

YOUTH JUSTICE

EFFECTIVE PRACTICE GUIDE

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noetic

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EXECUTIVE SUMMARY

— FEWER —
young people
in Australia
ARE OFFENDING
— BUT —
the number of
YOUNG PEOPLE
in detention has
NOT REDUCED
by the same proportion*

*28% fewer young people offending since 2009-10, but only 12% decrease in detention population

Indigenous young people are
25 TIMES AS LIKELY
to be in detention as
non-Indigenous
young people



59% of the youth detention
population is
INDIGENOUS
This proportion has
BEEN INCREASING
SINCE 2012



74%



of young people
released from youth detention
RETURN THERE
within **12** months



Without addressing the effects of detention and the underlying factors leading to offending, young people in detention are at risk of continuing criminal behaviour into adulthood. Reducing the number of young people in detention can reduce crime and offer significant benefits to individuals, communities and the taxpayer.

This guide has been produced to ensure that responses to these trends are informed by the growing body of evidence around 'what works' in youth justice. The following five principles summarise the key findings and research base contained within the effective practice guide.

PRINCIPLES OF EFFECTIVE PRACTICE

2

Identify risk factors and reach high-risk offenders

1 Deliver therapeutic interventions and other proven practices

- There are established models for therapeutic programs that are proven to address various underlying causes of criminal behaviour.
- These programs include cognitive-behavioural therapy, alcohol and substance abuse programs, and education and training. Disciplinary, invasive and stigmatising practices should be avoided.

- Interventions have the greatest impact for young people with a high risk of offending. Risk factors consider children, their parents and their community, and can apply at prevention, diversion or throughcare stages.
- Young people at high risk of re-offending should receive more intensive intervention, while lower risk individuals should be treated less intensively and diverted from further contact with the justice system wherever possible.
- An individual's specific risk factors must be identified (e.g. substance abuse or unemployment), as well as where and how these factors can be positively influenced.

3 Minimise contact with the justice system, especially the detention environment

- Prevent young people from coming into contact with the youth justice system, particularly detention, wherever it is safe for the community and the young person. This should be done at every level of the system, with a particular emphasis on policing practices.
- Detention does not influence future offending behaviour as a deterrent or as punishment – it actually increases the risk of re-offending. If detention is needed for immediate community safety or wellbeing of the individual, it should be used as a place to deliver treatment programs to high-risk offenders that target the underlying causes of offending.

4 Focus on effective delivery & implementation

- When using a proven therapeutic or behavioural program, the program's fidelity and implementation are critical to program effectiveness.
- The ability to successfully implement a program can often be a more important consideration than just replicating the design of a model that has proven to be effective in another setting. Factors such as co-ordination between services are particularly important.

5

Co-design with local communities to adapt programs

- While singular interventions are simpler to implement and deliver effectively, some communities may not be responsive due to the deeply entrenched and multi-faceted nature of their disadvantage. Interventions in these communities may, therefore, need to address multiple risk factors, either as an integrated multi-component service or in coordination with other services.
- Remoteness, cultural relevance, language and literacy barriers require practices that are tailored to community needs.

INFORMATION AND KNOWLEDGE GAPS

There is significant scope to improve the understanding of 'what works', especially for Australia's unique challenges in youth justice. The Guide and its principles highlight specific gaps in the available information and current research.

Community contexts and how they influence risk factors. More data is needed on Australian contexts, and longitudinal studies may help define risk factors from an early age. They may also define community factors that indicate risk.

Measuring the public benefits of programs that reduce recidivism. There is an opportunity to better make the case for youth justice programs by articulating the link between reduced recidivism and lower crime rates, lower taxpayer burden and better socioeconomic outcomes.

Information on culturally and linguistically diverse (CALD) groups. There is currently a limited understanding of how specific ethnic or religious groups interact with the youth justice system.

Scalability of effective programs. Without sufficient information on program fidelity, implementation detail and community factors, it is not possible to identify programs that can be replicated in other locations and contexts.

INTRODUCTION

BACKGROUND

It has been over seven years since the Noetic Group (Noetic) first released a research publication on 'what works' as part of our strategic review into the New South Wales (NSW) juvenile justice system. Since then, we have continued to work with government and non-government organisations across Australia to ensure that their youth justice systems, programs and services are responsive to the needs of children and young people and are meeting community expectations. A lot has changed in this time, and the research base has continued to develop and evolve.

As such, we decided it was timely to build on our recent experience and develop an updated publication that draws on the available evidence base, and provides a contemporary and comprehensive resource that policy makers, service providers and influencers can use to advocate for, and design and implement better practices in youth justice.

AIM

The aim of this Guide is to detail effective practice in youth justice and explore how this evidence applies to the Australian context.

SCOPE

This Guide looks across the points of intervention in youth justice and the various pathways for offenders within the system, including Indigenous-specific issues. The Guide is intended for use by government, non-government and research organisations to promote effective practice and inform future policy, program and service design. It also provides insight into Australia's present youth justice issues, such as the nature of young offenders and the overrepresentation of Indigenous young people across the youth justice systems in Australia.

STRUCTURE

The Guide begins with a description of the Australian youth justice context, and the young people either under supervision or in detention. It then outlines why young people should be treated differently to adults by the justice system. The Guide also summarises the nature of over-representation of

Indigenous young people in the youth justice system and provides an overview of what the effective practice is broadly understood to be, and how youth justice practices are assessed as effective. Effective practice is discussed in terms of four points of intervention:

- early intervention and prevention
- diversion and alternatives to detention
- detention
- transition from detention.

The final section of the Guide summarises the key principles of effective practice as they apply to youth justice policy development and implementation in Australian jurisdictions.

LIMITATIONS

This Guide was developed using publicly available information on practices nationally and internationally. The Guide's sources are limited to information from published data, journals and reports prior to February 2017. This Guide, and the assessment of practices within it, does not offer any empirical assessment of effective practice. The summary assessments are informed by



empiricism presented in the literature and, where that is unavailable, by existing commentary around particular practices while making information limitations clear.

This Guide is not a comprehensive catalogue of youth justice practices and program options. Rather, it provides an understanding of what is known about youth justice programs and services, including 'what works'. This means the Guide is not intended to be relied upon for practical application to program design, but summarises key information that can be used as a starting point for determining important factors to consider and identifying areas for further research.

ACKNOWLEDGEMENTS

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CONTEXT

This section explores Australian youth justice systems and describes how young people interact with the justice system, the nature of the offences committed by young people, and the number and characteristics of young people in detention in Australia.

YOUTH JUSTICE IN AUSTRALIA

The basis of treating juvenile and adult offenders differently began in the mid-nineteenth century. Australia's first children's court was established in 1895 in South Australia and, over the next two decades, these courts were introduced in every jurisdiction. They were designed to ensure that the justice system acknowledged the immaturity and impressionability of children and young people.¹ While the underlying reasons for differentiating between children, young people and adults has changed over the years to acknowledge societal shifts and scientific developments, the differentiation has remained.

Young offenders are not fully developed physiologically, emotionally or psychologically, requiring both an emphasis on rehabilitation over punishment and consideration of a young person's developmental needs. The inherent tension between rehabilitative approaches and the need to hold children and young people accountable for their actions continues to be a source of public debate to this day. As a result, the current state of youth justice systems across Australia has become a complex policy issue due to the interconnected nature of offending behaviour and the range of stakeholders involved in policy development and implementation.

Youth justice systems in many states and territories in Australia are coming under increased scrutiny, particularly regarding practices such as solitary confinement, restraint and lock downs. Most recently, a Royal Commission into the protection and detention of children in the Northern Territory was established.

The public and media attention on youth justice across Australia is an important backdrop to consider in presenting a summary of effective practice. While this

Guide will not explore specific issues or practices within individual youth justice systems, it is essential that all stakeholders involved in responding to these issues, whether it is developing policy, allocating funding, providing a service, or running a youth detention centre, are informed about 'what works' and adopt an evidence-based approach to their relevant responses.

Crime Committed by Young People

Young people are most likely to commit a low-level crime, such as graffiti and vandalism, and are more likely to be noticed and contacted by police because of the public nature of these crimes. They are also less likely than adult offenders to commit a serious crime. Homicides and sexual offences are comparatively rare.² The nature of offences, as well as the treatment of certain offender types by the youth justice system, are difficult to compare across states and territories given each jurisdiction's varied approach to youth justice and the small number of longitudinal studies. This has led to a lack of both nationally consistent data and a comprehensive view young offenders in Australia.

Information regarding the age breakdown of young offenders in Australia is also sparse. Young offenders typically display behavioural issues at childhood, commit crime in adolescence and begin to desist from crime generally at young adulthood.³ Serious and violent crimes are rare before the 12-14 age range and are generally rare for young offenders. Although the idea of an age-crime curve is debated among criminologists, the general relationship between age and crime has been established. This relationship posits that crime peaks at late adolescence (around 18 years old) and typically falls sharply thereafter.⁴

¹ C Cunneen, *Youth Justice in Australia*, Oxford Handbooks Online, 2014, Retrieved 9 February 2017.

² K Richards, 'What makes juvenile offenders different from adult offenders?' *Trends and Issues in Crime and Criminal Justice*, no. 409, Australian Institute of Criminology, Canberra, 2011.

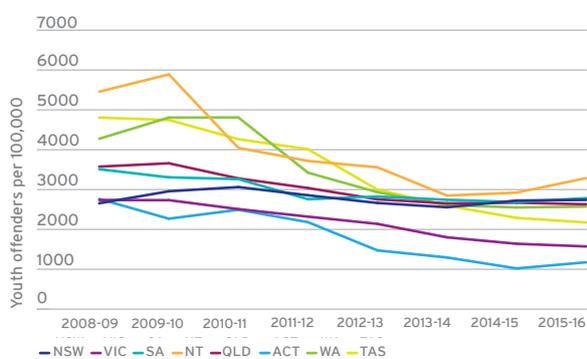
³ A Fagan & J Western, 'Escalation and Deceleration of Offending Behaviours from Adolescence to Early Adulthood', *The Australian and New Zealand Journal of Criminology*, Vol 38, Issue 1, 2005, p59-76.

⁴ K Richards, 2011.

Overall in Australia, the rate of youth offenders is declining (Figure 1). This decline has not been definitively attributed to any legal, policy or practice changes in youth justice and the underlying reasons are likely to be different in each jurisdiction. For instance in NSW, a decline in property crimes and serious assault has been partially attributed to improved policing practices and changing patterns of substance abuse.⁵

For the available offence data, an overall reduction in the number of young offenders is paired with a declining detention population, although the detention population has decreased only marginally. This highlights the high likelihood of re-offending amongst young people in detention. The rates of re-offending for young people are shown in later sections, and they show that young people in detention are far more likely to re-offend than those under community supervision.

Figure 1. Youth offence rates by state and territory, indicating the rate at which young offenders were proceeded against by police.⁶



Treatment by the Justice System

Young people have complex needs and are not subject to the same standards of legal or moral culpability as adult offenders. Therefore, they require different responses from the criminal justice system.

The age of criminal responsibility for juveniles in Australia is 10-17 years old. The legal doctrine of *doli incapax* is also applied in Australia from the ages of 10-13, which is a legal presumption of innocence that must be rebutted by the prosecutor by establishing that an offender was adequately aware of whether or not their action was right. *In loco parentis* legal guardianship of children and young people in detention is provided by the state, meaning that it must take on some of the functions and responsibilities of a parent while the offender is in state care.

Australia's youth justice systems are administered by individual states and territories, which determine their own criminal legislation and administer their own responses and programs to address criminal behaviour and offences. However, Australia's youth justice obligations are also broadly based on a number of international documents. These include:

- Basic Principles for the Treatment of Prisoners
- Body of Principles for the Protection of Persons Under Any Form of Detention or Imprisonment
- Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines).
- Rules for the Protection of Juveniles Deprived of Their Liberty
- Standard Minimum Rules for Non-Custodial measures
- Standard Minimum Rules for the Treatment of Prisoners
- The Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)
- The UN Convention on the Rights of the Child.

The Beijing Rules inform youth justice standards and the duty of care, indicating that all available resources should be committed to increasing the wellbeing of youths in contact with the criminal justice system.⁷

5 D Weatherburn, K Freeman & J Holmes, 'Young but not so restless: Trends in the age-specific rate of offending', Crime and Justice Statistics: Bureau Brief, Issue paper no. 98, NSW Bureau of Crime Statistics and Research, Sydney, 2014.

6 Australian Bureau of Statistics, Recorded Crime - Offenders, 2015-16, 'Table 19: Youth Offenders, Principal offence by states and territories - 2008-09 to 2015-16', Australian Bureau of Statistics, 2017.

7 Amnesty International Australia, A Brighter Tomorrow: Keeping Indigenous Kids in the Community and Out of Detention in Australia, Amnesty International Australia, Sydney, 2015.

The Riyadh Guidelines also establish a preference for community-based programs to prevent crime before it occurs and to prevent youth contact with the criminal justice system.⁸ Australian jurisdictions adhere to a series of general guidelines, which are broadly a balance of:

- maintaining community and victim safety
- encouraging the reintegration of offenders into society
- reducing recidivism.^{9,10}

As with the majority of English-speaking nations, Australia tends to operate a justice-focused model that aims to hold young people to account and apply punitive measures in a consistent justice process. The international guidelines described above do not stand in opposition to community expectations of retribution and community safety, but seek to ensure the welfare of children and young people. While there will always be a need for youth justice courts and detention, international obligations, guidelines and bodies promote practices that reduce the need for detention by using community-based programs and preventative responses.

The Australasian Juvenile Justice Administrators (AJJA) is an Australian and New Zealand body that publishes and maintains youth justice standards in accordance with the documents mentioned above and all jurisdictional legislation in Australia. The AJJA has also developed the Principles of Youth Justice in Australia, which are as follows:

- “Offending behaviour is prevented, and young people are diverted from the justice system
- The youth justice system holds young people accountable for their behaviour
- Effective support be provided to victims of youth offending
- Effective policy and service responses to address the overrepresentation of Aboriginal and Torres Strait Islander young people in the justice system.
- Authentic collaboration across service systems

- Service responses are evidence based
- Developmental needs of young people are addressed
- Interventions are informed by the drivers of offending and the assessed risk of future offending.
- Support to young people is individualised and reflects the diversity of cultures and communities in which they live
- Health and mental health needs of young people are addressed.”¹¹

While all Australian jurisdictions have endorsed these Principles, the implementation of these principles is critical to the outcomes of the youth justice system.

Young People in Detention

Number of Young People in Detention

The rate of detention represents the number of young people in detention within a jurisdiction relative to the population of young people in that jurisdiction. Rates of detention are commonly measured by the number of young people in detention per 10,000 people in the relevant population, which varies significantly by jurisdiction (Figure 2). The age profile also varies, however, the majority of the detention population is aged over 16.¹²

The differences between states and territories are a result of varied factors, notably the nature of disadvantaged communities in each state. The detention numbers are also heavily influenced by policing practices, policy decisions and the varying nature of youth justice systems. Overall, the number of young people in detention and the rate of detention has not changed much over the last decade (Figure 3).

As discussed in the following section, many factors lead to an overrepresentation of Indigenous children and young people in detention. As a result, jurisdictions with proportionally higher Indigenous populations, such as the Northern Territory, tend to have a higher rate of detention.

8 Amnesty International Australia, 2015.

9 Australian Institute of Criminology, *Standard Guidelines for Corrections in Australia*, Australian Institute of Criminology, Canberra, 2012.

10 Recidivism, or re-offence, is a measure of the rate at which people that have had contact with the criminal justice system come into contact with it again.

11 Australasian Juvenile Justice Administrators, *Principles of Youth Justice in Australia*, Australasian Juvenile Justice Administrators, 2014, retrieved 12 February 2017.

12 Australian Institute of Health and Welfare, *Youth Detention Population in Australia 2016*, Bulletin 138, Australian Institute of Health and Welfare, Canberra, 2017.

Figure 2. Young people aged 10-17 in detention on an average night, states and territories, 2015-16 (rate).¹³

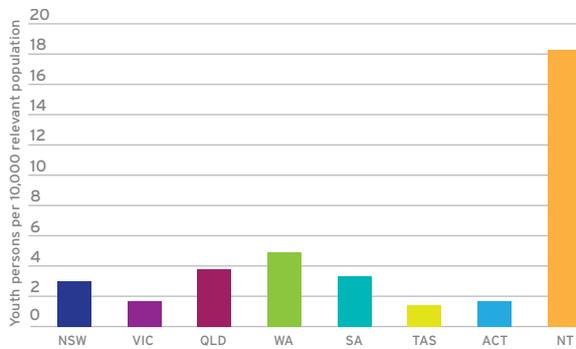


Figure 3. Young people aged 10-17 in detention on an average day.¹⁴

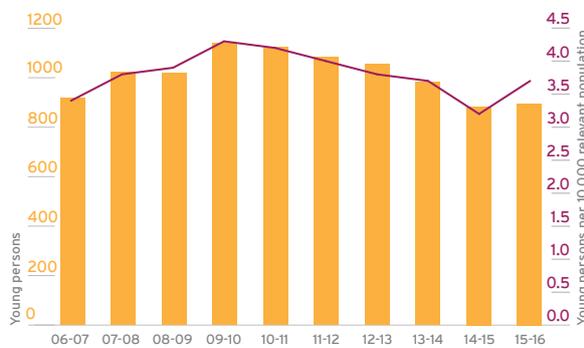
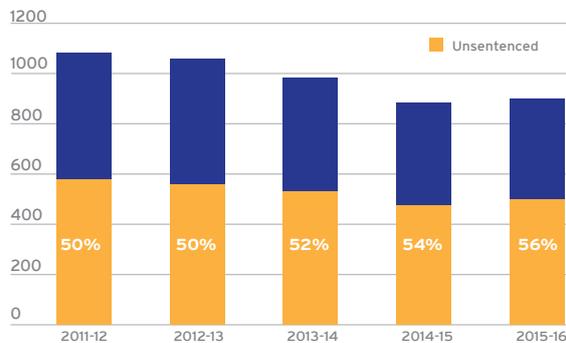


Figure 4. The total youth detention and remand population in Australia¹⁵



More than half of young people in detention are unsentenced awaiting the outcome of their trial or other legal matter. The high proportion of young people on remand (Figure 4) reflects ongoing problems with bail conditions, the availability of suitable alternative accommodation and other youth justice requirements. This runs counter to each state and territory's aim to use detention as a last resort

and is discussed in more detail later in this Guide. Trends in young people on remand are also difficult to interpret due to incomplete data provided by some jurisdictions and the fact that some young people can be recorded as being on both sentenced and unsentenced orders at the same time.

Gender of Young People in Detention

Males are approximately four times as likely as females to be under community supervision, and they constitute 91% of the youth detention population. Further, males are proceeded against by the police at double the rate of females. Young women are more likely than young men to be placed on community supervision rather than detention, with 93% of females receiving community supervision compared to only 85% of males. However, the rate of supervision of young women increased in the 5 years prior to 2011.¹⁶

The risk factors for offending in males and females are broadly similar. However, for female offenders, some factors tend to be more prevalent. According to the Australian Institute of Health and Welfare, these include:

- psychological or mental health issues
- a history of out-of-home care
- chronic illness or disability
- socioeconomic disadvantage
- difficulties at school.¹⁷

Characteristics of Young Offenders

A number of factors differentiate young offenders from adult offenders. Primary among these is the fact that young people are still undergoing physical and mental development. Changes in the brain, particularly in the areas of emotional regulation and perception of risk, mean that decision-making skills are not as developed among juveniles as in adults.

Adolescents are also more susceptible and vulnerable to peer pressure from their social circles, which can further inhibit judgement.¹⁸

¹³ Australian Institute of Health and Welfare, Supplementary tables - S10, *Youth Detention Population in Australia 2016, 2017*.

¹⁴ Australian Institute of Health and Welfare, Supplementary tables - Tables S83a, S85a, *Youth Justice in Australia 2015-16, 2017*.

¹⁵ Australian Institute of Health and Welfare, Supplementary tables - Table S115a, S122a, *Youth Justice in Australia 2015-16, 2017*.

¹⁶ Australian Institute of Health and Welfare, 2017.

¹⁷ Australian Institute of Health and Welfare, *Girls and Young Women in the Juvenile Justice System 2010-11*, Australian Institute of Health and Welfare, Canberra, 2012.

¹⁸ K Richards, 2011.

Intellectual disability and mental illness are more common in young people in contact with the criminal justice system than adults in the same situation. According to a 2009 survey, 17% of young offenders in detention in NSW have an IQ below 70, which can indicate an intellectual disability. By comparison, only an estimated 1% of the adult prison population has an IQ of below 70.¹⁹ A 2005 study found 88% of youth in detention exhibited symptoms of mental illness,²⁰ while a recent study at a detention centre in Western Australia found that one in three young people in detention suffered from Fetal Alcohol Spectrum Disorder.²¹

The link between mental illness and offending behaviour is well-established, as psychosocial and other conduct disorders affect decision-making and behavioural control. Experts point out the difficulty in categorically diagnosing mental health issues among young people.²² Young people are developmentally sensitive, and symptoms of mental illness can consequently evolve during this time. As a result, correct treatment of young people with mental health problems can be more difficult than it is for adults.²³

Young offenders are commonly the victims of crime themselves and in Victoria over 2010-11 they were found to be equally as likely to be victims as perpetrators of crime.²⁴ Female offenders aged 10-14 years in 2007 were found to be the largest population that had experienced sexual assault.²⁵

Traumatic experiences or ill-treatment in the home environment is also common among young offenders. The 2009 NSW survey indicated that 81% of females and 57% of males in youth detention reported some sort of abuse or neglect.²⁶ Traumatic experiences cause externalising problems such as aggression and oppositional behaviour. Trauma has also been shown to affect the cognitive and intellectual development of a

child.^{27 28} This adverse developmental effect forms an additional risk factor for offending and for delinquent behaviour in youth justice facilities as it can affect the ability of young people to understand the impact of their behaviour and their decisions.²⁹

In any discussions of effective practice in youth justice and youth detention, an increasing amount of emphasis is placed on these developmental, mental health and trauma factors as critical to treatment and supervision.

INDIGENOUS OVERREPRESENTATION

Australia's youth justice system is characterised by a systemic overrepresentation of Indigenous young people. Less than 6% of young people aged 10-17 in Australia are Indigenous, but on average they represent 48% of young people under supervision in youth justice systems.³⁰ Of the young people in detention, over half are Indigenous, and they have formed an increasingly large proportion of the detention population (Figure 5).

Figure 5. Proportion of young people aged 10-17 an average day by Indigenous status, 2015-16.³¹

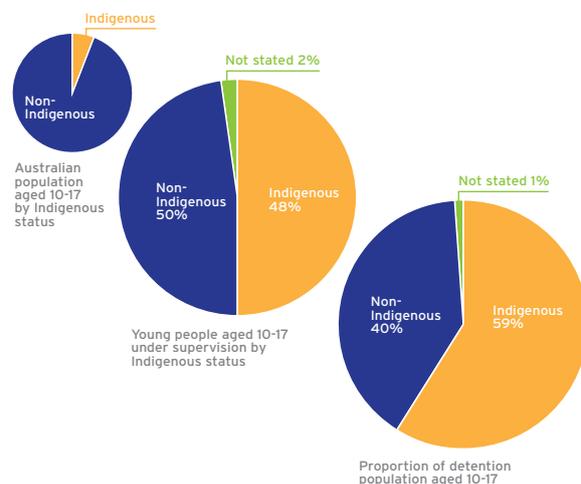


Figure 6 shows the disparity in rates of young people under supervision between Indigenous and non-Indigenous people across all jurisdictions in Australia.

19 M Frize, D Kenny & C Lennings, 'The relationship between intellectual disability, Indigenous status and risk of reoffending in juvenile offenders on community orders', *Journal of Intellectual Disability Research*, vol. 52, no. 6, pp. 510-519.

20 K Richards, 2011.

21 Telethon Kids Institute, *1 in 3 young people in detention has alcohol related brain damage*, Telethon Kids Institute, 2017, retrieved 3 March 2017.

22 T Grisso, 'Juvenile offenders and mental illness', *Psychiatry, Psychology and the Law*, no. 6, 1999, pp.143-151.

23 C Lennings, 2003. 'Assessment of mental health issues with young offenders', *Juvenile Justice: From Lessons of the Past to a Road for the Future Conference*, Australian Institute of Criminology, Sydney, 1-2 December 2003, Conference Presentation.

24 Smart Justice Australia, *Myths and Facts of Youth Offending*, Smart Justice Australia, Melbourne, 2012.

25 Smart Justice Australia, 2012.

26 D Indig et al, 2009 *NSW Young People in Custody Health Survey: Full Report*, Justice Health and Juvenile Justice, Sydney, 2011.

27 J Ford, 'Treatment implications of altered neurobiology, affect regulation and information processing following child maltreatment', *Psychiatric Annals*, vol. 35, 2005, pp. 410-419.

28 J Ford, 'Traumatic victimization in childhood and persistent problems with oppositional-defiance', *Journal of Aggression, Maltreatment & Trauma*, vol. 11, 2002, pp. 25-58.

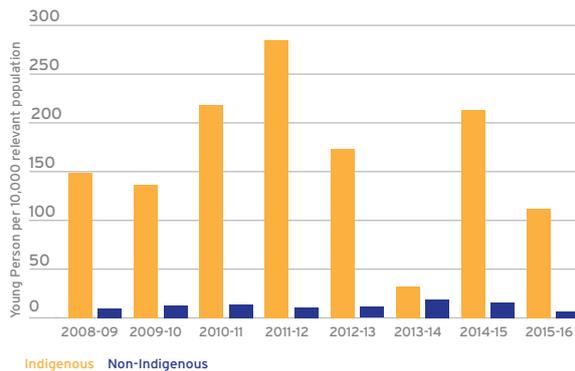
29 G Griffin et al, 'Using a Trauma-Informed Approach in Juvenile Justice Institutions', *Journal Of Child & Adolescent Trauma*, vol. 5, no. 3, 2012.

30 Australian Institute of Health and Welfare, *Youth Justice in Australia 2015-16*, AIHW Bulletin no. 139, 2017.

31 Australian Institute of Health and Welfare 2017, Supplementary tables - Table S3a, S76a, S144, *Youth Justice in Australia 2015-16*, 2017.

It must be noted that figures from Western Australia (WA) and the Northern Territory (NT) are not standard with other states and the NT has not provided information for 2015-16. Comparisons across jurisdictions should therefore be interpreted with caution.

Figure 6. Young people aged 10-17 under supervision on an average day by Indigenous status, 2015-16



(rate).³² The causal factors of the overrepresentation of Indigenous young people in detention are complex and contentious. However, the historical and colonial legacy of Australia plays a significant role in Indigenous crime and detention rates, because it has led to social changes that entrench socioeconomic disadvantage in Indigenous communities. The Healing Foundation asserts that the traumatic experience of the Stolen Generations, as well as the destruction of Aboriginal and Torres Strait Islander community and social structures across Australia, has led to intergenerational trauma. Traumatic experience transmitted across generations exposes Indigenous young people to significant psychological stress through the cultural memory and experience of dispossession and colonisation³³

As a result of, and in addition to, this dispossession, a range of developments in Indigenous communities have produced high levels of crime and high detention populations since the 1970s. The conditions that push some Indigenous young people into contact

with the criminal justice system form a kind of self-fulfilling prophecy. High rates of detention and contact among the Indigenous community, including among young people, suggests that detention has lost its deterrent value.³⁴

Research suggests that, beyond risk factors such as socioeconomic disadvantage, the contribution of systemic racism to Indigenous overrepresentation in the criminal justice system is complex. There is little *prima facie* evidence that sentencing of Indigenous young people is racially motivated - studies indicate that Indigenous Australians tend to commit more serious crimes, are more likely to self-report and frequently have more extensive histories of criminal conduct than non-Indigenous offenders.³⁵ However, the rate at which Indigenous young people are diverted from the criminal justice system is much lower in comparison to non-Indigenous offenders - which more greatly exposes them to the negative consequences of contact with the criminal justice system. This trend is partially reflected in the greater proportion of Indigenous offenders in detention on remand (Figure 7). While it is difficult to attach influence to systemic racism in empirical studies, the above trends show that factors that lead to committing crime disproportionately apply to Indigenous people.³⁶

Indigenous young people also experience high rates of mental health issues, which are a significant determinant of recidivism. A survey undertaken by the Western Australian Aboriginal Child Health Survey indicated that 24% of Western Australian Indigenous young people (4-17 years) showed indications of mental health issues.³⁷ This forms a significant risk factor for offence and re-offence.

32 Australian Institute of Health and Welfare, Supplementary tables - Table S4a, *Youth Justice in Australia 2015-16*, 2017.

33 The Healing Foundation, *Growing Our Children up Strong and Deadly*, The Healing Foundation, Canberra, 2013.

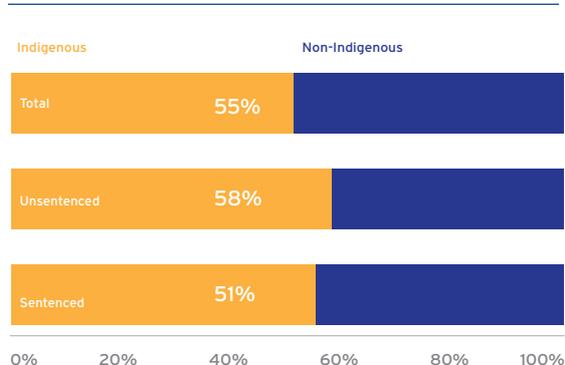
34 D Weatherburn, *Arresting Incarceration: Pathways out of Indigenous Imprisonment*, Aboriginal Studies Press, Canberra, 2014.

35 D Weatherburn & L Snowball, 'Does Racial Bias in Sentencing Contribute to Indigenous Overrepresentation in Prison?' *The Australian and New Zealand Journal of Criminology*, vol. 40, no. 3, 2007, pp. 272-290.

36 D Weatherburn & L Snowball, 2007.

37 C Butler, 2012. 'Indigenous Adolescent Mental Health: What is the Role of Primary Health Care?' *Primary Health Care Research and Information Service*, issue 24, June 2012.

Figure 7. Proportion of youth detention population (all ages) by Indigenous status, sentence status, average day 2015-2016.³⁸



Additionally, contact with the criminal justice system has been shown to limit employment opportunities post-detention and further entrench socioeconomic disadvantage, both of which are significant risk factors for re-offence.³⁹ Without addressing the risk factors affecting offenders, and in the absence of any deterrence effect of detention, young offenders can find themselves committing more frequent or more serious offences and spending more time in detention centres.

There are varying perspectives on how Indigenous overrepresentation in youth justice can be addressed. There is a widely held belief, particularly and most importantly among some Indigenous people, that programs to address the needs of at-risk young people will not be effective unless they are designed and run by Indigenous communities. The experience of Mick Gooda, former Social Justice Commissioner for the Australian Human Rights Commission, informed his belief that “our mob needs to be in control of this change. We know what works best for our communities.”⁴⁰ Although this may be true, there is no evidence indicating that it is the only valid approach. In fact, there is a risk that it implies dismissing approaches to policy and practice that have been effective for other communities. It is likely that with appropriate levels of co-design and collaboration between Indigenous communities and non-Indigenous service providers, programs can be designed and delivered which effectively target

offending behaviour. This co-design can extend not just to representatives of these communities, but to the young people who live in these communities and experience the youth justice system. Co-design is consistent with principles of effective practice in the sections below, which suggest that strategies to address youth justice issues must be tailored to the communities they intend to target or otherwise risk being ineffectual.

DEFINING AND MEASURING ‘EFFECTIVE PRACTICE’

‘Effective practice’ in youth justice is premised on the fact that young offenders are fundamentally different to adults. Not only are they treated differently under the law, but they also respond to deterrents and punitive measures in different ways to adults.

Certain practices have been well-established by research and evaluation, and there is a strong case for investing in youth justice programs that not only reduce the cost of detention, but also provide large public benefit by preventing young people from re-offending or starting offending behaviour at all. While Australia lacks an evaluation framework that assesses the public benefit of youth justice programs that prevent detention, the case can easily be made as it has in other jurisdictions for the net benefit of investing in such programs.

Overview of Effective Practice

Diversion and minimising contact with the justice system are accepted as key measures of success in administering juvenile justice. As indicated above, juvenile offenders largely grow out of offending around young adulthood. Contact with the criminal justice system, especially detention, can also apply stigmatising labels such as ‘criminal’ to young offenders, who may internalise that message and begin to self-identify with it, leading to increased risk of re-offence.⁴¹ Diversion, or using alternative measures other than court appearances and detention to respond to an offence, can assist in reducing the risk of re-offence by avoiding

³⁸ Australian Institute of Health and Welfare, Supplementary tables - Table S75a, S114a, *Youth Justice in Australia 2015-16*, 2017.

³⁹ D Weatherburn, 2014.

⁴⁰ Amnesty International Australia, 2015.

⁴¹ S Creaney, ‘Targeting, Labelling and Stigma: Challenging the Criminalisation of Children and Young People’, *Criminal Justice Matters*, vol. 89, issue 1, pp. 16-17.

stigmatising labels and therefore are a more effective method of reducing recidivism.

In line with the diversion principle, it has been established that programs should target their participants based on a strong understanding of risk. Programs for higher risk offenders produce a greater benefit than those for lower risk offenders. High-risk individuals by definition are more likely to repeatedly offend and therefore have greater scope to influence the overall offence rate if they receive an effective intervention.⁴² By contrast, individuals with a low risk of offending have a low likelihood of re-offending without treatment. Low-risk offenders can also respond adversely to certain types of interventions due to the stigmatisation and associations created by the youth justice environment. These interventions can also create contact between low-risk and higher risk offenders, causing a peer contagion that can influence the behaviour of an otherwise low-risk offender.⁴³

The Risk-Needs-Responsivity (RNR) model guides general effective practice in treating offenders, both adult and juvenile. It is a method of evaluating an offender and determining the best path to effective treatment, based on three core tenets as outlined by James Bonta and D. A. Andrews:

- “Risk principle: Match the level of service to the offender’s risk to re-offend
- Need principle: Assess criminogenic needs and target them in treatment
- Responsivity principle: Maximise the offender’s ability to learn from a rehabilitative intervention by providing cognitive behavioural treatment and tailoring the intervention to the learning style, motivation, abilities and strengths of the offender.”⁴⁴

The RNR model is founded on the notion that individual offenders have different criminogenic needs - factors that determine an offender’s likelihood to re-offend. The ability to identify these factors is crucial to quality programs. Similarly, the

ability to identify parental and community risks present in early life can prevent delinquent behaviour from appearing in a child’s life entirely.

Research indicates that, when using established effective treatment practices, discerning between these program models to determine which is most effective may not be as important as considering the likelihood of successful implementation. Specific treatment programs may not be transferable from one country to another or even one state to another - different jurisdictions may have different levels of demand for certain treatment types, varying levels of staffing, facilities or any number of factors that favour specific treatments over others. Therefore, the broad treatment type, the needs of the intended participants and implementation factors should be the most important considerations, not simply reproducing programs that have shown the largest effect on recidivism in another jurisdiction.

The provision of culturally-appropriate care programs is a basic standard for youth justice systems. However, to some extent, it remains an assumption that a program designed with cultural awareness in mind will be more effective than a well-considered ‘mainstream’ program. A North American meta-analysis of three studies with rigorous implementation and evaluation methods revealed little significant decrease in recidivism when a culturally-appropriate program was implemented. The study indicated that a lack of wide, rigorous research into the effectiveness of individual culturally-informed programs meant that no consistent judgement could be made as to their efficacy.⁴⁵ This is not to say that they are not effective - they may have less tangible benefits such as participant comfortability or a closer connection to family. In Australia, the appropriateness and cultural suitability of certain programs has also not been explored in depth. As discussed later in this Guide, where the effect of youth justice practices has been assessed, it is generally indicated that they are less likely to influence re-offending for Indigenous participants. There are many other risk factors that typically affect the likelihood of re-offending post-intervention, so this is does

42 M Lipsey et al, *Improving the Effectiveness of Juvenile Justice Programs: A New Perspective on Evidence-Based Practice*, Center for Juvenile Justice Reform, Washington, D.C., 2010.

43 U Gatti, R Tremblay, & F Vitaro, ‘Iatrogenic effect of juvenile justice’. *Journal of Child Psychology and Psychiatry*, vol. 50, no. 8, 2009, pp. 991-998.

44 J Bonta & D Andrews, ‘Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation’, *Rehabilitation*, vol. 6, issue 1, pp. 1-22.

45 A Vergara et al, ‘Effectiveness of Culturally Appropriate Adaptations to Juvenile Justice Services’, *Journal of Juvenile Justice*, vol. 5, issue 2, 2016, pp. 85-103.

not necessarily imply they are less effective for Indigenous offenders. However, it does point to the need to engage communities, and particularly young people in these communities, in the design of youth justice programs to increase the effectiveness of any interventions. Overall, effective practice in the treatment of young people through all stages of the youth justice system requires a strong focus on program and service integrity. This necessarily implies a high degree of cultural sensitivity and community involvement, a well-defined purpose or logic, adequate resourcing and well-established therapeutic approaches that are known to reduce re-offending.

Recidivism as a Measure of Effectiveness

Measuring the effectiveness of the youth justice system requires the use of meaningful performance indicators. Recidivism is the most common metric used to measure the effectiveness of programs or approaches to justice issues. Recidivism, or re-offence, is a measure of the rate at which people that have had contact with the criminal justice system come into contact with it again.

There are limitations to recidivism as a metric; it cannot measure crime that goes unreported or unattributed.⁴⁶ The measured time period also varies among studies, making program and efficacy comparisons difficult. Studies have also noted that the longer the time period over which recidivism is measured, the more likely it is to be observed.⁴⁷ This trend is particularly important to samples and recordings related to older offenders - any pattern of offending that continues into adulthood may not appear in juvenile recidivism measurements and could, therefore, understate or mislead about re-offending behaviour.

Recidivism offers only a binary measure of effectiveness - it cannot measure less tangible benefits such as mental health improvement, pro-

social behaviours or reductions in the seriousness of offending, nor can it necessarily inform program transferability between justice jurisdictions. However, recidivism is chosen because it is the most pertinent measure upon which funding and program decisions can be made. Reducing recidivism not only signifies some kind of rehabilitation of the offender, but it also implies a direct reduction in crime and therefore an increase in community safety and reduced costs associated with law enforcement and the justice system. Put simply, if a program prevents a young person from re-offending, it will likely be a preferred option to detention on the basis of both safety and cost.

Where relevant, this Guide has referred to other measures of program or practice effectiveness, such as reduced offending in comparison to a baseline or control group or more qualitative and anecdotal community and stakeholder outcomes. Where there are concerns about the efficacy of the evaluation method and the strength of the evidence base, those concerns are specifically highlighted throughout the analysis.

Recidivism in Australia

Outside of focused studies, recidivism across jurisdictions can be difficult to compare given its definition and application are not agreed. Measures of re-offending or re-contact with the youth justice system can be indicated in other ways, such as recording the number of people who re-contact the youth justice system or are returned to detention within the year.

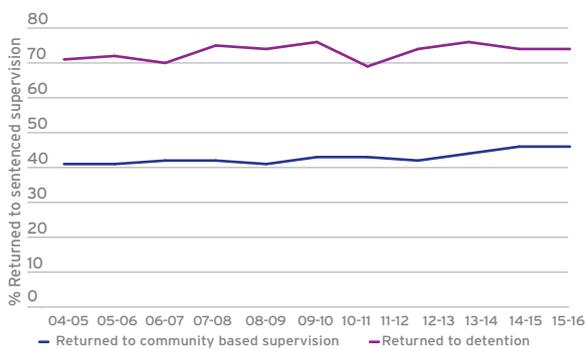
The Australian Institute of Health and Welfare (AIHW) records the number of young people who returned to detention within 12 months of release (Figure 8). While not a direct measure of recidivism, the number of young offenders who returned to detention or supervision provides an indicator of the issues facing the youth justice system in Australia. The rate of young people returning to detention has not changed despite efforts in Australian jurisdictions to reduce re-offending.

⁴⁶ Victorian Department of Human Services, *Recidivism among Victorian juvenile justice clients 1997-2001*, Victorian Department of Human Services, Melbourne, 2001.

⁴⁷ J Tresidder, P Homel & J Payne, *Measuring youth justice outcomes*, Australian Institute of Criminology, Canberra, 2009.

What this information does not show, however, is the effectiveness of any diversion programs that prevent young people from entering supervised environments or even contacting the youth justice system in the first instance. The effectiveness of cautioning, youth conferencing, diversion programs and other treatments will be examined in the relevant sections.

Figure 8. Young people in Australia released from sentenced supervision/detention and aged 10-16 at time of release who returned to sentenced supervision/detention within 6 or 12 months, by year of release.⁴⁸



conclusions on its applicability or replicability in other contexts. The lack of randomised controlled trials is particularly limiting in Australia, as there are many factors that could influence recidivism that must be controlled in order to make definitive assertions of program effectiveness.

This Guide focuses on those practices and programs that have been most frequently and categorically tested, or those that have produced a significantly large effect size. This has been supplemented where necessary with emergent issues or Australian experiences in order to infer the kinds of approaches that will be successful in the Australian context.

Limitations on Assessing Effectiveness

Due to the low cost of many youth justice programs in comparison to the cost of detention, most programs that show a statistically significant reduction in recidivism can be shown to be cost-effective or provide a net public benefit. The nature of these public benefits in Australia has not been examined in great detail, but is established well enough in other jurisdictions to draw the same conclusion about recidivism in Australia.

In Australia, there are very few rigorous and reliable evaluations of youth justice programs that show a link with reducing recidivism. The examination of model programs is limited to those that have shown consistent effects on recidivism in academic literature, except where consideration of Australia's contexts is critical to the outcomes. The shortcomings of this approach are that, where some information from Australian programs has been provided, there is not enough information to verify the results or draw

⁴⁸ Australian Institute of Health and Welfare, 'Young people returning to sentenced youth justice supervision 2014-15', AIHW Youth Justice Fact Sheets, no. JUV 84, 2016.

YOUTH JUSTICE PRACTICES

This Guide considers practices across four broad points of intervention or treatment in the youth justice system. As such, examination of effective practices is divided into four sections:

- **Early intervention and prevention** examines programs and practices that engage children and young people at risk of delinquent behaviour and seek to treat the underlying risk factors that lead to offending.
- **Diversion and alternatives to detention** explores interventions for offenders that do not involve detention. These youth justice practices and associated programs are seen as key to reducing recidivism by attempting to change the behaviour of offenders without exposing them to detention.
- **Detention** describes effective practice in circumstances where detaining a young person cannot be avoided. It also describes what can be done in detention to treat young people and how effective programs can be delivered in the detention environment.
- **Transition from detention** reviews the factors that affect the welfare and future offending behaviour of young offenders on completion of their sentence, and programs that can assist with the transition back into the community.

EARLY INTERVENTION AND PREVENTION

Early intervention and preventative strategies are those that look to reduce the risk of a child's social and physical environment on their emotional and behavioural development. While this Guide is examining these programs in the context of their link to criminal behaviour, these programs also promote the conditions that holistically contribute to the healthy and positive development of a child.

There is sufficient evidence that early childhood experiences are highly influential on a young person's health and wellbeing. Programs that seek to lessen the impact of biological and environmental disadvantage can produce significant benefits to the young person, their family and society at large.⁴⁹

Risk Indicators for Early Intervention

In the Australian context, research has focused on early-onset offending as a risk indicator for persistent life offending. According to the Australian Institute of Family Studies (AIFS), early-onset offenders are more

susceptible to "school failure, substance abuse, unsafe sexual behaviour, unwanted pregnancy and dangerous driving compared to late-onset offenders"⁵⁰. Early onset offenders can also be highly influential amongst their peer group in promoting delinquent behaviour and providing an example for others to emulate.⁵¹

The Longitudinal Study of Australian Children by AIFS⁵² developed a list of key childhood factors that were associated with delinquent behaviour and early-onset offending. Controlling for other observable risk factors or protective factors, children were at greater risk of early onset offending if:

- "they were boys
- they were Indigenous
- they lived in urban areas (at 4-5 years)
- their mothers consumed alcohol at risky levels (at 10-11 years)
- their mother had been injured, assaulted or had an illness (at 10-11 years)

⁴⁹ J Watson & L Tully, *Prevention and early intervention update - trends in recent research: Literature review*, NSW Department of Community Services, 2008, retrieved 20 January 2017.

⁵⁰ W Forrest & B Edwards, 'Early onset of crime and delinquency among Australian children' in the *Longitudinal Study of Australian Children Annual Statistical Report 2014*, Australian Institute of Family Studies, Canberra, 2014.

⁵¹ T Moffitt, 'Adolescence-limited and life-course-persistent antisocial behavior: a developmental taxonomy', *Psychological Review*, vol. 100, no. 4, 1993, pp. 674-701.

⁵² W Forrest & B Edwards, 2014.

- their mother smoked regularly during pregnancy
- they were more sociable (at 4-5 years)
- they had significant attention problems (at 4-5 years)
- they had greater peer problems (at 10-11 years) and/or
- they experienced higher levels of harsh parenting (at 10-11 years).⁵³

The study also acknowledged that, while these factors can be helpful in identifying children at high risk of early-onset offending, they are not predictive, and “most children who report engaging in crime or delinquency in early adolescence are doing so with a low level of risk factors in early childhood”.⁵⁴

The Risk-Needs-Responsivity (RNR) principle for treatment of young offenders has applicability to early life and prevention models by changing the lens from the risk of re-offending to early life risk factors for children. Using the RNR in this context, programs must identify risk factors related to family and community situations as much as the child’s own behaviours.

Positively intervening in families and children’s lives on the basis of factors similar to the above can be a way to prevent children and young people from developing offending behaviours and can have a variety of positive health and developmental outcomes.

The following section highlights a number of programs designed to address these parental and behavioural factors.

Effective Practice Programs

This section discusses three examples of effective early intervention and prevention programs:

- home visitation (and Nurse-Family Partnership)
- early childhood education
- school-based programs.

Nurse-Family Partnership

Nurse visitation programs are seen as effective methods to counteract risk factors in home environments that may lead to offending behaviour by engaging with parents to support and guide them in their parenting.

David Olds’ Home Visitation Program is often cited as the preeminent program in early age programs that focus on parenting. Adopted globally as the Nurse-Family Partnership (NFP), the program is for young, low-income, first-time mothers whose children are identified as at risk of health and developmental problems. Nurses visit these mothers at home from the prenatal period until the child is approximately 20 months of age. Families involved in this program typically experienced reduced child abuse and neglect, lower arrest rates for both children and mothers, and many other positive outcomes.⁵⁵

The most recent randomised controlled trial for an NFP type program was conducted in the United Kingdom (UK) for children up to 24 months old. The program was implemented in England and was funded and delivered on a larger scale than other reviews. The trial results indicated that the program had no effect on the main short-term outcomes of the program - prenatal tobacco use, birth weight, subsequent pregnancy within 24 months and hospital admissions. It is suggested that the lack of effectiveness in comparison to trials in the United States was due to the selection of clients. For the areas selected in the UK, the relative availability of universal and specialist health services and widespread engagement with ante-natal care outside of the NFP environment limits the number of risk factors that the NFP program can influence. In any case, the behavioural impact of the program may still remain as the trial indicated an improvement in early child development, which could address risk factors associated with cognitive development. Although the impact of the NFP program on young offending has yet to be established in the UK context,⁵⁶ it shows

53 W Forrest & B Edwards, 2014.

54 W Forrest & B Edwards, 2014.

55 Karoly et al, 1998 in P Greenwood, ‘Prevention and Intervention Programs for Juvenile Offenders’, *Juvenile Justice*, vol. 18, no. 2, 2008, pp.187-210.

56 M Robling et al, ‘Effectiveness of a nurse-led intensive home-visitation programme for first-time teenage mothers (Building Blocks): a pragmatic randomised controlled trial’, *The Lancet*, vol. 387, no. 10014, 2016, pp. 146-155.

that selecting participants with high risk factors is critical to the impact of programs. This may be an important lesson for the short-term outcomes of any program delivered in Australia due to the high concentrations of disadvantage in certain communities, and the high levels of access to health and care services (relative to the United States) in some regions.

The NFP model has been delivered in Australia since 2008 with the support of the Commonwealth's Department of Health in Cairns, Queensland, Alice Springs, Northern Territory and Wellington, New South Wales. The Australian Nurse-Family Partnership Program (ANFPP) adapts the program for Aboriginal or Torres Strait Islander children by including an Aboriginal Community Worker, and has expanded scope to go beyond first-time mothers and low-income families.⁵⁷ There are currently no longitudinal studies or effectiveness reviews for the program beyond infancy, and therefore the effect of the program on child development cannot be identified. The Commonwealth Department of Health is in the process of developing a randomised controlled trial to assess the ANFPP's effectiveness.

Early Childhood Education

Along with home visits, early childhood education programs target at-risk, and particularly low socioeconomic, status children. The Perry Preschool Program (PPP) is the exemplar of this model, based on its use at the progressive Perry Preschool in Ypsilanti, Michigan, in the United States (US). At ages three and four, children received a participatory learning program produced by HighScope Educational Research Foundation. The two-year program provided 2.5-hour morning sessions that involved decision-making and problem-solving. The program also involved weekly 1.5 hour home visits by the teacher in support of the curriculum and to better engage parents. Longitudinal studies of participants indicated that they had higher earnings, committed fewer crimes and were more likely to have graduated from high school than the control group.⁵⁸

In the US, the Head Start program is a federally-delivered early childhood education program which has been demonstrated to similarly reduce criminal behaviour and improve educational outcomes. It is also an example of the effectiveness of this kind of early childhood program at significant scale.⁵⁹

As with the NFP example, it is important to contextualise the results in the US setting, given the different availability of social and health services, and the different dynamic factors that lead to offending. The lessons for this type of project in Australia are not clear, as regional and remote communities involve considerable complexity. Each community is unique and requires a different approach, although this challenge is less apparent in urban and suburban environments.

In Australia, many variants of early childhood programs have been tested and found to be successful, although with a limited evidence base. The Home Interaction Program for Parents and Youngsters (HIPPY) is a targeted initiative that involves both home and centre-based engagement from ages three to five. The program uses tutors from local communities who work with parents and deliver early learning programs and has been found to be effective in the Australian context at improving cognitive skills, socio-emotional skills and the parents' social involvement.⁶⁰

Other programs have also indicated effectiveness in the Indigenous context, but the extent of the impact is not yet known. The Families as First Teachers (FaFT) program represents the most comprehensive and promising early childhood programs, but there has not yet been a publicly available study of its effectiveness. FaFT involves a proven early learning model based on the well-established Abecedarian program, community activities, parent education and literacy support and a transition to the pre-school program.

School-Based Programs

School-based programs that address violent or disruptive behaviours have been consistently assessed to have a positive influence on later life

57 Australian Nurse-Family Partnership Program, *Introduction to ANFPP*, Australian Nurse-Family Partnership Program, 2015, retrieved 31 January 2017.

58 L Schweinhart, H Barnes & D Weikart, *Significant benefits: The HighScope Perry Preschool study through age 27*, Monographs of the HighScope Educational Research Foundation, no. 10, HighScope Press, Ypsilanti, 1993.

59 E Garcés, D Thomas & J Currie, 'Longer-term effects of Head Start', *The American Economic Review*, vol. 92, no. 4, 2002, pp. 999-1012

60 T Barnett, F Diallo Roost & J McEachran, 'Evaluating the effectiveness of the Home Interaction Program for Parents and Youngsters (HIPPY)', *Family Matters*, no. 91, 2012, pp. 27-37.

outcomes. The best school programs often involve approaches targeting cognitive, behavioural or social skills. Classroom-based programs are seen as simpler to implement and therefore are an ideal option for reaching young people in particularly vulnerable communities. Moreover, programs that select high-risk young people for programs outside school hours have been shown to be effective in changing violent and disruptive behaviour.⁶¹

School-based programs can also provide a straightforward means of accessing young people who might otherwise not be reached by early intervention programs. The effect of school-based programs is particularly strong for young people with higher risk of behavioural issues and for young people from disadvantaged backgrounds.

The focus on using schools to reach students has a potential drawback for the Australian context, given that remote communities experience low school attendance from primary school. In 2006, 88% of Indigenous children aged five attended an educational institution. However, this figure dropped to 77% in remote areas.⁶²

Summary of Effective Practice in Early Intervention and Prevention

While early childhood and primary school age programs have proven their efficacy at large scale, there are a number of other options that provide similarly comprehensive approaches such as programs targeting parents, transition to school programs, and other school-based programs that apply up until early adolescence.

In general, programs designed for families are more effective than programs that are not, and programs that select children based on well-considered risk factors tend to produce better overall reductions in violent and disruptive behaviour.⁶³ The need to focus on families is understood in Australian programs, where effectiveness could be linked to creating pro-social behaviours in parents and preventing

parental factors from adversely influencing children's development. Programs for children should focus on both cognitive and behavioural factors, and should have a well-resourced and highly-focused delivery model, as these are repeatedly shown to reduce violent and anti-social behaviour.

It has been argued that prevention strategies work most effectively when multiple programs or multi-component programs target the individual, family, school and community comprehensively. However, meta-analyses of these programs have indicated that they can often have a smaller effect than single-component interventions.^{64 65} This comparatively low effectiveness may be attributed to increased complexity in implementation, overwhelming demands on individuals, families or schools,⁶⁶ or simply a lack of focus and rigour in delivery.⁶⁷ The same effect is observed when comparing the effectiveness of 'demonstration' programs to larger scale delivery, as the added focus and resourcing for demonstration or research-led programs seem to slightly improve the outcomes.⁶⁸

These facts reinforce the importance of effective implementation and suggest that in some cases the ideal intervention might simply be the program that is easiest to implement well in the desired setting. However, it is debatable that the larger effect sizes for single-component programs are relevant for Indigenous communities, as these communities can suffer significant and multifaceted socioeconomic disadvantage. In these settings, there are likely to be a range of existing interventions or social services. Early intervention programs consequently need to integrate with existing services and complement any case management processes underway in these communities.

Early childhood programs and parent-focused programs also emphasise community factors, given that pro-social behaviours are critical for effectiveness. For youth justice in Australia, whole of community engagement is necessary to address

61 S Wilson & P Lipsey, 'School-Based Interventions for Aggressive and Disruptive Behavior: Update of a Meta-Analysis', *American Journal of Preventive Medicine*, vol.33 (Supplement 2), 2007, S130 - S143.

62 ABS Census data, 2006.

63 J Matjasko et al, 'A systematic meta-review of evaluations of youth violence prevention programs: Common and divergent findings from 25 years of meta-analyses and systematic reviews', *Aggression and Violent Behaviour*, 2012.

64 S Wilson & P Lipsey, 2007.

65 J Matjasko et al, 2012.

66 J Matjasko et al, 2012.

67 S Wilson & P Lipsey, 2007.

68 S Wilson & P Lipsey, 2007.

long-term risk factors associated with Indigenous communities. Reviews of early childhood programs in Australia emphasise adaptability to specific community needs or cultural preferences. As with most youth justice reviews, the nature of program implementation in these communities is critical to their effectiveness, reinforcing the need for flexible funding and long duration programs.⁶⁹

Programs that are considered effective in prevention and early intervention can often cite benefits beyond recidivism, such as an influence on pro-social behaviour, education and income in later life. Given the nature of the costs experienced by criminal behaviour, these interventions often only need to affect a small number of participants to produce a large effect size and be considered cost effective. The following principles should guide practice in this area:

- select participants based on risk factors that consider both children and parents
- focus programs on family interventions and children in pre-school or school
- prioritise programs that can be tailored to community preferences and have the greatest likelihood of effective implementation.

DIVERSION AND ALTERNATIVES TO DETENTION

Contact with the youth justice system is itself widely acknowledged to increase the risk of re-offending, and justice responses such as detention are considered to increase the risk of re-offending. Children and young people are vastly different from adult offenders in their level of cognitive development, risk-taking behaviour and judgement. They are easily susceptible to peer influence and given that most young offenders grow out of crime, detention creates an unnecessary risk by exposing young people to an environment that can lead to more frequent and serious offending.⁷⁰

Diversion practices are those which prevent young people from further contact with the criminal justice

system and in particular from detention. Diversion can range from informal warnings and police caution to youth justice conferencing and program referral. Youth justice conferencing and other diversion programs will be discussed in detail below.

Once in contact with the justice system, jurisdictions adopt the principle that detention should be used as a last resort and used only where other avenues of response are not possible, or there are significant risks to community safety. In many Australian jurisdictions and in the most effective youth justice systems, young people are given community-based sentences and referred to programs that attempt to treat the underlying needs of the young offender.

Diversion Practices

Diversion in Australia typically refers to pre-court processes of cautioning, conferencing or referral to therapeutic programs. Cautioning or conferencing are not only viewed as ways to avoid stigmatisation and other negative effects of contact with the youth justice system, but they are also a low-cost response that reduces the burden on law enforcement and the legal system. A study on police cautioning in Queensland indicated that majority of young people who were cautioned on their first contact with the youth justice system did not have any further contact.⁷¹ Additionally, offenders who were eligible for a caution but instead appeared at court in their first contact were more likely to re-offend than those who received a caution.⁷² This result is significant but also may be influenced by other factors – for instance, offenders who are known to police or have otherwise shown a propensity for violent or delinquent behaviour may be directed to appear at court without any preceding formal contact.

Diversion programs in Australia are typically for young offenders who have accepted responsibility for their actions, and most jurisdictions require an admission of guilt in order to avoid a court reference. This section will discuss alternative contacts with the youth justice system based on restorative justice and circle sentencing.

69 J Bowes & R Grace, *Review of early childhood parenting, education and health intervention programs for Indigenous children and families in Australia*, Issues paper no.8 for Closing the Gap Clearinghouse, Australian Institute of Health and Welfare & Australian Institute of Family Studies, 2014.

70 K Richards, 2011.

71 K Richards, 2011.

72 S Dennison, A Stewart & E Hurren, 'Police cautioning in Queensland: the impact on juvenile offending pathways', *Trends and Issues in Crime and Criminal Justice*, no. 306, Australian Institute of Criminology, 2006.

Restorative Justice

Restorative justice is based on the idea that the victim and the offender (and often their family and the community) can actively work with law enforcement and the justice system to deal with crime and behavioural issues. A key example of this in Australia is Youth Justice Conferencing (or similar) which involves conferences that produce a course of action to encourage law-abiding behaviour and to make amends with the victim where necessary. Other conferencing such as Victim-Offender Mediation is used across Western Europe and involves similar restorative justice principles.

Despite its ubiquity, the effect of restorative justice on recidivism is debatable. There are several studies indicating restorative justice reduces re-offending, for example, the RISE project in the Australian Capital Territory.⁷³ However, evidence for the effect of restorative justice is influenced by an inherent selection bias in restorative justice research that is difficult to reconcile, as low rates of re-offending are more likely to be found for offenders offered conferencing.^{74 75} A review of youth justice conferencing in NSW in 2012 concluded that “there was little basis for the confidence that conferencing reduces re-offending at all”,⁷⁶ and an evaluation of restorative justice in New Zealand also showed no effect on recidivism.⁷⁷ Other, more recent studies have also concluded that the rate of re-offending after court proceedings is approximately the same as those after conferencing.⁷⁸

While restorative justice does not always have an effect on recidivism, there are significant benefits for victims and, in some applications, wider communities.

Many reviews of restorative justice programs in Australia and overseas reference high participant satisfaction as an outcome.^{79 80} For instance, the Washington State Institute for Public Policy (WSIPP) indicated that, even with only a modest effect size, restorative justice provides a public benefit due to its low cost in comparison to a court appearance.⁸¹

Circle Sentencing

Circle sentencing was developed in North America to enable the justice system to better reflect the traditional sanctioning and atonement practices of Indigenous peoples. In Australia, similar models have been used to remove Indigenous offenders from traditional court settings and involve their local community in sentencing. There are now community-based alternatives to courts operating in all jurisdictions except Tasmania. These circles are able to determine an appropriate and culturally relevant sentence that focuses on rehabilitation.⁸²

The first Aboriginal sentencing court was the Nunga Court in South Australia, and since then versions of circle sentencing specifically for Indigenous children and young people have been introduced, such as the Children’s Koori Court (Victoria and NSW), the Youth Aboriginal Court (South Australia) and the Youth Murri Court (Queensland). All of these courts aim to break down the barriers between the justice system and Indigenous communities, and reduce the court order break rate by incorporating a greater community involvement in the justice process.

In NSW, the Care Circle variation of circle sentencing includes legal representation for the child involved in line with their rights under the Convention on the Rights of the Child. Legal representation for the child ensures that their best interests are represented regardless of any complex family or parenting dynamics.

73 L Sherman, H Strang & D Woods, *Recidivism patterns in the Canberra reintegrative shaming experiments (RISE)*, Centre for Restorative Justice, Australian National University, Canberra, 2000.

74 J Latimer, C Dowden & D Muise, ‘The effectiveness of restorative justice practices: a meta-analysis’, *The Prison Journal*, vol. 85, no. 2, 2005, pp. 127-144.

75 D Weatherburn & M Macadam, ‘A review of restorative justice responses to offending’, *Evidence Base*, Issue 1, 2013, Australia and New Zealand School of Government.

76 N Smith & D Weatherburn, ‘Youth justice conferences versus Children’s Court: A comparison of re-offending’, *Contemporary Issues in Crime and Justice*, no. 160, 2012, pp. 1-23.

77 J Paulin, V Kingi, T Huirama & B Lash, *The Rotorua Second Chance Community-Managed Restorative Justice Programme: An Evaluation*, New Zealand Ministry of Justice, Wellington, 2005.

78 N Livingstone, G Macdonald & N Carr, Restorative justice conferencing for reducing recidivism in young offenders (aged 7 to 21), *Cochrane Database of Systematic Reviews*, no. 2, 2013.

79 D Weatherburn & M Macadam, 2013.

80 J Paulin, V Kingi, T Huirama & B Lash, 2005.

81 Washington State Institute for Public Policy, *Juvenile Justice: Victim offender mediation*, Washington State Institute for Public Policy, 2016, retrieved 18 January 2017.

82 J Fitzgerald, ‘Does circle sentencing reduce Aboriginal offending?’, *Contemporary Issues in Crime and Justice*, no. 115, 2008, Bureau of Crime Statistics and Research, retrieved 27 January 2017

The evidence for the impact of circle sentencing on recidivism is disputed. Individual applications have been able to demonstrate reductions in re-offending, but no reduction in recidivism or lessening of severity of offending was found for adult circle sentencing in NSW,⁸³ the Children's Koori Court,⁸⁴ Murri Court,⁸⁵ and Kalgoorlie Court.⁸⁶ In 2005, the Adult Koori Court was linked to a significant reduction in recidivism, but it is unclear if the review assessed recidivism for an adequate period of time or appropriately controlled other factors that may have influenced recidivism.⁸⁷

All Australian reviews are reluctant to dismiss the effectiveness of circle sentencing altogether, discussing the need to review practice and provide more sentencing options. There are numerous, less tangible benefits identified by circle sentencing, which according to the Closing the Gap Clearinghouse "include increased cohesiveness of the local community, improved accessibility to court services for Aboriginal people, and a better relationship between the court and the Aboriginal community."⁸⁸ These benefits suggest that circle sentencing programs that adhere to the general principles of effective practice, such as ensuring underlying risk factors are addressed through proven programs, may still merit consideration in youth justice systems.

Programs as an Alternative to Detention

Research into the treatment of young offenders consistently asserts that sentencing options that address the underlying causes of delinquent behaviour generate the best outcomes for offenders and overall crime rates. There are multiple programs that can be delivered either in detention or in a community setting as a diversionary or aftercare program.

The Risk-Needs-Responsivity (RNR) model for young

offenders requires identification of the factors that lead to re-offending, which can help define the young person's criminogenic needs. The needs that diversionary programs tend to target are:

- family support and the home environment
- alcohol and substance abuse
- behavioural changes.

Some studies indicate that therapeutic and substance abuse programs are equally effective in an institutional setting as in a community setting. However, Indigenous offenders, for whom program completion rates are typically lower than non-Indigenous offenders, tend to be more often referred to residential or institutional programs. There is scope to investigate whether there is a link between the likelihood that an Indigenous offender will be removed from their community and their likelihood of successfully completing a treatment program, as this would reinforce the need for community-based, culturally aligned programs for Indigenous communities.⁸⁹

This section details examples of leading therapeutic programs that are delivered outside the detention environment. Additional therapeutic programs are detailed in the Detention section of this Guide, and these programs can generally also be applied as a diversionary program.

Whole-of-Family Approaches

The most prominent family-based therapeutic model is Functional Family Therapy (FFT), which has been consistently assessed as effective in the available literature and is considered by WSIPP as a program with significant public benefit. In 2016, WSIPP estimated a \$9.38 public benefit per \$1 spent on the program, once reductions in crime and improved welfare outcomes for the participant were taken into account.

FFT is designed for young people with behavioural or substance abuse issues and aims to improve an entire family's ability to interact, solve problems and emotionally connect. It also guides parents in how to effectively and consistently discipline children by training them to negotiate, set clear rules and communicate effectively.

83 J Fitzgerald, 2008. .

84 A Borowski, 'In courtroom 7 - the Children's Koori Court at work: findings from an evaluation', *International Journal of Offender Therapy and Comparative Criminology*, vol. 55, no. 7, pp. 1110-34.

85 A Morgan & E Louis, *Evaluation of the Queensland Murri Court: final report*, Australian Institute of Criminology, Brisbane, 2010.

86 H Aquilina et al, *Evaluation of the Aboriginal Sentencing Court of Kalgoorlie: Final Report*, Shelby Consulting, Perth, 2009, retrieved 30 January 2017.

87 M Harris, "A Sentencing Conversation": *Evaluation of the Koori Courts Pilot Program October 2002-October 2004*, Department of Justice, Melbourne, 2006.

88 Australian Institute of Health and Welfare, 'Diverting Indigenous offenders from the criminal justice system', Resource sheet no. 24 produced for the Closing the Gap Clearinghouse, Australian Institute of Health and Welfare, Canberra, 2013.

89 Australian Institute of Health and Welfare, 2013.

A similar approach is provided by the Parenting with Love and Limits (PLL) model, which provides group classes to parents of young people with substance abuse or delinquency issues. The PLL model has also been used as a more intensive aftercare program, and in both diversion and post-release applications has been found to be effective at reducing recidivism.⁹⁰ A review of PLL for young offenders on probation was conducted in Georgia, USA where the program was found to have reduced recidivism in the following 12 months to 16% against a control group outcome of 55%.⁹¹

Cognitive Behavioural Approaches

Cognitive behavioural therapy (CBT) helps young offenders to probe their own thought processes and how that drives their behaviour. CBT encourages alternative behaviours by teaching young people to adjust their thought processes and control their anger. Many therapeutic programs have components of CBT, and reviews of effectiveness suggest that CBT programs which focus on anger management and interpersonal skills have a stronger effect on recidivism.⁹²

CBT programs are highly varied in nature depending on the nature of the intervention, and CBT techniques are used extensively in the treatment of children and young people affected by trauma. Trauma-informed care is described in more detail later in this Guide.

Queensland offers an aggression replacement training program (ART), a specific variant of CBT, upon referral from contact with youth justice service organisations or detention centres. It can also be included as an extra condition of any court order for violent offences.

ART is run for young offenders with violent behaviour to learn appropriate ways to respond to different situations, how to control their anger, and how their anger can affect other people. The program runs for 10 weeks and is delivered to groups of four or five young offenders.

Numerous studies in the US have found that ART leads to greater behavioural control, even among serious offenders.⁹³ Although the impact of the Queensland program has not been assessed in any detail, self-assessment of participants has indicated that “on average, cognitive distortions that contribute to aggressive behaviour decreased for all participants, although there were individual differences”.⁹⁴ The questionnaire also indicated that this effect was less pronounced for Indigenous participants than non-Indigenous participants.

Key challenges for delivering the ART program in regional areas and Indigenous communities have been cited as:

- logistical difficulties of delivering sessions in rural and remote locations
- high levels of trauma among participants
- low degrees of literacy
- engagement with extended family and communities
- providing active and out of office activities.⁹⁵

⁹⁰ K Early, S Chapman & G Hand, 'Family-focused juvenile reentry services: A quasi-experimental design evaluation of recidivism outcomes', *OJJDP Journal of Juvenile Justice*, vol. 2, no. 2, pp. 1-22.

⁹¹ S Sells, K Early & T Smith, 'Reducing Adolescent Oppositional and Conduct Disorders: An Experimental Design Using the Parenting with Love and Limits® Model', *Professional Issues in Criminal Justice*, vol. 6, no. 3 & 4, pp. 9-30.

⁹² M Lipsey, N Landenberger & S Wilson, *Effects of cognitive behavioral programs for criminal offenders*, Campbell Systematic Reviews, 2007.

⁹³ M Lipsey, 'The primary factors that characterise effective interventions with juvenile offenders: A meta-analytic overview'. *Victims & Offenders*, no. 4, pp. 124-147.

⁹⁴ J Stewart et al, *Indigenous Youth Justice Programs Evaluation*, AIC Reports Special Report, Australian Institute of Criminology, Canberra, 2014.

⁹⁵ B Ross, 'Culturally informed delivery of the Aggression Replacement Training (ART) program in Queensland Youth Justice', Queensland Government, retrieved 23 January 2017.

Remand Population and Bail Conditions

According to the Convention on the Rights of the Child and the youth justice principles of Australian jurisdictions, bail and remand should be built upon the notion that detention is the last resort for young offenders.⁹⁶ In fact, the number of young offenders in remand has doubled since the 1980s, with unsentenced young detainees comprising 57% of those in detention. Of the unsentenced detention population, 55% are Indigenous.⁹⁷

According to Western Australia Corrective Services, lack of suitable accommodation is the “single biggest factor in being unable to comply with bail conditions”.⁹⁸

This is particularly relevant to Indigenous young people who have a high level of homelessness or sub-standard accommodation. In many cases, residing ‘as directed’ by a common bail condition is not considerate of the circumstances and lifestyles of young offenders, and often fails to account for cultural preferences of many Indigenous people, particularly those from remote communities.⁹⁹

The perception that remand is ‘for their own good’ flows through to the actors in the justice system. For example, police officers in one Australian jurisdiction were more likely to object to the bail of Indigenous youth who were homeless.¹⁰⁰ In many cases, young offenders on remand have greater access to services than those in the community, and these factors contribute to police decisions to object to bail or a young person’s likelihood of applying for bail.

The lack of suitable accommodation and supporting community environment also contributes to the likelihood that a young person will be remanded. Factors such as peer contagion, unsafe living environments, and location of residence affect the suitability of accommodation. Inappropriate accommodation makes a remand order more likely and, according to the Crime Research Centre at the University of Western Australia, can lead to breaching bail and “a ‘vicious cycle’ of contact with the youth justice system”.¹⁰¹

Unrealistic bail conditions are likely to impact more heavily on Indigenous young people and young people from regional, rural and remote areas, given the lack of resources these young people may be faced with.¹⁰²

While the remand population in detention is declining overall, the practices and practical implications of youth justice proceedings seem inconsistent with the legislated principle that detention should be used as a last resort. As a result, 54% of the population in youth detention across Australia were unsentenced in 2014-15.¹⁰³

Programs for Young People on Bail

Various programs exist to support young people on bail, ensuring that they are cared for and that they have accommodation. An example of good practice is in the ACT, where the After-Hours Bail Support service assists young people to meet bail order conditions and find suitable accommodation. It has been identified as a key driver in the reduction of detention rates in the ACT.¹⁰⁴ Programs that involve intensive surveillance, such as frequent contacts, curfew checks and drug and alcohol testing are considered stigmatising and have been linked with higher rates of re-offending.¹⁰⁵

There are also programs established to address how bail conditions disproportionately affect

96 K Richards & L Renshaw, ‘Bail and remand for young people in Australia: A national research project’. *Research and Public Policy Series*, no.125, 2013, Australian Institute of Criminology.

97 Australian Institute of Health and Welfare, *Youth Detention Population in Australia 2016*, Bulletin 138, Australian Institute of Health and Welfare, Canberra, 2016.

98 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time - Time for Doing: Indigenous youth in the criminal justice system*, Parliament of the Commonwealth of Australia, 2011, retrieved 1 October 2014.

99 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, 2011.

100 K Richards & L Renshaw, 2013.

101 K Richards & L Renshaw, 2013.

102 M Clare et al, *An assessment of the children’s court of Western Australia: Part of a national assessment Australia’s children courts*. University of Western Australia, 2011, retrieved 27 Jan 2017.

103 Australian Institute of Health and Welfare, *Youth Detention Population in Australia*, Australian Institute of Health and Welfare, Canberra, 2015.

104 ACT Government, *Youth Justice Blueprint in the ACT*, ACT Government, 2012, retrieved 27 Jan 2017.

105 Washington State Institute for Public Policy, *Intensive Supervision (Probation)*, Washington State Institute for Public Policy, 2017, retrieved 27 January 2017.

Indigenous offenders, such as the Koori Intensive Bail Supervision Program. The Koori Intensive Bail Supervision Program is provided by the Victorian Department of Human Services and provides the young offender with case management to reduce the risk of re-offending or otherwise breaching bail conditions. This program is part of a broader set of Koori Youth Justice Initiatives to meet an individual's specific needs regarding accommodation, education and training, employment, health and development, family and other matters. The effectiveness of the supervision program was highlighted through a preliminary evaluation which found that of the 40 young people supervised by the service, none received a custodial order upon returning to court for sentencing.

The Koori program is also successful in providing culturally specific support to Indigenous young people,¹⁰⁶ to the extent that it highlights a service gap for non-Indigenous young people in regional areas.¹⁰⁷ However, it is one of the few youth justice bail supervision programs that operate in regional, rural and remote areas regardless of its focus on Indigenous offenders.

The effectiveness of bail support programs in Australia has not been examined in detail. However, the principles of effective support are well understood. Denning-Cotter summarises 'principles of best practice' from international literature as being:

- "voluntary participation rather than mandatory intervention;
- support and intervention;
- holistic, with broad needs assessment and response, providing information, support and intervention as required;
- coordinated and interdepartmental, to provide access to pathways across different service systems; and
- adaptable and responsive to local conditions."¹⁰⁸

106 Australian Institute of Health and Welfare, *Juvenile justice in Australia 2010-11*, Australian Institute of Health and Welfare, Canberra, 2012.

107 K Richards & L Renshaw, 2013.

108 G Denning-Cotter, *Bail support in Australia*, Brief no. 2, Indigenous Justice Clearinghouse, 2008, retrieved 27 January 2017.

Justice Reinvestment

In light of evidence suggesting that detention is an ineffective response to youth crime, attention has shifted recently towards 'justice reinvestment'. Fundamentally, it examines the cost of incarceration in communities with a high concentration of crime and seeks to use evidence-based approaches to get greater public value for this money by addressing the underlying causes of criminal behaviour in communities.

Justice reinvestment involves using data to identify communities with a high concentration of offenders and to examine the risk factors in the area that lead to offending. It then calculates the cost of that crime - both directly with incarceration and indirectly with community effects of crime. With this information, the nature of the entire justice approach can be reconceived, from early intervention to post-release, to achieve much better community and taxpayer outcomes.¹⁰⁹ Justice reinvestment is fundamentally a process to shift the focus in justice from a retributive, punitive model driven primarily by detention and incarceration, to one focused on proactive measures to prevent crime in the first instance.

One of the most commonly cited examples of justice reinvestment and its efficacy at reducing recidivism is from Texas in the USA, which targeted substance abuse, mental health, education and parole support. These interventions are said to have resulted in the closure of a number of prisons and a reduction of the parole population by 40% over an 8 year period.¹¹⁰ In North Carolina, in the USA, a 2011 Justice Reinvestment Act was introduced, which changed sentencing laws and correctional practices. The state experienced a 10% decrease in crime between 2010 and 2014.¹¹¹

Recent studies have called into question whether Justice Reinvestment was the driver for these changes, particularly in Texas.¹¹² The reduction in prison numbers compared to the projected amount

109 R Allen, 'Justice Reinvestment and the Use of Imprisonment', *Criminology and Public Policy*, vol. 10, no. 3, 2011, pp. 617-627.

110 E Alberici, 'Texas Experience with Justice Reinvestment', *Lateline*, 2013, retrieved 3 February 2017.

111 Department of Public Safety, Division of Adult Correction & Juvenile Justice, *Justice Reinvestment Performance Measures*, Department of Public Safety, Raleigh, 2016.

112 C Dunklee & R Larsen, *Examining the Texas prison reform model: How Texas is Maintaining Racial Disparity and Mass Incarceration*, The Institute for Urban Policy Research & Analysis, University of Texas at Austin, Austin, 2015.

is not attributable to initiatives other than changing sentencing practices, and other states which implemented changes in sentencing practices saw similar or even larger effects on prison populations.¹¹³ Given that Australia has comparably lower incarceration rates, particularly for young people, similar outcomes, or outcomes at the same scale experienced in the United States, are not likely.

While detention remains a foundational part of youth justice in Australia, there have been examples of justice reinvestment in Australian jurisdictions. In Bourke, NSW, a community initiative has seen the introduction of the Maranguka strategy, which includes a justice reinvestment model by investing in a network of community services to prevent youth incarceration¹¹⁴ Although no thorough evaluations have been published, there have been early indications of the effectiveness of the programs in Bourke. An Australian Broadcasting Corporation (ABC) report in 2016 claimed that overall reduction in crime had been recorded over the past year, attendance at early childhood programs has increased, and a sharp decline in violent offences where alcohol is a factor had been observed.¹¹⁵ The strength of these claims has not been able to be confirmed, and information from the NSW Bureau of Crime Statistics and Research did not reveal any meaningful reduction in crime in Bourke.

The fundamental principles of justice reinvestment are consistent with established youth justice practices - detention is expensive, and the money spent on incarceration could have a much greater impact on crime by investing in other points of the youth justice spectrum. There are significant challenges with implementation, and the fundamental issue of successfully implementing effective programs remains the critical consideration, regardless of whether a justice reinvestment approach is adopted or not.

Summary of Effective Practice in Diversion

The principles of effective programs in diversion are generally those that seek to address the underlying factors that lead a young person to offend, and therefore analysis of the literature consistently points to therapeutic programs as effective alternatives to detention. Studies also consistently recommend reducing contact with the youth justice system as a guiding principle in dealing with young offenders.

The WSIPP shows a robust net benefit in diverting young people from court and reducing their contact with the youth justice system. These findings also underscore the effectiveness of diversion programs with therapeutic approaches or family-based approaches as the programs most likely to create benefit and the most cost-effective treatment options. Programs that use intense supervision of young people, such as boot camps or 'Scared Straight', do not have a net benefit and have sometimes been demonstrated to increase recidivism.^{116 117}

Other reviews of diversionary and interventionist programs have also reinforced the effectiveness of therapeutic interventions that seek to influence the underlying behaviours that lead to offending, and have suggested that family-based approaches are slightly more effective than purely cognitive behavioural techniques. The same reviews have emphasised the fact that attempts to instil discipline or to deter young people from offending were ultimately not very effective, and heavy surveillance and reporting of the offender had negligible or negative effects on recidivism.¹¹⁸

While the therapeutic underpinnings for effective interventions are significant, the variations between different types of therapeutic and family-based approaches are less important than the quality of the implementation of the program. Meta-analyses of therapeutic programs show that 'brand name' therapeutic approaches, such as family functional therapy and multi-systemic therapy, are not necessarily more effective than 'unbranded' programs that adhere to the same principles with sufficient rigour and resourcing.¹¹⁹

113 L Roth, *E-Brief: Justice Reinvestment*, NSW Parliamentary Research Service, Sydney, December 2016.

114 Aboriginal Legal Service (NSW/ACT) Limited, *Key Reforms Being Kick-Started in Bourke*, Aboriginal Legal Service (NSW/ACT) Limited, 2014, retrieved 3 February 2017.

115 Australian Broadcasting Corporation, *Backing Bourke*, Four Corners (aired 19 Sept 2016), Australian Broadcasting Corporation, Sydney, 2016.

116 L Atkinson, *Boot Camps and Justice: A Contradiction in Terms*, Australian Institute of Criminology, Canberra, 1995.

117 JO Finchkenauer et al, *Scared Straight: the panacea phenomenon revisited*, Waveland Press, Prospect Heights, 1999.

118 M Lipsey, 'The primary factors that characterise effective interventions with juvenile offenders: A meta-analytic overview', *Victims & Offenders*, vol. 4, 2009, pp. 124-147.

119 M Lipsey, 2009.

If the therapeutic model is sound, then the amount of service (duration of program and contact hours) and the overall quality of the program delivery are the most influential factors in distinguishing successful programs. Effective program implementation is independent of the setting in which the program takes place, as therapeutic programs have been found to be similarly effective in institutional settings as they are in community environments or as part of a diversion treatment.

Discerning between young people who are at high or low risk of offending is critical to effective interventions. Programs that target young people with a high risk for delinquency lead to greater reductions in offending rates than those that target lower risk offenders.¹²⁰ Conversely, intervening with lower risk offenders who are otherwise unlikely to re-offend provides little scope to influence offending rates. Mark Lipsey summarises the principle as follows:

“In practical terms, juvenile justice systems will generally get more delinquency reduction benefits from their intervention dollars by focusing their most effective and costly interventions on higher risk juveniles and providing less intensive and costly interventions to the lower risk cases.”¹²¹

Furthermore, if intervening with low-risk offenders takes place instead of a more hands-off response such as a formal caution, it will introduce a risk of stigmatisation and peer contagion. A comprehensive longitudinal study of boys in Montreal, Canada found that, controlling for other factors, contact with and intervention by the youth justice system greatly increased the likelihood of adult criminal behaviour.¹²²

Evidence from the USA shows that when diversion or therapeutic programs are delivered well, they work regardless of the age, gender or ethnic mix of the young people involved. Whether this conclusion applies in the unique challenges for Aboriginal and Torres Strait Islander communities in Australia is unclear, as the overall effectiveness of these diversion programs for Indigenous young people has not yet been established. This is an apparent gap in the evidence base, given that for adult programs the rate

of completion for Indigenous participants is usually lower than for non-Indigenous participants.

The following principles should guide practice in the diversion of young offenders from detention in Australia:

- prevent young people from contact with the youth justice system wherever it is allowable and safe to the community
- assist young people to comply with bail conditions and court orders to avoid detention
- identify young people with a high risk of delinquency and divert them to treatment programs
- use the established models of therapeutic techniques to create programs that address the underlying causes of criminal behaviour
- monitor the quality of service delivery and apply longer, more regular contact with offenders wherever possible.

DETENTION

Youth detention refers to the physical incarceration of young people in youth detention centres.

Detention serves a number of purposes, which focus primarily on insulating the public from violent and repeat offenders, implementing reform and support programs, and especially as a punitive measure. Australian public attitudes favour detention as a punitive response to offence.¹²³ However, control and coercive measures such as ‘boot camp’-style sentences or programs have consistently shown no reduction in recidivism.¹²⁴ Additionally, there is evidence to suggest that the length of any sentencing does not relate to offender behaviour, reinforcing the widely-held view that young offenders do not respond to punitive measures and are not deterred by detention sentences, regardless of the length of the sentence.^{125 126}

Therapeutic interventions have been shown to be much more effective in addressing the risk factors

¹²⁰ M Lipsey, 2009.

¹²¹ M Lipsey et al, 2010.

¹²² U Gatti et al, 2009.

¹²³ L Roberts & D Indermaur, *What Australians Think About Crime and Justice: Results from the 2007 Survey of Social Attitudes*, Australian Institute of Criminology, Canberra, 2009.

¹²⁴ L Atkinson, 1995.

¹²⁵ E Mulvey et al, ‘Longitudinal offending trajectories among serious adolescent offenders’, *Development & Psychopathology*, no. 22, 2010, pp. 453-475.

¹²⁶ T Loughran et al, ‘Estimating a dose-response relationship between length of stay and future recidivism in serious juvenile offenders’, *Criminology*, vol. 47, no. 3, pp. 699-740.

and criminogenic needs of young offenders.¹²⁷ The level of supervision applied to youth undergoing these therapeutic options was also shown not to be a significant factor in the effectiveness of these programs,¹²⁸ which indicates that detention itself does not significantly impact recidivism. In fact, available research also indicates that the effectiveness of care programs is not significantly affected by the setting in which they are delivered.¹²⁹

The benefits of detention lie in the delivery of programs targeting an individual's risk factors, not in detention's specific effects on recidivism rates. Effective practice, therefore, indicates that detention should be used as either a last-resort option for youth sentencing or to handle serious offenders that pose a risk to public safety. Emerging practices highlight the use of detention as a vehicle to deliver care and intensive interventions in smaller institutional environments.¹³⁰ The use of small, communal correctional facilities has been a prominent feature of comprehensive youth justice strategies in the USA, such as in San Diego, Orange County and Missouri. The Missouri approach is documented in detail by the Annie E. Casey Foundation, which notes that only 15% of young people in detention in Missouri return within two years of release.¹³¹

As highlighted above, approaches to youth justice that address both the risk factors and criminogenic needs of individual offenders are much more likely to produce positive impacts on recidivism.¹³²

In situations where detention is necessary, detention centres should be considered as vehicles to deliver programs that target risk factors such as lack of access to education, training and employment opportunities, mental health problems, and drug and alcohol abuse.

Effective Practice in Detention

Effective practice in detention follows similar guidelines to that of other points of youth justice intervention, given that the effect comes from the treatment and support programs delivered through it. Critical areas of support that can reduce recidivism include programs to provide education and training, drug and alcohol treatment, and mental health support. The following section provides examples of effective practice in these areas.

Education and Training

Education and training are fundamental to reducing juvenile recidivism. It is particularly important considering that the rate of youth with disabilities in detention is significantly higher than in the general population, which presents a risk factor for recidivism.¹³³ All Australian jurisdictions provide education or training as an integral part of detention – for example, the Western Australian Department of Corrective Services' stated policy is to maintain as normal a routine as possible in detention, and education and employment training form the basis for that routine.¹³⁴

An evaluation of the Education and Employment Training program at the King County Juvenile Court in Seattle, USA, conducted by WSIPP found that the program reduced recidivism by 12% in participants, though this reduction was seen mainly in offenders who committed misdemeanours. The program was also deemed cost-effective due to the broad spillover effects of educating young offenders that may not have otherwise been educated, such as future tax revenue and reduced costs of crime.¹³⁵

Drug and Alcohol Support

Evidence for the efficacy of drug and alcohol support within the detention system is less concrete than the evidence for education and employment provision.

127 M Lipsey, 2009.

128 M Lipsey, 2009.

129 IM Lipsey, 2009.

130 M Lipsey et al, 2010.

131 R Mendel, Missouri Model: *Reinventing the Practice of Rehabilitating Youthful Offenders*, The Anne E. Casey Foundation, Baltimore, 2010.

132 N Vitopolous, M Peterson-Badali & T Skilling, 'The Relationship Between Matching Service to Criminogenic Need and Recidivism in Male and Female Youth', *Criminal Justice and Behaviour*, vol. 39, no. 8, 2012, pp. 1025-1041.

133 C Gieb et al, 'The Education of Juveniles in Detention: Policy Considerations and Infrastructure Development', *Learning and Individual Differences*, vol. 21, no. 1, 2011, pp. 3 - 11.

134 Government of Western Australia Department of Corrective Services, *Youth in Detention*, Government of Western Australia Department of Corrective Services, 2016, retrieved 27 January 2017.

135 M Miller, D Fumia & L He, *The King County Education and Employment Training (EET) Program: Outcome Evaluation and Benefit-Cost Analysis*, Washington State Institute for Public Policy, 2015.

Multi-Dimensional Family Treatment (MDFT), a family-focused treatment option for a range of behavioural and emotional problems, has been highlighted as a qualified success as a response to substance abuse problems. A 2015 meta-analysis of MDFT treatments showed that on average, it was slightly more effective among youths than other active treatments.¹³⁶ However, the number of studies incorporated into the meta-analysis was low, and the study focused only on non-opioids, which somewhat limits the utility of the study.

Australian jurisdictions provide drug and alcohol support across all jurisdictions. However, information on the extent and nature of this support are not publicly available.

Mental Health Support

Mental health is a critical factor in the effectiveness of detention as a response to youth offending. A 2003 Australian Institute of Criminology report indicates as many as 60% of Australia's young offenders in detention are at risk of developing a mental illness.¹³⁷ Though the impact of mental health is difficult to determine, it is generally accepted that providing mental health support increases the ability of incarcerated youth to be re-integrated back into society.¹³⁸

Internationally, mental health and behavioural support provisions have been delivered in a number of forms. Cognitive behavioural therapy (CBT) is an effective treatment in the detention environment for a variety of psycho-social issues, as well as drug and alcohol abuse and other behavioural issues.¹³⁹ It has been deployed across a number of international programs, such as the Thinking for a Change program developed in the US.¹⁴⁰ Multi-Systemic Therapy (MST) has also been empirically proven to identify causal factors of offending and tailor treatment to address

those factors.¹⁴¹ A 2005 study from the USA indicated that serious juvenile offenders who had undergone an MST program were 31% less likely to re-offend in a 13.7 year period than offenders that had undergone individual therapy.¹⁴²

Australian jurisdictions also conduct similar programs in order to support pro-social behaviour and to counter mental health issues. The NSW Department of Justice's CHART (Changing Habits and Reaching Targets) Policy, developed to address social and aggression issues through CBT, is one such example though it has not been evaluated.¹⁴³ The NSW Intensive Supervision Program, an MST-based rehabilitation option, showed weak evidence of a reduction in recidivism due to the timing of the program but demonstrated a number of other benefits, most notably reduced time in detention.¹⁴⁴

Emerging Issues

Trauma-Informed Care

Trauma-informed care is an emerging practice that seeks to align the detention environment with rehabilitative aims of juvenile justice systems. Traumatic events in childhood play a significant role in the brain development of children and are related to a prevalence of risk factors. A study in the USA found that 92.5% of young people in detention had experienced at least one potentially traumatic event, with 11% qualifying for a full post-traumatic stress disorder (PTSD) diagnosis.¹⁴⁵ This trauma is often linked to being victims of crime, abuse and neglect. The National Child Traumatic Stress Network in the USA found that 75% of young people in the youth justice system were victims of traumatic events, and over 50% developed symptoms of trauma.¹⁴⁶

136 T Filges, D Andersen & A Jorgensen, 'Effects of Multidimensional Family Therapy (MDFT) on Nonopioid Drug Abuse: A Systematic Review and Meta-Analysis', *Research on Social Work Practice*, vol. 1, no.16, pp. 1-16.

137 C Lennings, 'Assessment of Mental Health Issues with Young Offenders', paper presented at the 'Juvenile Justice: From Lessons of the Past to a Road for the Future' forum by the Australian Institute of Criminology, 1-2 December 2003.

138 L Underwood & A Washington, 'Mental Illness and Juvenile Offenders', *International Journal of Environmental Research and Public Health*, vol. 13, no.2, 2016, p. 228.

139 Desai et al, 'Mental Health Care in Juvenile Detention Facilities: A Review', *The Journal of the American Academy of Psychiatry and the Law*, vol. 34, no. 2, 2006, pp. 204-214.

140 L Underwood & A Washington, 2016.

141 L Underwood & A Washington, 2016.

142 C Schaeffer & C Bordin, 'Long-Term Follow-up to a Randomised Clinical Trial of Multisystemic Therapy With Serious and Violent Juvenile Offenders', *Journal of Consulting and Clinical Psychology*, vol. 73, no. 3, 2005, pp. 445-453.

143 NSW Government: Juvenile Justice, *What Works' With Young Offenders: Youth on Track Guidelines*, NSW Government: Juvenile Justice, retrieved 27 January 2017.

144 S Poynton & P Menéndez, *The Impact of the NSW Intensive Supervision Program on Recidivism*, NSW Government Justice Bureau of Crime Statistics and Research, Sydney, 2015.

145 G Griffin et al, 2012.

146 National Child Traumatic Stress Network, 2008 'Judges and child trauma: Findings from the National Child Traumatic Stress Network/National Council of Juvenile and Family Court Judges Focus Groups', *Service Systems Brief*, vol.2, no. 2, pp. 1-4.

Trauma-informed care emphasises cognitive behavioural therapies (CBT) that are focused on trauma victim responses. CBT has been shown to be effective on high-risk offenders and to prevent repeat behaviours. Youth detention centres can be adapted for trauma-informed care by:

- removing the assumption that a young person is a rational actor and can make the link between their own behaviour and rewards or punishments
- running mental health screenings and assessments for all young people in detention for trauma-related symptoms
- using CBT models that treat the young person as 'reacting to external events rather than an inherent mental illness' in order to both avoid blaming the victim and hold them accountable for their actions
- changing the role of line staff to ensure that they can both keep themselves safe and influence the behaviour of a young person without using threats or punishment
- training line staff to support the CBT approach by giving them techniques to assist young people in self-regulation.¹⁴⁷

Trauma-informed models of care specific to young offenders are at the early stages of trial and implementation, so there is limited information about the outcomes of certain practices. A current example of this practice is Take Two in Victoria, which is designed for victims of trauma in care settings, including the youth justice system. Take Two is a therapeutic approach to working with children and young people and engages their carers to educate them about trauma practices and the needs of trauma victims.

Although no specific studies exist on the effectiveness of trauma-informed care in the youth justice context, it applies the same principles of addressing underlying risk factors that are common among all effective youth justice practices.

147 G Griffin et al, 2012.

Staff and Support Worker Welfare

Staff welfare in the justice system is a critical consideration due to the levels of stress and the risk of violence involved in their work. Given a high proportion of young offenders have experienced some sort of trauma or neglect, detention is the stage of youth justice that holds the highest risk for staff and support workers because of the necessarily high levels of contact. Staff are at risk of vicarious trauma due to the extended contact they have with young offenders. Additionally, they experience higher levels of primary trauma due to the high incidence of threatening and violent behaviour levelled against them.¹⁴⁸ However, there are a number of support options in place in the Australian system, including the Staff Supervision and Support Program (SSSP), which provides debriefing, trauma education and group supervision. The SSSP program has been received extremely positively by participating staff.¹⁴⁹

In addition to ensuring worker safety, maintaining appropriate staffing levels is critical to safe and functioning youth detention centres, and to providing appropriate care. An inquiry into detention centres in England found that lower staffing ratios in centres were linked with an increase in the use of force and restraints.¹⁵⁰ Staff absenteeism and turnover can significantly impact the successful operation of a centre on minimum staffing levels. Many centres require 'lockdowns', where young people remain locked in their cell for longer than necessary, in order to manage short-term or unexpected staff shortages.¹⁵¹

There is significant variability in the amount of training for youth justice workers across jurisdictions and, in some cases, the amount of training is considerably lower than it is for staff in

148 P McNamara, 'Australian Residential Youth Justice Staff Support and Supervision', *Residential Treatment for Children and Youth*, vol. 27, no. 3, 2010, pp. 214-240.

149 P McNamara, 2010.

150 A Carlile, *An independent inquiry into the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children homes*, The Howard League for Penal Reform, London, 2006.

151 Australian Children's Commissioners and Guardians, *Human rights standards in youth detention facilities in Australia: the use of restraint, disciplinary regimes and other specified practices*, Commissioner for Children and Young People, Hobart, 2016.

adult prisons.¹⁵² The UN Rules for the Protection of Juveniles Deprived of their Liberty indicates that staff should be trained in international rights standards, and should receive training in child psychology and welfare.¹⁵³ It is critical to the rehabilitative goals of Australia's youth justice system that youth justice workers are equipped with the skills to work with young people in detention, and that their skills are maintained with regular training to ensure the delivery of high-quality youth justice services.

Gender-Specific Issues

As indicated earlier, girls and boys are subject to very similar risk factors for offending. However, gender-responsive programs and response options have not been widely evaluated so as to provide a determination of their efficacy. One study did evaluate a gender-responsive intervention program in Connecticut in the United States, designed to develop pro-social tendencies in participants and found that the gender-responsive aspect of the program worked slightly more effectively for girls than it did for boys. It also worked much better for the participants it was designed for, that is, those with histories of trauma, mental illness, drug and alcohol issues or somatic issues. This speaks to a high level of crossover between the risk factors of the genders, and their responsiveness to treatment, though gender programming obviously has a role to play in treating female offenders.¹⁵⁴

Summary of Effective Practice in Detention

Taking children and young people out of the community should only ever be considered a last resort, and there are established alternatives to detention that are less expensive and provide better individual and community outcomes.

As with the other points of intervention, practices that influence the underlying behaviour of offending

are seen as most successful at reducing recidivism and therefore reducing crime. As discussed in the Diversion section of this Guide, many of the therapeutic model programs can be delivered effectively in the detention environment. Given that these programs demonstrate most impact on high risk and chronic offenders,¹⁵⁵ Multi-Systemic Therapy, Family-Functional Therapy or other cognitive behavioural therapies should be made available to young people in detention. These programs have been delivered successfully in detention in other jurisdictions.

There is sufficient evidence that programs that provide either education and training or assistance with substance abuse can reduce recidivism. These programs are also associated with a range of benefits such as increased earnings potential and higher educational attainment. It is important that these programs are also available to young people detained on remand, within the practical constraint of their time in the facility.

The detention environment can be improved by training staff to understand and use CBT approaches to behavioural change. It has been established that children and young people in detention often do not respond to punitive and deterrence measures. Therefore, a service model in detention must focus on how staff interact with young people in a way that seeks to allow young people to self-regulate their behaviour. The priority above all else, however, should be the safety of staff and young people.

While detention must be considered a last resort, it is a requisite treatment option for youth justice systems in the interests of public safety. Detention ensures that the justice principle is maintained and that young people are held accountable for their actions. This model of justice can be combined with rehabilitative approaches (such as trauma-informed care) to balance these dual purposes.

The following principles should guide practice in youth detention centres in Australia:

¹⁵² M Vita, *Northern Territory Review into Youth Detention Centres*, 2015, retrieved 31 January 2017.

¹⁵³ United Nations General Assembly, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, Rule 82, 1990.

¹⁵⁴ J Day, M Zahn & L Tichavsky, 'What Works for Whom? The Effects of Gender Responsive Programming on Girls and Boys in Secure Detention', *Journal of Research in Crime and Delinquency*, vol. 52, no. 1, 2015, pp. 93-129.

¹⁵⁵ M Lipsey, 2009.

- Detention does not influence future offending behaviour as a deterrent or as punishment, but it can be used for immediate community safety and as a place to deliver treatment programs to high-risk offenders.
- Programs that address risk factors are most effective, such as alcohol and substance abuse programs, education and training, and cognitive behavioural therapy.
- Appropriate staffing levels and staff training are critical to the quality of youth justice services and the welfare of children and young people in detention.

TRANSITION FROM DETENTION

The period following release from detention is a critical point to influence recidivism rates. Evidence indicates that effective pre- and post-release care should emphasise ‘throughcare’. Throughcare is based on a principle of continuing individual case management that links the offender’s care regime throughout their detention period into their release and readjustment, providing care that is responsive to individual criminogenic needs of the offender.¹⁵⁶ Pre-release care can include the drug and alcohol support and education and vocational training provided through the detention period, while post-release support can include mentoring, parole, employment and housing support.

There are many transition models being used in Australia. The NSW Government’s Post-Release Support Program is an example of promising practice in the Australian context. The Post-Release Support Program is a 12-week broad care program designed to support offenders out of detention in key areas such as accommodation, employment, health, legal needs and social skills, therefore removing barriers to successful re-integration. Although it represents a holistic approach to release support for juveniles, it has not been proven as effective in delivering its intended outcomes. A 2007 study indicated that the program was well received by juvenile case workers and participants in the program.¹⁵⁷

¹⁵⁶ M Borzycki & E Baldry, ‘Promoting Integration: the Provision of Prisoner Post-release Services’, *Australian Institute of Criminology Trends and Issues in Crime and Criminal Justice*, pp. 2

¹⁵⁷ C Cunneen & G Luke, ‘Recidivism and the Effectiveness of Criminal Justice Interventions: Juvenile Offenders and Post Release Support’, *Current Issues in Criminal Justice*, vol. 19, no. 2, 2007, pp. 197-210.

While longer contact with offenders post-release is preferable for effective programs, the nature of the contact is important for effective practice. Parole periods are a common method to target reduced recidivism for both adult and young offenders.¹⁵⁸ However, the effectiveness of parole periods has been debated. A 2006 study of a Washington state- based parole program in the USA for non-high risk and non-sex offender young offenders found no statistically significant reduction of recidivism, and therefore no significant benefit in terms of monetary cost.¹⁵⁹ Australian jurisdictions operate parole periods for young offenders, with supervision and surveillance measures to ensure compliance with the conditions of the parole period.

Effective Programs

In addition to throughcare models such as the NSW Post-Release Support Program, effective programs also target employment and education outcomes. Evidence indicates that employment and a living wage are significant contributors to lower recidivism rates.¹⁶⁰ The Queensland Department of Justice and the Attorney-General provides a transitional vocational support program to young offenders leaving detention to increase the employability of participants.¹⁶¹ The program boasts positive outcomes since its inception in 2015, with 97% finding either employment or further education.¹⁶² It should be noted that the effectiveness of employment assistance programs depends heavily on the availability of jobs.

Culturally-appropriate programs are considered important in the release phase of youth justice, especially for Indigenous offenders. Evidence suggests that mentoring, drug and alcohol programs and mental health programs conducted in their own community and staffed with Indigenous staff are more effective at reducing recidivism than programs that are designed for non-Indigenous young offenders.¹⁶³

¹⁵⁸ W Wan et al, ‘Parole Supervision and Reoffending’, *Australian Institute of Criminology Trends and Issues in Crime and Criminal Justice*, no. 485, 2014.

¹⁵⁹ Washington State Institute for Public Policy, *The Effects of Parole on Recidivism: Juvenile Offenders Released from Washington State Institutions*, Olympia, WA, 2006.

¹⁶⁰ J Lantigua-Williams, ‘Raise the Minimum Wage, Reduce Crime?’, *The Atlantic*, 2016.

¹⁶¹ Queensland Government, *Transition 2 Success for the futures of young offenders*, Queensland Government, 2016, retrieved 23 February 2017.

¹⁶² Queensland Government Department of Justice and Attorney-General, *Transition to Success Program*, Queensland Government Department of Justice and Attorney-General, 2016, retrieved 23 February 2017.

¹⁶³ Queensland Government Department of Justice and Attorney-General, 2016.

The North Australian Aboriginal Justice Agency runs a throughcare project targeting Indigenous detainees, including young people. The program provides intensive case management on a small scale (around 15 people per case worker) to imprisoned Indigenous young people and provides transition assistance in areas such as accommodation, education and employment, health, life and social skills, and reconnection to the community and family. The program was awarded an Australian Crime Violence and Prevention Award in 2012, though the efficacy of the program has not been properly evaluated.¹⁶⁴ The Koori Youth Justice program in Victoria offers similarly comprehensive case management, linking young people to specialist services and developing family and community-based linkages. The focus of current study for post-release in Indigenous communities is on adult offenders. However, this evidence further supports the need for culturally appropriate throughcare that is linked to a wide range of required services.¹⁶⁵

Post-Release Accommodation

A significant factor in juvenile recidivism is access to housing and accommodation following detention. Homelessness and offending behaviour are clearly linked, and homelessness exposes young people to a high risk of victimisation and sexual abuse.¹⁶⁶ The literature regarding housing and accommodation services is sparse, though there is evidence that short-term accommodation such as the 'bail hostels' as used in the UK may be an appropriate response to transitioning young people without immediate accommodation upon release.¹⁶⁷ The Victorian Government's Youth Justice Community Support Service includes the Youth Justice Homelessness Assistance service managed by VincentCare, which helps young people arrange accommodation or housing assistance prior to their release from detention. This program provides accommodation for up to 110 young people.¹⁶⁸ While no evaluations are available for the Youth Justice Homelessness Assistance service, a

review of the parallel adult housing pathways initiative in Victoria showed success in reducing post-release homelessness and recidivism.¹⁶⁹

Summary of Effective Practice in Transition from Detention

Research on transitional effective practice reveals two critical factors: the importance of whole-of-community involvement, and medium- to long-term care.¹⁷⁰ No single program or factor among transition services can deliver a significant reduction in recidivism.¹⁷¹ Examples of mental health and accommodation services, studied independently from other risk factors and service programs, produced little significant change in recidivism rates.¹⁷² However, both are considered extremely important in preventing re-offence as a part of intensive case management that ensures an individual's criminogenic needs are met. A multi-agency, whole-of-community approach provides services and support that the criminal justice system alone cannot provide, especially in the post-release phase.

Effective transitions from detention are best supported by throughcare, which begins when a young person first enters detention and continues to their release. It is critical that planning for accommodation, income and re-integration begins in detention and continues well after an individual's release. The duration of post-release care is significant to the effectiveness of programs and is considered especially critical in scenarios where a young person is at risk of homelessness.¹⁷³

Mental health provision remains relevant and important through the transition from detention. However, research shows that ongoing access to mental health care as a continuation of an offender's care regime through the youth justice continuum is not often being provided.¹⁷⁴ Given that mental

164 North Australian Aboriginal Justice Agency, *Throughcare Project*, North Australian Aboriginal Justice Agency, retrieved 24 February 2017.

165 Commonwealth of Australia, *Prison to Work Report*, Coalition of Australian Governments, Canberra, 2016, retrieved 30 January 2017.

166 M Willis, *Ex-Prisoners, SAAP, Housing and Homelessness in Australia*, Australian Institute of Criminology, 2004, pp. 32-53.

167 E Baldry et al, *Ex-prisoners and accommodation: what bearing do different forms of housing have on social reintegration for ex-prisoners?*, AHURI, Sydney: 2002.

168 VincentCare, *Youth Justice Homeless Assistance*, VincentCare, 2017, retrieved 1 March 2017.

169 M Bartholomew, *Final Report of the implementation of Victoria's pilot Transitional Housing Management - Corrections Housing Pathways Initiative (THM - CHPI)*, Forensic Psychology Program Deakin University, 2004, pp. 181.

170 Victorian Council of Social Service, *Investigation Into The Rehabilitation And Reintegration Of Prisoners In Victoria*, Victorian Council of Social Service, Melbourne, 2014.

171 M Willis, *Supported Housing for Prisoners Returning to the Community: a review of the literature*, Australian Institute of Criminology, 2016, p. 8.

172 M Willis, 2016.

173 T Walsh, 'In corrections: Investigating prison release practice and policy in Queensland and its impact on community safety', Brisbane: Queensland University of Technology, 2004, p. 7.

174 S Hicks & C McCormack, *A Collaborative Approach To The Delivery Of Mental Health Services To Juvenile Offenders*, Australian Institute of Criminology and NSW Department of Juvenile Justice, Sydney, 2003.

health issues are a significant risk factor of offence and re-offence, the provision of mental health care following release from detention is a critical factor in addressing youth recidivism.¹⁷⁵

The following principles should guide practice in the transition of young offenders out of detention in Australia:

- planning for release as soon as the offender enters the detention environment
- throughcare programs need to address each individual's criminogenic needs, particularly where substance abuse, education and employment and accommodation can be influenced
- the release of young people from detention must address whole-of-community involvement and be tailored to the unique requirements of whole communities
- maintain regular long-term contact with offenders, while avoiding highly invasive and stigmatising surveillance practices.

¹⁷⁵ National Mental Health Association, *Mental Health Treatment for Youth In the Juvenile Justice System*, National Mental Health Association, 2004, retrieved 24 February 2017.

CONCLUSION

For many jurisdictions in Australia at the moment, it is critical to focus on 'what works' in the context of the youth justice system's main aims of:

- maintaining community and victim safety
- holding young offenders to account for their actions
- encouraging the reintegration of offenders into society
- reducing recidivism.

This Guide covers examples of proven practice that achieve these aims in a way that provides significant public benefit. Effective youth justice programs can provide significant cost savings by avoiding the cost of detention or the cost of crime and can lead to reduced crime and improved socioeconomic outcomes for offenders, victims and the community.

KEY PRINCIPLES

Effective practice in youth justice can be summarised by a set of simple principles. However, the major challenges for Australian jurisdictions, such as program delivery, community engagement and culturally relevant services, require significant attention and further research.

The key principles are summarised as follows.

Minimise contact with the justice system, especially the detention environment

Unless there is a risk to the safety of the family or community, young people's contact with the youth justice system should be minimised.

Detention is expensive, ineffective at changing behaviours and exposes young people to higher risk of re-offending. Contact with the youth justice system is in itself a driver of delinquency, and all options for diverting offenders away from detention should be considered. If detention is required for immediate community safety, it can be a place to deliver treatment programs to high-risk offenders.

Deliver therapeutic interventions and other proven practices

There is strong evidence to support therapeutic programs, and studies have shown clearly what

does and does not work. Therapeutic programs generally have been shown to reduce re-offending and therefore improve community safety and produce positive outcomes for the offenders.

There is a growing body of research suggesting that many young people in detention are influenced by traumatic events, and institutional settings for young offenders should be designed to deal with trauma. This aligns with the current evidence that identifying the underlying causes of offending behaviour is critical to successful institutions and effective treatment of offenders.

In addition to clear guidance on what programs reduce recidivism, there is also clear evidence that punitive, disciplinary and stigmatising practices are not beneficial and can even have adverse effects. Invasive practices and heavy surveillance, such as probation with drug and alcohol testing, are also shown to be ineffective.

Identify risk factors and reach high-risk offenders

Studies indicate that youth justice programs are more effective for high-risk offenders and that treating high-risk offenders produces greater justice outcomes overall. There is sufficient information to develop an understanding of individuals who are at high risk

of re-offending in the Australian context, and to target individuals with significant behavioural issues and communities with serious offenders. Equally as important as understanding risk factors, is to be able to identify where these factors can be influenced, such as in parenting practices, substance abuse or training and employment.

There is also sufficient understanding of what factors indicate a child or a community of children could be at risk of early onset offending. Early intervention programs that target parents and young children can be effective in this context by preventing delinquency from developing.

Focus on effective delivery and implementation

When using a proven therapeutic or behavioural program, the program fidelity and implementation are critical to program effectiveness. When considering programs, it is worth considering that an 'unbranded' program delivered well is better than an established program delivered poorly. Studies increasingly point to successful programs being characterised by simplicity of implementation and a high level of program fidelity. Programs that do not succeed are those that have a complex implementation, poor engagement of parents or communities, and a relaxed focus on program outcomes.

Co-design with local communities to adapt programs

In Indigenous communities, there are many factors that may affect the success of a proven program, such as remoteness, cultural relevance and language and literacy barriers.

While simple, singular interventions are more likely to be successfully implemented, it is not clear that remote or highly disadvantaged communities will be responsive to singular interventions given the deeply entrenched and multi-faceted disadvantage. Community engagement and endorsement has been identified as a barrier to successful programs, so the coordination and integration of services and a multi-component approach may be required to overcome ingrained community risk factors that lead to offending.

KNOWLEDGE AND EVALUATION GAPS

There is significant scope to improve the understanding of 'what works', especially for Australia's unique challenges in youth justice. The most important issue for youth justice programs is applying the rigour required to ensure that the most effective programs can be identified, adapted and expanded to produce the best outcomes for communities and governments.

Community contexts and how they influence risk factors

Although risk factors relating to re-offending are relatively easy to identify, more information is needed on family and community level factors that can be used for early intervention and prevention programs. These factors need to be specific to Australian contexts, and further longitudinal studies may better define these risks relating to offending.

A vital first step to understanding high-risk communities and other youth justice issues within jurisdictions would be to create nationally consistent datasets that accurately reflect the youth justice system across Australia.

A common framework for assessing the public benefits of programs that reduce recidivism

The benefits of reducing recidivism in Australian communities are well understood, yet there are no comprehensive, coordinated or centralised evaluation frameworks that translate program outcomes into public benefit specifically for Australia. A common approach would provide a quantitative view of public benefits in terms of reducing crime, lowering taxpayer burden and creating better socioeconomic outcomes. By establishing the link between public benefit and recidivism, a more robust case can be made for investment in youth justice.

Other culturally and linguistically diverse groups

The demographics of Australia are shifting, with a wider variety of large, ethnically diverse communities. There is a lack of information on how specific ethnic

or religious groups interact with the youth justice system, and there is a high degree of variability in the risk factors that affect different culturally and linguistically diverse (CALD) groups. Most of the studies on CALD communities in the context of youth delinquency do not have sufficient information to distinguish between distinct CALD groupings and may not highlight where there are issues with specific communities.

Scalability of Effective Programs

There is a lack of comprehensive and easily comparable program information on Australian intervention and diversion programs. Without this information, there is little to influence decision-making about programs that could be applied across a jurisdiction or across Australia. Where program delivery has been found to be effective, there is not enough publicly available detail to indicate how that delivery could be replicated. Conversely, where programs are not effective, there is not enough detail on factors in implementation to determine whether that program would be effective in another context or to young people with different risk factors.

This is a particularly important issue for successful early intervention programs that could be replicated in different communities around the country with minimal changes. While no one program will provide the solution in all contexts, some programs could be scaled to significant size, delivered in other contexts or combined with other social services.

The ability to scale or replicate effective programs in varied contexts is vital to make a significant impact on the number of children and young people in detention.



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- providing advice on improvements to youth justice legislation, policies, programs, services and practice
- researching and contextualising effective practice to inform evidence-based practice
- designing cohesive youth justice models that provide the effective and timely support, regardless of a young person's status in the system
- evaluating programs and services across the youth justice continuum, spanning; prevention, early intervention, diversion, primary, secondary and tertiary responses, and through-care programs, to assess their effectiveness in targeting the criminogenic risk factors that drive young people towards offending behaviour.

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