



National Justice Symposium 2013

*Pushing The Boundaries: Rethinking The Extent Of Children's
Involvement In The Criminal Justice System*

Overview

September 18/19 2013

What?

On the 18th and 19th of September 2013, Jesuit Social Services convened it's second National Justice Symposium.

Why?

Jesuit Social Services has been working with young people involved in the criminal justice system for over 36 years. We have direct experience in this field and a strong sense of what works and what does not. Drawing from our experience, we also undertake research and advocacy in order to 'influence hearts and minds'.

Over the past year separate pieces of research by both Jesuit Social Services (*Thinking Outside*) and the Australian Institute of Health and Welfare (AIHW) have explored the pathways taken by the youngest children (those aged 10-14 years) who come into contact with the criminal justice system.

This research has confirmed what many people working in the justice system have long known - that the small number of younger children who come into contact with justice system are likely to be amongst the most vulnerable and disadvantaged children in our community. Research also shows that these children often go on to have repeated, ongoing, and more serious contact with the criminal justice system.

We believe that as a community it is time for us to rethink and reframe our response to vulnerable young children who offend. The 2013 National Justice Symposium was convened in order to explore the issues surrounding the youngest children in our criminal justice system and to identify areas for potential reform. Key leaders and experts from across Australia came together to address the theme of: "*Pushing the boundaries: rethinking the extent of children's involvement in the criminal justice system*".

Program

Day One:

The MC and host of Day One of the Symposium was **Frank Brennan SJ AO**. Attendees of the symposium were welcomed to country by **Mr Dean Stewart** on behalf of the Boon Wurrung peoples of the Kulin Nation. **Julie Edwards, CEO of Jesuit Social Services** then opened the Symposium. Julie outlined how issues of vulnerability, age at first contact, and Aboriginality needed to be explored throughout the Symposium proceedings.

In her keynote address, the **National Children's Commissioner, Megan Mitchell**, drew on her experiences of meeting with and talking to children involved in the criminal justice system. She outlined the many vulnerabilities and issues that these children face and called for an approach that better protects the rights of children, including their right to be heard.

"I think all too often we put in place policies, or make decisions about individual children, without the opportunity to check in with the very children we are trying to help."

Megan noted the vulnerable groups of children who were at risk of being impacted by the criminal justice system including: 10-14 year olds in the middle years; Aboriginal and Torres

Strait Islander children; children with a disability; children who had been maltreated; children with mental health or drug and alcohol problems; and/or children disengaged from school. Megan noted, *“Given the complexity and depth of the causes of criminal behaviour in children and young people, it is unsurprising that the solutions must also be comprehensive and focus on prevention, diversion from detention and rehabilitation as much as possible. This approach is supported by the United Nations Committee on the Rights of the Child.”*

Megan outlined alternative approaches that focused on preventing children’s involvement in the justice system, including justice reinvestment. *“Justice reinvestment is different because it invests early in specific communities where there is the greatest number of offenders and community need, and it is done by those very communities who decide how funds are best spent to prevent crime in the short or long run.”*

In closing, Megan noted the need for reforms to youth justice in order for Australia to comply with the Convention on the Rights of the Child. *“During 2011-2012, the UN Committee on the Rights of the Child considered Australia’s progress under the Convention, and issued its report card, called Concluding Observations. It found that despite its previous recommendations, Australia’s juvenile justice system still needs substantial reforms to conform to international standards and recommended that Australia bring its juvenile justice systems fully in line with the Convention and other relevant international standards.”*

Recommendations from the Committee on the Rights of the Child included: raising the age of criminal responsibility; dealing with children with mental illness and intellectual disability without resorting to judicial proceedings; stopping mandatory sentencing; removing 17 year olds from the adult justice system; resourcing separate correctional facilities for children and young people; and developing accessible mechanisms for investigating abuse at youth detention centres.

After Megan Mitchell’s keynote speech, an expert panel discussed in more detail some of the issues that she identified.

Muriel Bamblett, CEO of the Victorian Aboriginal Child Care Agency agreed with the need to give children a voice, and also affirmed the importance of cultural rights, noting that a finding of the *Bringing them Home Report*¹ had been that there was no means to connect children with their place and culture. Muriel also noted the need for a therapeutic residential response to highly vulnerable children from families experiencing poverty, neglect, and family violence. In closing, Muriel also noted the need for systems to be more culturally competent. She noted a study in the US asking magistrates to name 5 Indian tribes, and pointed out there was a lack of comparable knowledge of Aboriginal culture throughout our systems with Australian magistrates unable to name 5 Aboriginal nations.

Judge Michael Bourke, Chair of the Victorian Youth Parole and Residential Board noted that the low profile of youth justice meant that community support and interest was needed to ensure that there is pressure on government to resource the system. Judge Bourke observed that the experiences of children early in their lives is what leads them to being before the Board. Even with his breadth and length of experience working in the criminal justice system, Judge Bourke was surprised and often distressed by the level of neglect and abandonment that these children experience. He also noted the positive role

¹ Australian Human Rights Commission, 1997, *Bringing Them Home: The Stolen Children Report*

played by Victoria's Dual Track system, in particular in supporting young people to successfully complete their parole.

Professor Chris Cunneen, Professor at James Cook University endorsed Megan Mitchell's reference to increasing the age of criminal responsibility. Professor Cunneen noted that Canada, a comparable Commonwealth country has its age set at 12 years. The impacts for young Aboriginal children of this reform would be most pronounced because of their even higher level of overrepresentation amongst this youngest group. Professor Cunneen also discussed the need for more effective pre and post court diversion and the fact that there had been a drop off in its use as well as restorative justice in some jurisdictions. He noted that the 'what works' literature and evidence was substantial, but less clear for Aboriginal children. We also know what doesn't work, including punitive interventions such as boot camps, he said.

Bernie Geary, Victorian Principal Commissioner for Children and Young People noted that despite the challenges workers often faced in supporting vulnerable young people, they must endeavour to be workers *for* children. In this regard, there was a need to go out and talk to people on their own terms, to be respectful and patient with them. Bernie also noted we need to think seriously about how we resource support for children. He pointed to a recent report conducted for the Commissioner which found that 92% of resources were spent on highly vulnerable children from the age of 13 onwards.

Renah Tang, President of the Law Institute of Victoria discussed the issue in Victoria of children being transferred into adult prisons. The Law Institute is recommending and advocating for these decisions to be taken away from the Executive and returned to court, arguing that this is consistent with human rights principles. Reynah also emphasised the need to strengthen diversion, particularly court based initiatives. He said the Right Step program based out of Melbourne's Moorabbin Children's Court had produced some positive results. There were both human rights and moral obligations to keep children out of prison.

Day Two:

Day Two of the Symposium commenced with an opening presentation outlining some of the issues to be explored throughout the day. This was followed by 5 panels focusing on different aspects of *Pushing the Boundaries of Youth Justice Systems*. These were:

- Meeting the needs of vulnerable Aboriginal children
- The youth justice/child protection crossover
- Alternative approaches to the boundaries of youth justice systems
- Reforming legislation policy and practice
- Bringing about change: effective advocacy and public opinion

Throughout these discussions, we heard much about the complexity of the issues that young people face and the need to do more to respond to their needs. We also heard how differences can be made to turn the lives of these children around and that there is a need for constructive reforms to achieve this.

Opening Session

Julie Edwards, CEO of Jesuit Social Services welcomed attendees to the Symposium and thanked speakers and panellists. Referring to Megan Mitchell's keynote address, Julie noted that its account of the vulnerability of children coming to the attention of youth justice systems across Australia goes to the heart of the reasons for convening the Symposium.

Julie went on to outline the research that led to Jesuit Social Services' interest in this issue. *"Our research also confirmed findings by others, including the Australian Institute of Health and Welfare that those children who enter the justice system at a young age are likely to have extended repeated and ongoing involvement in the system. Although across Australia this is only a relatively small number of children, they are responsible for a significant amount of offending."*

These findings necessitated a rethink of our response to these children and a reframing of this issue in the court of public opinion. *"The story of disadvantage, the postcode lottery that dictates where you are born and raised, the tragedy of childhood abuse and trauma, of fragmented families and communities – of the failure of our collective social responsibility for the least fortunate among us – must be better understood as the root causes of crime by children."*

When thinking of our response within the justice system, Julie noted the need to understand the role of justice, welfare or restorative approaches. *"Thinking about the philosophy behind our approach to youth justice is particularly important given the tough 'law and order' rhetoric that has become commonplace in adult criminal justice systems across Australia"*. Julie noted the risks of this rhetoric influencing responses within the youth justice sphere. She pointed to alternative ways of framing criminal justice responses including justice reinvestment which had clear social and economic benefits.

Julie outlined some of the key questions she hoped the day's proceedings would grapple with including:

- Should we have more differentiated responses available within our justice system – with capacity to respond differently based on the age and needs of children?
- What is an appropriate age of criminal responsibility in Australia, and what would be the implications of any change?
- How do we change policy and practice to ensure that support services are available when vulnerable young people need them, be it: after hours when 80% of arrests of children under 18 happen; diverting children away from the justice system; or having services available at different stages of the criminal justice process?
- Which sectors are responsible for leading change and how do we increase collaboration?
- How do we bring the public along with such changes?

Julie noted that of importance to any intervention was respectful, strength based relationships that promote the potential of people and communities. Julie then handed over to Raquel Cukierman from Brosnan Services to provide an example of this from practice.

Raquel Cukierman, Intensive Support Worker from Brosnan Services East presented a practice example of intensive support for a vulnerable child who was involved in the criminal

justice system. Raquel provided some background on Youth Justice Community Support Services (YJCSS), the program in which she works. She also outlined some of the background details of the young person she worked with including inter-generational family involvement in the child protection system and entry into the criminal justice system at a very young age. Raquel outlined the changes to the young person during his time on the program, including re-engaging with learning, building stable and trusting relationships, and the development of awareness around behaviour change. Raquel noted that although life will continue to throw challenges at this young person, *“the changes he made while we were working with him highlight how our creative, strength and relationship based outreach model was able to break through with him to make a big difference in his life.”*

Panel 1 Meeting the needs of vulnerable Aboriginal children

Muriel Bamblett, CEO of the Victorian Aboriginal Child Care Agency (VACCA), delivered an opening address to introduce the topic. Muriel began by outlining how, for Aboriginal people, the justice system is part of a system of injustice that began with dispossession. The deep historical roots of over representation of Aboriginal youth in the justice system needs to be understood. It is also clear that the justice system has contributed to poverty by not providing the means to promote or defend the culture of Aboriginal people. Instead a dominant foreign cultural system has been enforced and reinforced. Anger and frustration at this contributes to the over representation of Aboriginals in the justice system.

Noting the scale of neglect and involvement in the justice system by Aboriginal children in Victoria, Muriel pointed to statistics including:

- 1150 Aboriginal children are on child protection orders
- 16.5% of all children in out of home care are Aboriginal with 840 under custody or guardianship orders
- Aboriginal children are twice as likely to be victims of crime with 1 in 5 experiencing physical violence and 1 in 3 reporting to police
- The rate of offending among Aboriginal young people is 6.8 times higher than the general population.

Muriel considered factors that contribute to the over representation of young Aboriginal people in the justice system. She noted that Australian institutions are not culturally safe and that cultural safety is vital. In modern day Australia the removal of culturally based forms of identity had diminished belonging, stability and connection. The consequences of this include a breakdown in systems of care and order. A response grounded in culture is needed including traditional circles that provide nurturing, learning, justice, care and order. In this, elders play a critical role. There are major challenges because at present this culturally safe community has been replaced by a service system.

The Victorian Aboriginal Justice Agreement, currently in its third phase, was identified as one framework for building a culturally safe justice system. This approach acknowledges diversity and multiplicity of Aboriginal communities; the history of injustice; and the need for an approach with a longer time frame than an electoral cycle. A key aim of the Aboriginal

Justice Agreement is to reduce number of Koori youth coming into contact with the justice system.

Muriel concluded by outlining how it was possible to develop culturally safe frameworks for Aboriginal children and young people. This approach was grounded in notions of: resistance, resilience, survival - not victimhood; care, clan and community; connection to country; place of cultural revival; law; and practices. She said this is critical for children in care for with a strong culture would come a stronger future.

Jodeen Carney, CEO of the Northern Territory Department of Children and Families discussed the review she conducted of the Northern Territory youth justice system. This provided an opportunity to examine data and programs. The findings confirmed younger children are increasingly involved in youth justice systems, with more girls involved, and at a younger age. The 9 recommendations were accepted by both the previous and current NT governments and form a youth justice framework for the Territory. A major issue is that young people are often neglected due to the short term cycle of the political calendar. The Pillars of Justice report did not look at root causes of offending and instead focused on practical ways of helping kids. A major concern is the lack of funding for high end therapeutic intervention which is needed.

Andrew Jackomos, Victorian Commissioner for Aboriginal Children and Young People explained one of the key premises underlying the Aboriginal Justice Agreement – very few people rehabilitate in prison. The best diversion from youth justice system is to grow healthy and smart kids and the best diversion is to invest at an early age. Andrew noted that the Royal Commission into Aboriginal Deaths in Custody had found that 66 of 99 deaths were of people who had been removed from community and culture and had poor education outcomes. It is clear that there is a need for loving and nurturing homes, strong cultural attachments and education in early years. Andrew said that, in Victoria, we may be setting the scene for another Royal Commission as there are too many Aboriginal children already on the continuum to justice system involvement. Andrew pointed to the number of Koori youth in out of home care which is projected to grow from 1000 to 1500 in the next 5 years. We need a range of responses that are place-based. There is also a need for Koori courts; initiatives to build emerging leaders; and support for kinship carers. As Commissioner for Aboriginal Children and Young People, Andrew will hold agencies to account. In this regard, cultural support plans should be law.

Jenny Samms, Strategic Advisor, Victorian Aboriginal Legal Service (VALS) agreed with Muriel's comment that there had been some progress with Aboriginal children but noted that these are fragile and easily lost. Jenny outlined data from VALS showing that trends of imprisonment rates in Victoria are steadily increasing from below to above national average. This data showed that the trend in imprisonment is heading up and that it includes significant numbers of 10-18 years olds. VALS data on postcodes of children coming into contact with the justice system showed that numbers of children involved differed between different areas, but that a significant amount of these young people came from a small number of LGAs. Jenny made the point that a large amount of data was already available and that, if examined, could guide our responses.

Panel 2 The Youth Justice/Child Protection Crossover

Associate Professor Judy Cashmore from Sydney University, introduced Panel 2 focusing on childhood abuse and neglect and involvement in the criminal justice system. She began by noting that children in adolescence are undergoing physical changes, including to their developing brains, which will impact upon the way they behave and respond to different situations. This needs to be understood when considering the nature of youth offending which differs from adult offending. Some unique features of youth offending include the influence of peers; the association with complex needs; and the overrepresentation of children with intellectual disabilities and mental health issues.

Professor Cashmore went on to discuss the links between abuse and neglect and offending. Research is clear about these links. Importantly, many of the risk factors of involvement in the child protection system are the same risk factors for involvement in the criminal justice system. These common risk factors include histories of family violence, substance abuse, mental health problems, neglect, school difficulties, and homelessness.

However, Professor Cashmore pointed to the need for a more nuanced understanding of the mix and directional effects of child protection and youth justice involvement. A key point is that not all children in one system will be involved in the other. In fact, most children with a child protection background do not offend. In order to better understand these issues we need a stronger research base derived from longitudinal data. From existing research, some of the factors that impact upon the mix and directional effects have been identified including the age that a child is placed in care and the suspension of children in care from school. Professor Cashmore noted that when children in care are suspended from school the burden on the carer becomes too great and this can lead to the placement breaking down. The nature and form of maltreatment and abuse can also be significant. Abuse that started in childhood and continues into adolescence, or that begins in adolescence, is associated with offending.

Throughout the presentation, the implications of research and evidence for policy and practice were considered. Professor Cashmore noted there were issues with how courts and our wider service systems respond to vulnerable young children and pointed out that the age of criminal responsibility in Australia is set at a very young age. In terms of our responses, early intervention is important but it has to be early in pathways and not just early in life. One of the most promising examples of early intervention has been Pathways to Prevention which began in 1999 and remains one of the most effective forms of intervention. Professor Cashmore also outlined evidence that interventions can have an impact on brain development during the early years and into adolescence. Here, a key factor is having one adult? person around that you can count on. It is the kids without this who are at greater risk. When looking at what works we need to understand that impacts often take a long period of time to be seen. We also need to think of the intensity, the length of time of interventions and the quality of evaluations.

Dr Howard Bath, Children's Commissioner, Northern Territory focused on three important learnings from the presentation, these were: 1. The importance of safety. 2. The need to focus on relationships which is something often neglected in youth justice settings. 3. The need to focus on assisting young people to deal with their emotions and impacts instead of responding punitively. Dr Bath noted that the Northern Territory's high rate of young people involved in youth justice must be linked to childhood neglect. Neglect is the

highest form of child abuse and the outcomes of neglect are often far more damaging than other forms of abuse, yet this is often ignored.

Bernie Geary, Victorian Principal Commissioner for Children and Young People

explained that the focus of our approaches to children and young people must change and politically and bureaucratically we must learn to work for the greater good. Bernie referred to his comments from day 1 and how we allocate resources, and noted the need for a rethink in light of the fact that 92% of resources on highly vulnerable children in Victoria are being spent after the age of 13 years.

Robyn Miller, Associate Director, Office of Professional Practice, DHS Victoria,

explained that the impact of trauma is central and that we need to address this. Trauma deregulates kids – the same part of the brain that is affected by attachment is soothed by drugs and alcohol. When confronted with stressful situations the reactions of children who have experienced trauma is flight or fight. In Victoria, efforts are underway to embed this knowledge into practice and close the gap between research and practice. Within Victoria's DHS, the Office of Professional Practice is looking at how the partnership between youth justice and child protection can be strengthened on the ground. We also know that therapeutic residential care works – with children matched differently and facilities staffed differently. Results from therapeutic residential care are promising with a 100% decrease in anti social activities, increased school attendance and other pro social activities.

Megan Mitchell, National Children's Commissioner outlined some of the findings from consultations with children and young people. A key learning is that safety is important to them and they often don't feel that they are safe. They talk about being in a world that is full of violence. We are not delivering children the world that they want – a world that they can be safe in. Megan also discussed the importance of engagement in education and the need to work harder to avoid suspension and expelling kids. Within the justice and welfare systems we need to improve our responses. Children who are in trouble with the law get a youth justice response rather than a welfare response. They are sent to a youth justice centre because there is nowhere else for them to go.

Panel 3 Alternative approaches to the boundaries of youth justice systems

Professor Chris Cunneen from James Cook University introduced panel 3. Professor Cunneen began by exploring differences in adult and youth justice systems in Australia over the past thirty years. Focusing particularly on rates of incarceration, Professor Cunneen noted that the rate of incarceration for adults was presently 400% greater than for children and young people. This needed to be understood in the context of a long term decline in youth incarceration rates and increase in adult incarceration rates. The rate of adult incarceration has increased for a range of reasons including longer sentences, more frequent use of prison sentences, and greater difficulty in obtaining parole. There has also been a significant increase in the remand population. A major question is why this trend in the adult system has not happened for children and young people in Australia. Professor Cunneen identified the crucial factors of diversion and rehabilitation in youth justice systems. A contemporary challenge is how these approaches can be protected and extended.

Looking at the rates of youth incarceration in more detail, Professor Cunneen noted that there has been inconsistency between jurisdictions and communities. In Victoria, the rate of youth incarceration has declined by 75% since 1981 and in NSW there has been a 42% decline. However in Western Australia there has hardly been any decline at all. Reflecting on how the Victorian rate declined so rapidly and has remained relatively low, Professor Cunneen pointed to the use of bail programs (as alternatives to remand) and also the development of Aboriginal specific programs. Looking at national figures in more detail it was clear that there were significant differences in these trends for Aboriginal children, indeed incarceration of Aboriginal children has increased. Evidence shows that Aboriginal children are less likely to receive a diversionary response.

This evidence led Professor Cunneen to the conclusion that the nature and impacts of decarceration and diversion had been uneven and selective. There were also some direct challenges to these approaches from the introduction of demonstrably failed programs like boot camps. These sorts of developments raised the question of whether the approach to youth justice is in retreat. Professor Cunneen outlined some evidence to suggest that both pre and post court diversion is in retreat including the abolition of Murri courts in Qld, the abolition of youth drug courts, and the demise of restorative justice in some jurisdictions. In closing, Professor Cunneen issued a word of caution about 'what works' literature which is focused on achieving individual change through risk analysis, case management, and targeted programs. He noted that individually based programs failed to address the broader profound problem of overrepresentation of Aboriginal people in the justice system.

Jodeen Carney, CEO of the Northern Territory Department of Children and Families recalled how the release of the *Little Children Are Sacred* report and associated media coverage on the acculturation of violence in many Aboriginal communities had jolted national consciousness. This led to lots of money, lots of good ideas, but unfortunately few outcomes. Jodeen expressed her view that neglect of children is the greatest problem facing the NT. There have been some small improvements with some successful programs here and there but we still have more kids going into care, more kids involved in the justice system, not enough seriously therapeutic interventions and an ongoing increase in alcohol fuelled violence. The NT Government is endeavouring to try new things including mandatory alcohol treatment.

Magistrate Elizabeth Ellis from the New South Wales Magistrates court outlined five central issues that she has observed from children and colleagues. The first was the need for coordination of services. There was a huge level of frustration to see children with multiple needs – criminality, homelessness, mental health, drug and alcohol – not have them met through service silos and a lack of integration. The second was the promising results from mentoring programs. One Sydney success was the Tribal Warriors program in Redfern. Here the Aboriginal community stepped in with an Aboriginal mentor getting children up in the morning, taking them to the gym and then onto school. This program works but has had funding cut so is now philanthropically funded. The third is the importance of specialised alcohol and drug courts. The NSW youth drug court was set up to fail. Despite being in place for 10 years – there was no Act to underpin it. It was working but was cut by the government. The fourth observation Magistrate Ellis made is the need for bail hostels. Magistrates will not give bail to a child who has nowhere to go and unfortunately custody is often the safest place for them. Bail hostels would be a better alternative. Magistrate Ellis' fifth and final observation is the need for better laws to help keep children out of custody.

Ian Lanyon – Director of Secure Services, Department of Human Services (Victoria)

noted that, while Victoria has the lowest youth incarceration rates in the country, that the figures are still sobering. In our system we incarcerate young people and this is unlikely to change. So while these kids are in detention – we need to capture this opportunity to intervene. Ian explained that in 2010 there were two significant reviews into Victorian youth custody by the State Ombudsman and by Neil Comrie. Since then, Secure Services have focused on remedying the issues that were identified in the reviews. Safety is now the number one focus. Ian noted that if there is not a safe environment (for kids and staff) – kids cannot be rehabilitated. There has also been a focus on cultural change through staff recruitment and training. There has been a review of all the programs offered and the introduction of a full and structured day as well as the ethos of a trauma informed model. A key reform has been the development of Parkville College which focuses on re-engaging young people in education.

Panel 4 – Reforming legislation, policy and practice to better meet the needs of vulnerable children

Patricia Faulkner, Chairman of the Board of Jesuit Social Services introduced panel 4. Patricia's presentation focused on what we must do to change youth systems throughout Australia and how we make this a reality. Patricia began by noting that data and experience confirm the pathways to the youth justice system include abuse and neglect, child protection involvement and disengagement from education. Patricia noted that a spectrum of responses does not exist to deal with the complexity of the problem. Patricia reflected on her work as Chair of the Australian Social Inclusion Board and the fact that the problem of disadvantage is intense but of a manageable scale with the right commitment. In the case of deep disadvantage there were 640,000 Australians aged 18 to 64 experiencing 3 or more disadvantages. These numbers gave hope that meaningful reform and impact could be achieved. This capacity should be even greater for younger children at the boundary of the criminal justice system, with only 1300 ten to 13 year olds processed by police in a given year and 68 progressing to youth justice supervision (excludes WA and NT).

Given the manageable nature of these numbers, Patricia proposed that a senior administrator in each state should have a duty to know each of these children by name and a legislated duty of care to link them in with the support that they require. Patricia noted that the impact of missed opportunities is high with research from Queensland showing that chronic young offenders make up 5.2% of the youth justice population but account for nearly 50% of all offences.

Patricia moved on to explore other potential areas for reform. Four key areas of focus were:

1. To intervene early to create pathways for inclusion. This intervention should be with parents as well as children. There needs to be a youth voice in exploring youth intervention.
2. Specialist services with a therapeutic focus. Jesuit Social Services' *Thinking Outside* research advocates trauma informed practice across the entire youth justice system.
3. A legislated diversion framework. There needs to be a strengthening of the compact between government and community that keeps young people out of incarceration.
4. Increase age of criminal responsibility. The strength of this reform is that if you can't incarcerate someone then you have to come up with something else.

Patricia noted that the outcome of these changes would be less legal and more community services. Patricia noted the suggestions by the Law Institute that no child be moved from juvenile justice without being returned to sentencing judge. Patricia's view is that a better response would be to put more resources into the juvenile justice system so that we have a system that is therapeutic, culturally appropriate, recognises the role of family, and can ultimately manage the sometimes challenging behaviours evident.

In closing, Patricia noted that we are currently in a period of time where major reforms to community services are taking place. There needs to be thinking on how as a group we can take advantage of this. Some key issues here include the role of outsourcing and private provision and the voice of community as these changes are occurring. There might also be opportunities to link into other reforms to community services and initiatives such as DisabilityCare Australia and the Gonski education reforms. This could ensure that these reforms promote diversion, connection to community and restorative justice, long term support, and safe environments for children.

Glen McClure, Coordinator of Youth Justice Group Conferencing at Jesuit Social Services'Brosnan Services presented an example of innovative practice within his program. Glen outlined how he had developed a group conference for a primary school aged boy who had offended but also had problems in his out of home care placement in the child protection system. Working in collaboration with the boy's youth justice worker and with the support of the Children's Court, Glen developed a modified group conference that brought together the boy and his various workers. Glen outlined how the conference provided an opportunity for the boy to have his views and feelings heard and also *"challenged [his] key support people/workers to think more proactively about managing his behaviour, rather than focusing on reacting to his day to day challenges."* Glen outlined how the process went a long way to resolving many of the issues that the boy was experiencing in his care placements and demonstrated different ways of having views heard and resolving problems.

Penny Armytage, partner at KPMG and former Secretary of the Victorian Department of Justice outlined some of the challenging aspects of responding to young people who offend. Penny noted that 22% of young people are processed for crimes against the person and that 34% of the 50 most seriously entrenched sex offenders committed their first offence before they were 18. A challenge is how we ensure a service system with policy and legal responses based on the understanding that most people will mature out given support. Penny outlined how we need to shift our focus to early intervention. This, however, needs to be balanced against the need to intervene decisively with serious young offenders. If we don't intervene with extreme entrenched offenders they will do great harm. We need to emphasise the need for intensive multifaceted psychological and forensic response to serious young offenders.

Senior Sergeant Timothy Hardiman from Victoria Police outlined how for Police there is a challenge in dealing with more complex young people appropriately within existing resources. The cautioning system used in Victoria has been very successful – 80% of kids who are cautioned do not re-offend. Sergeant Hardiman noted that there is a community expectation that Police reduce crime, though often there can be great challenges in dealing with a range of complicated individuals and situations. Outlining the actions Police take when they have apprehended children, Sergeant Hardiman noted the options were summons, bail, or remand. Other diversionary options developed in partnership with Victoria Police include

the ROPES Program and Right Step which operates out of the Moorabin Children's Court. Sergeant Hardiman noted that areas for further development included Police education around cultural and developmental training. There was also a need to consider how diversion options should be structured and for experts to develop programs in these areas. He noted the lack of options available to Police sometimes.

David Murray, Director of the Youth Partnerships Initiative in the Victorian Department of Education and Early Childhood Development spoke about the need to think broadly in our responses. We should be looking at the drivers of youth in the justice system and determine who is responsible for leading change and facilitating access to education. Education in Victoria has not been part of this and is making changes to deal with this. Education is a big system and shifting it is challenging. However, David noted the opportunities in the education system which is a universal system with knowledge of children and their circumstances. David outlined 2 key things he had heard in consultations with children: nobody listens and they didn't get help when they wanted it. Schools and early childhood services need a stronger approach to address these issues - we need to broaden our focus about services beyond youth justice and protection services to mainstream and universal services such as education and health.

Panel 5 – Bringing about change: effective advocacy and public opinion

The Hon Rob Hulls, Director of the Centre for Innovative Justice and former Victorian Attorney-General introduced panel 5. Rob outlined how a major challenge in rethinking children's involvement in the criminal justice system was to translate this to public understanding that underpins what we want to achieve. Rob warned audience members not to underestimate the hold status quo has on public imagination, *"State intervention only once wrongdoing has occurred; the black and white conceptions of this wrongdoing; the collective condemnation and desire for redress – these are all hard cultural goalposts to shift."*

Rob noted that crime is confronting and that there are good reasons for many people's perceptions on how to respond to it, *"Crime is confronting, not least because it challenges the sense of control we have over our environment. It is not surprising, then, that many people aren't interested in nuance, nor that demographic data sometimes confirms preconceptions, rather than encourages a more thoughtful approach."* Rob noted that some of the fault lay with the political and legal landscape which succumbs to, rather than overcomes, this instinctive response.

Rob explained how he believed the Children's jurisdiction is the most crucial, *"it is vital because it represents our greatest responsibility in terms of its participants; and our greatest opportunity to make a difference."* In order to take a smarter approach we need to foster a sense of ownership and collaboration in our approach. This has the potential to dissolve the hard/soft on crime dichotomy.

Rob noted that although much of the Symposium had focused on matters external to the justice system, we also need to see the great potential within the system itself. Examples of this include the Assessment and Referral Court and the Neighbourhood Justice Centre in Victoria. In the United States it can be seen in youth peer panels. Rob also explained the positive role that legislation can play in signalling a degree of social support. A further

challenge is communicating the value of ideas. Public discourse does not always thrive on complexity so it is important to use succinct and accessible language. Reflecting on his own career, Rob noted that politicians thrive on public endorsement, and that it is a good idea to express support for positive reforms. Rob concluded by calling for participants to work together to reframe the debate on law and order from one of opposing sides and hard and soft approaches to collaboration in being smart. He also spoke about the need to frame it in terms of financial costs/savings for politicians.

Lachlan Harris, Journalist and former political media adviser spoke about his background in media and campaigning. Lachlan explained that while it was now easier than ever to run a campaign due to technology, “the democratisation of advocacy”, it is actually much harder now to convince and activate people. With so many campaigns that are running at any one time it is really difficult to win change. Lachlan noted that campaigns that are effective are those based around real insight from experts and compelling factual evidence. Many people in the room are experts but they need to be willing to be consistent, persistent and succinct in campaigning for their aims.

James McCue, academic from Edith Cowan University outlined some of the results of his research into public perceptions of criminal responsibilities of children and parents. James’ findings indicate a punitive public that is happy for children as young as 7 to be incarcerated. However there are some modifiers, with the level of harm or consequence to the victim a factor that influences public perceptions. James also noted that often the way the public is asked the questions is important. From this there were implications for how the public is informed, the role of the media and how we encourage people to be more critical as consumers. James concluded by noting that it was all too easy to ‘adultify’ children and that in order to bring about change we had to get the community onside.

Outcomes

Frank Brennan, SJ AO was facilitator for the Symposium. This required great skill and tact, as we had many people wishing to put their views, both from the panels and from the audience!

At the end of the day, Frank helped sum up the main principles to be drawn out over the course of the discussion, along with the main calls for action.

Recurrent themes throughout the Symposium included the need for community based responses; the importance of interventions focusing on stable and grounded relationships; the challenge of bringing about greater coordination in responses; the need for enhanced capacity and infrastructure across the youth justice system including data to enhance our understanding of the issues children face; and the need to reframe the debate on law and order from one of punitive or hard approaches to one of looking at the needs of vulnerable children and addressing crime at its root causes.

Frank then discussed four tangible actions identified in the Symposium that would lead to a justice system that better meets the needs of vulnerable children. These were:

- Raise the age of criminal responsibility from 10 to 12 years.

- The development of legislative duties for Departmental heads to know the name of, and reengage highly vulnerable children in coordinated supports that do not require judicial responses and detention.
- The piloting of justice reinvestment initiatives in highly disadvantaged communities. The work already underway in Bourke, NSW should be looked at as an example to build upon.
- Greater investment in out of home and secure care to provide therapeutic responses and avoid the criminalisation of children. Stable and supportive care placements such as therapeutic residential care have the potential to lower the numbers of children from the care system crossing over into the criminal justice system.

Governments across the country should consider these reforms so that we can better meet the needs of vulnerable children and prevent them from ending up trapped in the revolving door of the criminal justice system.