminal justice system is harmful, increasing the likelihood that a young person will have further contact (National Research Council, 2013; Alder et al. 2016; Royal Commission into the Protection and Detention of Children in the Northern Territory (RCPDCNT) 2017). The damaging effect of system contact is magnified for young people who spend time in custody where they are disconnected from potentially positive influences including school, work, sport and family. The effect is further heightened for Aboriginal young people whose connection to culture and community is a key protective factor (Cunneen 2019).

Effective youth justice systems divert most young people away from harmful system contact and direct limited public resources to those who present a serious risk to community safety (Lipsey et al. 2010).

What does this mean?

- Invest heavily in system 'off ramps' including police cautioning, pre-court conferencing, court-based diversion, sentence deferrals and 24/7 bail support and accommodation services.
- Co-design and -deliver these with Aboriginal communities and organisations and target over-represented postcodes. Augment the state-wide diversionary 'scaffolding' with tailored, localised responses.
- Incorporate rigorous gate keeping mechanisms, including mandatory court advice services, in legislative and policy settings and privilege the principles of minimum intervention and use of custody as a last resort.
- Apply risk assessment processes to direct statutory interventions to young people who are likely to jeopardise public safety; avoid confusing young people's level of risk with their level of need.
- Design clear pathways that assure young people with high needs receive intensive support from community organisations.

Dedicate the same level of organisational focus and outlay to front end diversionary activities as back end custodial responses.

## PILLAR 3: PRIVILEGE ENGAGEMENT AND RELATIONSHIPS

Engaging young people in robust, safe relationships is a primary task of Youth Justice practitioners. This applies equally to case managers, custodial staff and treatment providers.

The most effective workers demonstrate genuine care, warmth, respect, fairness and dependability (Adler et al. 2016). Proven Youth Justice interventions including pro-social modelling, motivational interviewing, skills training and collaborative problem solving all rely on quality relationships between staff and young people: without meaningful engagement there is no forum for changing behaviour (Andrews, Bonta & Wormith 2011; Luebbers, Hunter & Ogloff 2016).

Continuity and consistency in the case management relationship is important, especially for young people who have experienced trauma (Adler et al. 2016; RCPDCNT 2017).

Finally, strong relationships between young people and staff create a safer Youth Justice workplace. The best performing Youth Justice systems achieve safety and security primarily through relationships, rather than using physical barriers, isolation and restraints (RCPDCNT 2017).

What does this mean?

- Train the Youth Justice workforce in adolescent engagement strategies that provide the pre-conditions for evidence-based behaviour change interventions.
- Design case management models to maximise continuity of key workers, especially when the young person moves in and out of custody and/or when risk is escalating.
- Augment case management with the provision of practical help, emotional support and outreach to enhance engagement.
- Use case management as a tool to preserve the young person's key professional relationships while in custody.
- Design custodial facilities to maximise daily, routine contact between staff and young people and privilege relational security measures.

## PILLAR 4: COLLABORATE WITH FAMILY AND COMMUNITY

Family and community characteristics influence young people's criminal behaviour, with the potential to operate as either a risk or protective factor (National Research Council 2013). Family-based interventions can both delay the onset of youth crime and stop its continuation (Adler et al. 2016; RCPDCNT 2017).

The most effective interventions engage families and significant others in strength-based partnerships. These interventions include primary parenting programs, intensive family-based treatment programs and active family engagement in statutory case management (Adler et al. 2016; Muhammad 2018).

Facilitating strong connections to family, community and country, both individually and systemically, is essential in reducing criminal justice system contact with Aboriginal young people (Cunneen 2019). Family and community engagement with justice initiatives is a vital pre-condition for effective work with Indigenous youth (RCPDCNT 2017).

Finally, justice interventions with young people from overrepresented cultural and ethnic groups are most effective when delivered in the context of family, social and cultural settings and in active partnerships with community (Muhammad 2018).

What does this mean?

- Formally embed family participation in all aspects of Youth Justice case management.
- Engage family and community as primary partners, especially when a young person's risk is escalating.



- Establish structural and relational mechanisms to engage Aboriginal communities in the design, delivery and review of services.
- Design custodial facilities to encourage family and community participation in daily operations; allow physical access to most areas.
- Partner with overrepresented cultural and ethnic communities to develop and deliver services across the Youth Justice pathway.

## PILLAR 5: PARTNER WITH EDUCATION

Poor school attendance, frequent school changes, low academic performance and school exclusion are significant risk factors for youth offending. Conversely, strong school ties, adult mentors within school and reward and recognition are strong protective factors (Hemphill & Smith 2010).

A significantly disproportionate amount of youth crime is committed by a small group of children who have contact with the justice system early, at an average age of 12 years (Crimes Statistics Agency 2016). The younger children are at first sentence, the more likely they are to reoffend generally, reoffend violently and continue offending into adulthood (Sentencing Advisory Council 2016).

School-based programs can identify children who might not be reached by other early intervention services. They can also provide targeted, place-based responses. Formal school retention programs, whole of school anti-violence and restorative programs and family engagement initiatives are effective in reducing the precursors of offending (Hemphill & Smith 2010; Noetic Group 2017).

Once in contact with the justice system, educational initiatives are a vital means of forging positive community links and establishing purposeful, structured activities for young people.

What does this mean?

- Advocate for early identification and intervention with at risk young people in mainstream educational settings.
- Collaborate with Education and Child Protection to design a range of school retention strategies, including targeted responses in overrepresented post codes.
- Embed educational assessment and planning at the pre-court diversion stage of Youth Justice system contact.
- Develop specialist school re-engagement pathways for justice involved young people.
- Partner with Education in the provision of educational and vocational training services in custodial settings and ensure these dominate the structured day for most young people.

## PILLAR 6: ADDRESS TRAUMA AND COMPLEXITY THERAPEUTICALLY

There is strong evidence that therapeutic interventions are more effective at reducing chronic reoffending by young people than those based on punishment or control (Adler et al. 2016; Noetic Group 2017). Effective interventions include social skills training and cognitive behaviour therapy (Adler et al. 2016).

However, many young people in Youth Justice experience the impacts of trauma in a way that impedes their participation in treatment. These impacts include sustained hypervigilance, impulsivity and difficulty trusting others (Liddle et al. 2016). A trauma informed ethos is important in Youth Justice to create a safe, stable setting and prepare young people for participation in structured programs (Luebbers, Hunter & Ogloff 2016). Trauma informed approaches privilege predictability in the young person's routine and relationships, maximise their control over daily choices and build understanding of the meaning and triggers of problem behaviour (Liddle et al. 2016; Youth Justice Board 2017).

The prevalence of trauma and complexity among young people in Youth Justice has implications for order supervision practices. Traditional approaches that require abstract reasoning about consequences and trust that consistent consequences will apply, are inherently problematic (Youth Justice Board 2017). As youth crime rates decline generally, an increasingly disproportionate volume of offending is committed by young people who repeatedly breach community orders (Payne, Brown & Broadhurst 2018). Developing effective, balanced responses to increasing breach rates is a pressing challenge.

What does this mean?

- Equip Youth Justice staff with an understanding of the impact of trauma, how to recognise its symptoms and respond accordingly.
- Ensure core assessment processes identify past trauma.
- Design case management models to privilege development, support and connection over compliance, supervision and control.
- Plan and sequence behaviour change interventions to maximise treatment readiness.
- Apply flexible, graduated order compliance models that recognise the impact of trauma on impulse control and consequential thinking.
- Support staff who are working with traumatised young people to manage their own emotions and deal with vicarious trauma.
- Establish trauma informed custodial behaviour management models that rely on consistent, team-based approaches.
- Assume that many young people will be in a state of permanent arousal and a key aim of staff interactions is to de-escalate tension.
- Designate use of force, restraint and isolation as measures of absolute last resort.

## PILLAR 7: CONNECT SERVICE SYSTEMS

Collaboration across service systems is vital because primary prevention is not the remit of statutory Youth Justice systems. Primary services must be engaged in prevention and diversion activities at both an individual and community level.

Collaboration is also fundamental to the core business of Youth Justice. By the time they receive a supervised order, most young people have multiple needs and/or are involved with other service systems, particularly Child Protection (Sentencing Advisory Council 2019). The merits of coordinated partnerships when working with traumatized, marginalised young people are well understood (Liddle et al. 2016; Adler et al. 2016).

Case management systems are valuable in coordinating cross sector endeavours and holding service partners to account (Adler et al. 2016). This is particularly true in Youth Justice, where the statutory nature of intervention can create a space for voluntary services to exit the field unless formal mechanisms keep them engaged. Youth Justice intervention is finite by nature and other services must be in place when orders end.

What does this mean?

- Participate in cross sector policy formulation to improve primary prevention and diversion.
- Position Youth Justice as a second-tier gateway to other service systems and community-based organisations: negotiate priority access and entry 'work arounds' for justice involved young people that include assertive referral processes.
- Invest in formal partnership protocols and agreements; collect data to monitor their effectiveness and address problems proactively.
- Embed multi agency case management practices in Youth Justice (for example, high risk panels, care teams, resettlement teams).
- Use case management as a platform to engage, coordinate, monitor and ensure the accountability of professional interactions with young people.
- Equip case management staff with 'boundary riding' and cross sector advocacy capabilities.

## PILLAR 8: INVEST IN RESTORATIVE APPROACHES

Though definitions vary, restorative approaches afford victims a central role in the criminal justice process and attempt to repair the harm caused by crime (Adler et al. 2016). Common restorative practices in Youth Justice include group conferencing and reparatory conditions attached to an order or diversionary program.

While some studies show that restorative approaches can lower youth reoffending, the evidence is equivocal overall (Adler et al. 2016; Noetic Group 2017; Cunneen 2019).

However, restorative practices have many benefits beyond reduced recidivism. First, they are consistently associated with increased youth and victim satisfaction with the criminal justice system (Adler et al. 2016). Importantly, they also resonate well with the wider community, satisfying an intuitive desire for accountability and restitution by perpetrators of crime. Second, because they can be delivered quickly, restorative practices can provide an immediate consequence for offending behaviour that is well suited to young people's sense of time.

Third, they can be applied with low risk cohorts in a way that avoids the potentially criminogenic effects of formal justice responses. Finally, restorative practices such as group conferencing provide an opportunity to involve family and community in the justice process. This can be particularly helpful in engaging Aboriginal young people in cultural responses (Cunneen 2019).

What does this mean?

- Embed restorative practices as an option at multiple points in the Youth Justice system pathway (for example, pre-charge, pre-court and pre-sentence).
- Assess young people's developmental maturity, cognitive capacity, empathy and willingness to participate before recommending restorative approaches.
- Ensure restorative practices are co-designed with Aboriginal communities and maximise opportunities for participation by Elders and family.
- Consider the application of restorative practices to mediate conflict between young people in Youth Justice settings.
- Promote the Youth Justice system's use of restorative approaches within the wider community.

## PILLAR 9: TAILOR RESPONSES TO DIFFERENT COHORTS

Effective Youth Justice interventions are tailored to individual characteristics including cognitive ability, personality, culture, gender, age and maturity (Andrews, Bonta & Wormith 2011; Luebbers, Hunter & Ogloff 2016). Comprehensive assessment is essential to identifying these individual differences. Tailored program design is required to address specific barriers to participation and maximise the prospects of behaviour change.

While tailored programs may not always be practical or achievable at an individual level, they are readily delivered at a cohort level. Cohorts with distinct responsivity needs include Aboriginal young people, girls and young women, young people with cognitive disabilities or language and learning issues, young people from overrepresented cultural groups and children aged 10-13 years.

What does this mean?

- Apply specially designed and validated screening and assessment tools to identify individual characteristics that must be accommodated in Youth Justice settings.
- Invest in gender responsive programs for girls and young women that acknowledge the unique pathways, drivers and trajectories of offending among females.
- Develop differentiated case management tools for young people with cognitive impairment, learning and/or literacy difficulties and non-English language speakers.
- Ensure programs for Aboriginal young people foster connection to culture, country and community as a key protective factor.

- Apply developmentally appropriate approaches for young people aged 10-13 years, especially in custody.
- Embed culturally responsive practices in the Youth Justice case management model.

## **PILLAR 10: PROVIDE SAFE, STRUCTURED CUSTODIAL ENVIRONMENTS**

Effective youth custodial settings honour the concept that being detained is the full extent of the punishment a young person will receive (RCPDCNT 2017). The primary focus of custodial facilities is to deliver education, training and intensive therapeutic services that address the drivers of offending and improve life prospects.

However, none of this can be achieved in a custodial environment that is volatile and dangerous (Liddle et al. 2016). Consequently, the safety of young people and staff is the primary operational imperative in custodial settings. While physical security measures play a role, safety is maximised when young people are engaged and occupied, have positive relationships with staff and experience a transparent system of incentives for good behaviour (RCPDCNT 2017). Again, a trauma informed approach is essential in custodial settings.

What does this mean?

- Prioritize safety and stability for young people and staff in the daily operation of custodial settings.
- Invest heavily in the formation of strong relationships between young people and staff.
- Maximise out of bedroom hours: keep young people busy with structured educational and recreational activities.
- Provide intensive, evidence-based therapeutic interventions to change behaviour.
- Keep facilities as small and normalised as possible and maximise young people's control over their physical environment.
- Provide comprehensive support mechanisms to promote staff wellbeing.

## **A FINAL WORD**

Our understanding of young people and crime is constantly evolving and an enduring commitment to research is vital. However, we know much already. Existing research provides a clear framework for Youth Justice policy and practice. The contribution from the developmental sciences is particularly instructive.

It is worth reflecting on the current evidence and ensuring it is applied methodically and deliberately, to maximum effect.

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