



**Police and Community Youth Centres  
Youth and Community Justice Conference**

*Local Responses to Global Trends in Juvenile Justice*

address

by

**The Honourable Wayne Martin AC  
Chief Justice of Western Australia**

Burswood on Swan  
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**Police and Community Youth Centres**  
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*Local Responses to Global Trends in Juvenile Justice*

**Wayne Martin<sup>1</sup>**

**Introduction**

It is an honour and a pleasure to have been invited to address the 2016 Youth and Community Justice Conference hosted by the Federation of WA Police and Community Youth Centres (PCYC). It is difficult to overstate the importance of providing appropriate opportunities and support for the younger members of our community so as to give them the greatest possible chance of living enriching and rewarding lives and making a positive contribution. PCYC is to be congratulated for bringing together representatives of organisations around Australia dedicated to this important objective. I am very pleased to welcome visitors from other States and Territories to Perth and trust that you will find your stay in our city to be enjoyable.

**The traditional owners**

I acknowledge the traditional owners of the land on which we meet, the Whadjuk people who form part of the great Noongar clan of the south-west of Australia and pay my respects to their elders past and present and acknowledge their continuing stewardship of these lands.

Visitors to Perth may not be aware that we meet on land which was reclaimed from the bed of the river known to the Whadjuk as Derbarl Yerrigan, and which was named as the Swan River by the colonists because of the many black swans living on that body of water when they arrived. The river is a place of particular importance to the Whadjuk, as it is one of the homes of the Wagyl, a serpentine creature which occupies an important place in the dreamtime lore of

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<sup>1</sup> Chief Justice of Western Australia. I am indebted to Dr Jeannine Purdy for her considerable assistance in the preparation of this paper. However, responsibility for the views expressed is mine.

the Whadjuk, and which inhabits the various bodies of water situated on the coastal plain between the foothills or scarp and the Indian Ocean.

### **PCYC in WA - a brief history**

This conference coincides with the 75th anniversary of the formation of PCYC in WA. The CEO of PCYC will be addressing the history and development of PCYC in WA in much greater detail in a paper to be presented to this conference. For my purposes, it is sufficient to note that the organisation was originally known as the Police Boys' Club when, in 1941, the many local clubs which had existed in WA prior to that date were brought together in a federation at the initiative of the then Commissioner of Police, Mr D Hunter. The Commissioner articulated the object of the Police Boys' Clubs as being to:

afford the youths of the State an opportunity of participating in clean healthy recreation; to instruct them in the principles of good citizenship and to inculcate an appreciation of the laws of the State.<sup>2</sup>

At the meeting which established the federation of the Boys' Clubs discussion focussed upon practical ways and means of obtaining these important objectives. Pragmatism and practicality have been an enduring characteristic of PCYC over its 75 years.

Over the 75 years since the formation of the federation there have, of course, been significant reforms in relation to the structure, staffing and resourcing of the clubs. The clubs now are open to girls as well as boys. The vision of PCYC is currently formulated as being to:

change lives by offering young people a wide range of recreational, diversionary and educational activities and services as a positive alternative to engaging in crime and anti-social behaviour. These activities and programs allow young people to socialise in a friendly environment, fostering teamwork and leadership.<sup>3</sup>

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<sup>2</sup> 'Police Boys Clubs: Federation Proposed', *West Australian*, 15 January 1941, 9.

<sup>3</sup> WA Police & Community Youth Centres, *Annual Report 2015-2016* (2016) 2.

## **Globalisation**

The theme of this conference is the impact which globalisation is having upon the various challenges which face young people in our community. Consistently with that theme, I would like to say a little about global trends in juvenile justice over the 75 years of PCYC.

## **General Trends in Criminal Justice**

At least in western or Anglophone countries, general trends in criminal justice over the last 75 years are characterised by two broad phases. The first has been described by academics as 'penal welfarism', and involves policies which combine:

elements of care and control, assistance and discipline, and in which the urge to punish (to allocate blame, condemn and exclude) was tempered by the requirement to 'diagnose' the underlying personal and social disorders that gave rise to crime and to rectify them. The legal monopoly on the power to punish, to give vent to communal moral outrage and 'hatred' of the criminal and to deter crime according to principles of proportionality, surrendered to a 'mixed economy' of penal power involving diverse new forms of technical expertise and a new array of professionally accredited social authorities in the fields of medicine, psychiatry, psychology, education, social work, child guidance and so on. This shift embodied the enlightenment faith in the power of science, the inevitability of progress and the capacity of the state to rectify social ills and produce social order.<sup>4</sup>

However, during the 1960s, the focus upon welfare based and therapeutic responses to crime diminished in favour of policies which focussed upon individual responsibility and accountability, and which led to an increasingly punitive response to crime. In this second phase, the policies involved:

placing less emphasis on the social contexts of crime and measures of state protection and more on prescription of individual/family/community responsibility and accountability... Welfarism has been increasingly critiqued for encouraging state dependence, overloading the

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<sup>4</sup> Russell Hogg, 'Review Essay: Crime Control in Late Modernity - David Garland's *The Culture of Control: Crime and Social Order in Contemporary Society*' (2002) 14(2) *Current Issues in Criminal Justice* 224, 224.

responsibilities of the state and undermining the ability of individuals to take responsibility for their own actions.<sup>5</sup>

These changes in criminal justice policy have been associated with other related societal processes including:

the privatizing of the state sector and the commodifying of crime control; the widening of material inequalities between and within states thus creating new insecurities and fuelling demands for centralised authoritarian law and order strategies; the devolving of responsibility for government to individuals, families and communities.<sup>6</sup>

The consistency with which these policies have evolved in western societies has led academic observers to remark upon the growing homogenisation of criminal justice across western societies, many of which have embraced the punitive penal policies originating in the United States.<sup>7</sup>

Consistently with these observations, the Australian data provides clear evidence of a general, although occasionally intermittent, increase in punitiveness over the last 75 years. The Australian Bureau of Statistics (ABS) depiction of rates of imprisonment per head of population in Australia over the last century shows these rates declining sharply in the first two decades, relatively flat until 1950s, and then trending upwards other than a dip between the years 1970 and 1985:<sup>8</sup>

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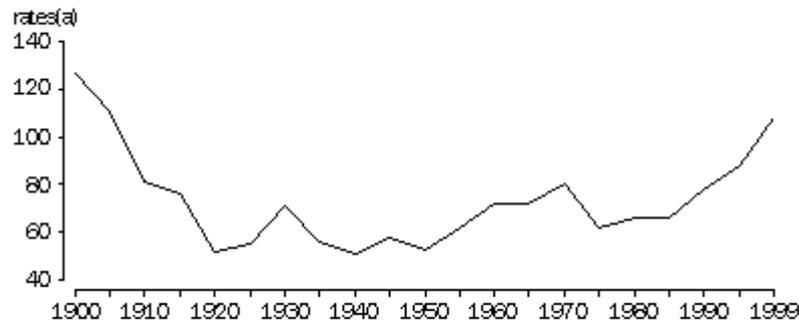
<sup>5</sup> John Muncie, 'The globalisation of crime control – the case of youth and juvenile justice: Neo-liberalism, policy convergence and international conventions' (2005) 9(1) *Theoretical Criminology* 35, [3].

<sup>6</sup> Ibid [4].

<sup>7</sup> Ibid.

<sup>8</sup> Australian Bureau of Statistics (ABS), *1301.0 - Year Book Australia, 2001* (2001) 'Crime in the Twentieth Century'.

**CS.12 PRISONER POPULATION**



(a) Rates per 100,000 total population.

Source: *Book of Australian Criminal and Social Statistics 1804-1988*; Corrective Services, Australia (4512.0).

That trend in increasing imprisonment rates did not end in 1999, and has continued since then, notwithstanding reducing rates of reported crime in many categories of offence.

### **Indigenous Imprisonment**

The increase in imprisonment rates is starkly and tragically demonstrated by the increase in adult Indigenous imprisonment over the last few decades. In 1992 the Royal Commission into Aboriginal Deaths in Custody reported that the imprisonment rate for Aboriginal people should be reduced and made many recommendations designed to produce that result. The Commission reported that in 1989 the imprisonment rate for Aboriginal people in Western Australia was 2,665.6 per 100,000 - 26.3 times the non-Indigenous rate.<sup>9</sup> In June 2016, the Aboriginal imprisonment rate in Western Australia was 3,982.6 - an increase in the rate of Indigenous imprisonment of 50%.<sup>10</sup>

A similar trend is evident in New South Wales, where Indigenous imprisonment rates have increased by 40% over the past 15 years<sup>11</sup>, although the rates of Indigenous imprisonment remain significantly below those in Western

<sup>9</sup> Royal Commission into Aboriginal Deaths in Custody (RCIADIC), *National Report* (1991) Table 9.3.

<sup>10</sup> ABS, *4512.0 - Corrective Services, Australia, June Quarter 2016*, Table 14.

<sup>11</sup> Age standardised rates: Don Weatherburn & Stephanie Ramsey, 'What's causing the growth in Indigenous Imprisonment in NSW?' *Crime & Justice Statistics* (Issues paper no 18) (August 2016) 1.

Australia, which are the highest in the country.<sup>12</sup> A recent study<sup>13</sup> noted that the rate of Indigenous imprisonment in New South Wales had risen over that period despite the fact that Indigenous offending had declined, with the rate of arrests for offences involving violence falling by over one-third, and the rate of arrests for property crime falling by a little under one-third over the period during which imprisonment rates had increased by 40%. The study reported the reasons for these contradictory trends in the following terms:

The cause of the growth in the sentenced prisoner population is an increase in the number of Indigenous offenders given a prison sentence (not an increase in sentence length)... [This] is partly due to the fact that courts have become more willing to imprison convicted offenders and partly due to a growth in the number of Indigenous defendants convicted of offences that are likely to result in a sentence of imprisonment... The growth in the number of Indigenous offenders on remand is partly a consequence of an increase in the number of Indigenous defendants appearing before the courts and partly a consequence of increases in the percentage of Indigenous defendants refused bail...

Discussion of options for reducing Indigenous imprisonment inevitably raises the question of whether and to what extent the fall in Indigenous offending is due to the rise in Indigenous imprisonment. Without discounting the possibility that rising imprisonment rates have made some contribution, there are two points worth noting here. Firstly, the general consensus among scholars examining the effectiveness of prison in controlling crime is that its effects are fairly limited. One leading reviewer of the evidence, for example, concluded that a 10 per cent increase in the prison population would produce, on average, a one per cent reduction in crime. Secondly, even if it were true that prison made a significant contribution to the fall in Indigenous offending, there is clear evidence that many non-violent offences can be dealt with more cost-effectively using community-based programs that combine close supervision with treatment.<sup>14</sup>

Following a more recent longitudinal study of violent offenders in New South Wales, the NSW Bureau of Crime Statistics and Research observed:

Our findings have one other implication that should be of interest to policy makers. In the introduction of this report we noted the deterrent effect of prison is very low and that, if rates of violent re-offending are also low, the incapacitation effect of prison on violent offending is likely to be fairly

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<sup>12</sup> ABS, above note 10.

<sup>13</sup> Weatherburn & Ramsey, above note 11.

<sup>14</sup> Ibid 10, 11.

limited. The present results suggest that rates of violent re-offending are low for most offenders. Long periods of incarceration, therefore, are unlikely to do much to bring down the violent crime rate. Justice may demand the imposition of substantial prison terms on those who commit or repeat serious violent offending but the main focus of prevention efforts should be on addressing the underlying causes of violence in our community. Restricting the availability of alcohol, for example, would seem to be a far more effective way of reducing rates of violent crime than the imposition of long prison sentences on those who commit violent offences.<sup>15</sup>

In other jurisdictions the spiralling cost of imprisoning an ever increasing proportion of the community has encouraged a greater policy focus upon the causes of crime rather than its consequences, through policies like justice reinvestment. However, in Australia there is little evidence that popular enthusiasm for penal punitivism is diminishing and politicians continue to view policies which result in ever increasing penalties, including mandatory minimum penalties, as good strategies for electoral success.

### **Juvenile justice - general trends**

In the area of juvenile justice, international trends are more complicated, although they have been relatively consistent across most western societies. Professor John Muncie, Emeritus Professor of Criminology at the Open University, UK, described those trends in these terms:

There has been a remarkable correspondence in the nature of juvenile/youth justice reform particularly across many western societies in the past 40 years. Since the 1970s there has been a notable shift from a welfare model based on meeting individual needs to a justice model more concerned with the offence than the offender. By the 1980s 'justice' had, however, come to take on numerous forms from due process and rights; to 'just deserts' and authoritarian crime control. In the 1990s many states began experimenting with forms of restorative justice as a means of reintroducing a greater emphasis on rehabilitation whilst still holding young people accountable for their actions. By the 21st century juvenile/youth justice had developed into a particularly complex agglomeration of competing and contradictory policies, including retribution, responsibility, rights, restoration and rehabilitation, which

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<sup>15</sup> Wai-Yin Wan & Don Weatherburn, 'Violent Criminal Careers: A retrospective longitudinal study' *Crime and Justice Bulletin* (No 198) (September 2016) 11.

simultaneously exhibit strong exclusionary and inclusionary tendencies. Of course these shifts were never uniform but no western society has been able to ignore their impact.<sup>16</sup>

Professor Muncie has identified contradictory aspects of policies developed in many western countries with respect to juvenile justice, which simultaneously conjure up 'images of both the usurpation and the protection of children's rights'. Unlike the adult justice system, in the juvenile justice field the move away from a welfare model has resulted in reducing rather than increasing penalties. Muncie described that phenomenon in these terms:

By the late 1970s, liberal lawyers, civil libertarians and radical social workers were becoming increasingly critical of 'welfare-based' procedures and sentencing. They argued that meeting the 'needs' of offenders acted as a spurious justification for placing excessive restrictions on individual liberty, particularly for young women, which were out of proportion either to the seriousness of the offence or to the realities of being in 'need of care and protection'. Social work interventions were considered to not only preserve explanations of individual pathology, but also to undermine the right to natural justice. Young people were considered in double jeopardy, sentenced for their background as well as for their offence. In the wake of these criticisms a new justice based model of corrections emerged.<sup>17</sup>

These policies are also evident in three important international instruments relating to juvenile justice which have been promulgated over the last 30 years: the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (the 'Beijing Rules') (1985), the *United Nations Guidelines on the Prevention of Delinquency* (the 'Riyadh Guidelines') and the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* (the 'Havana Rules') (1990). Each of these instruments is strongly supported by the promulgation of the United Nations Convention on the Rights of the Child (UNCRC) in 1990. Muncie observed that:

In many respects, the global narrative of children's rights is the mirror image of neoliberalism: emphasising state protection rather than individual responsibility; a reduction rather than expansion of the penal sphere; and

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<sup>16</sup> Muncie, above note 5, [1-2].

<sup>17</sup> Ibid [4].

the promotion of child dignity rather than law and order as core state response.<sup>18</sup>

Professor Muncie also observes that despite the plausibility of globalised narratives of universal child rights and their implications for the penalties imposed upon juveniles, juvenile justice reform has remained complex and, to an extent, incoherent.<sup>19</sup> The minimum age of criminal responsibility varies markedly as between western countries with similar cultures. For example, in England, Wales, Australia and New Zealand the minimum age of criminal responsibility is 10, whereas children are only criminally responsible from the age of 12 in Belgium, Canada, the Netherlands and Scotland, from 13 in Greece, from 14 in Austria, Germany, Italy, and Spain, 15 in Denmark, Finland, Iceland, Norway and Sweden and from 16 years of age in Portugal.<sup>20</sup>

Similarly, juvenile detention rates vary markedly across English-speaking countries with similar juvenile justice systems. In Australia, on an average day in 2014-15, 3.3 of every 10,000 children were in detention - significantly more than in England and Wales (2.0), but almost half the rate of Canada (6) and less than a quarter of the rate in the United States (13.9).<sup>21</sup> Within the same country, rates of detention can vary markedly as between different States - so that, for example, in 2012 the rate of juvenile detention in Western Australia was more than five times that of Victoria.<sup>22</sup> Looking at the United States, juvenile detention rates in some States such as Maine and Minnesota are much closer to the average in a European country than in other States such as Texas and Oklahoma. Changes in the youth confinement rates in

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<sup>18</sup> John Muncie, 'International Juvenile (In)Justice: Penal Severity and Rights Compliance' (2013) 2(2) *International Journal of Crime, Justice and Social Democracy* 43, 47.

<sup>19</sup> *Ibid.*

<sup>20</sup> Australian Institute of Health & Welfare (AIHW), 'Comparisons between Australia and international youth justice systems: 2014-15' *Youth justice fact sheet* (No 74) (2016) 2.

<sup>21</sup> *Ibid.* 3.

<sup>22</sup> Muncie, above note 19, 50. Although of course when comparing Australian jurisdictions allowance must be made for differing proportions of Aboriginal population because of the gross over-representation of Aboriginal children in juvenile detention.

various American States also varied markedly between 1997 and 2010, as depicted in the following table:

**Table 3: Youth confinement in USA states, 1997-2010**

<i>Increase in confinement rates</i>		<i>Decrease in confinement rates</i>	
		USA	-37%
Idaho	80%	Tennessee	-66%
West Virginia	60%	Connecticut	-65%
Arkansas	20%	Arizona	-57%
South Dakota	8%	Louisiana	-56%
Nebraska	8%	New Jersey	-53%
Pennsylvania	7%	Georgia	-52%

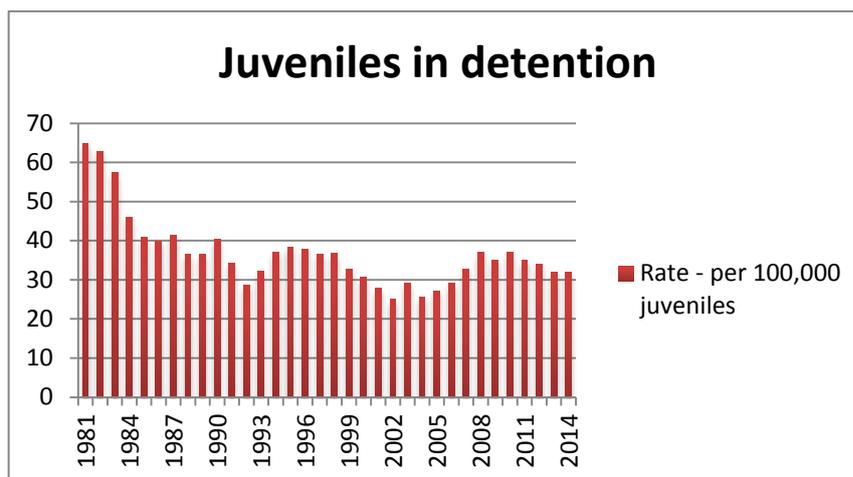
Source: Derived from Annie E Casey Foundation (2013)

An explanation for these inconsistent trends has been provided by the US National Conference of State Legislatures:

in the first decades of the twenty-first century, American penal excess has been tempered (particularly for juveniles) not least by concerns for budgetary restraint and cost effectiveness. They note a state legislative trend to realign fiscal resources from state institutions toward more effective community-based services. This is reflected in an overall decline of juvenile penal populations but even so this movement is not shared by all USA states.<sup>23</sup>

A departure from the policies of penal punitivism which have characterised adult criminal justice is also evident in the Australian juvenile justice systems. While, as I have noted, adult imprisonment rates have escalated markedly since the 1980s, rates of juvenile detention have diminished, although they have remained relatively constant since the late 1990s, as reflected in the following table.

<sup>23</sup> Ibid 49.



Juveniles in detention on an average day in Australia 1981-2014<sup>24</sup>

### Indigenous juvenile detention rates

The available data with respect to detention rates for Indigenous juveniles indicates that these rates have also tended to decline overall, although they have declined at a slower rate than non-Indigenous detention rates and retain a much higher degree of volatility.<sup>25</sup> However, Indigenous children remain grossly over-represented in Australia's juvenile detention centres - in Western Australia the chance of an Aboriginal child being in detention is 35 times greater than for a non-Aboriginal child - the highest disproportion in the country.<sup>26</sup>

The recent longitudinal study of violent offenders in New South Wales reinforces the importance of early appropriate intervention in the case of young Indigenous offenders. The researchers found the highest rate of violent reoffending in Indigenous offenders who had committed an offence of violence at or under the age of 17 and whose first contact with the criminal justice system occurred when they were 12 or younger. Almost 70% of offenders within this

<sup>24</sup> Source: AIHW, *Juveniles in detention in Australia, 1981-2008* (2010) 15-16, 24-26, 28-29; AIHW, *Juvenile detention population in Australia 2015* (2015) Supplementary Table S10.

<sup>25</sup> AIHW, *Juvenile detention population in Australia 2015* (2015) Supplementary Table S10.

<sup>26</sup> Ibid 17. WA also has the highest rate of Indigenous juvenile detention in the country: Ibid, Supplementary Table S10.

category were convicted of another offence of violence within 20 years of their first offence - an extraordinarily high rate in a context in which the researchers found the overall rate of reoffending to be relatively low.<sup>27</sup>

This study provides empirical support for the view held by many, including me, to the effect that the opportunities for beneficial intervention through programmes and strategies aimed at reducing the risk of reoffending are at their greatest the younger an offender comes to notice. If we are serious about improving community safety by reducing the risk of violent reoffending, we cannot let those opportunities pass without applying programmes and strategies which will improve the prospect of each young offender living a happy and fulfilling life and making a positive contribution to our community.

The overall decline in the rates of detention of young people may be attributed in part to both the move away from welfarism, which had seen young people subjected to far more onerous intervention by the state<sup>28</sup> and the influence of the international human rights instruments to which I have referred, although Professor Muncie observes that there may be many other factors at work in any particular jurisdiction:

The precise nature of any juvenile justice system is contingent on a variety of factors – not just global and international, but also national, regional and local layers of governance – such as cultural history; political commitment to expansionism or diversion; media toleration of children and young people; and the extent of autonomy afforded to professional initiative and discretion.<sup>29</sup>

This leads Muncie to conclude, happily in my view, that policies and systems of juvenile justice can be designed so as to be 'specific to local conditions and cultural contexts, and reflective of the goals of particular policy

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<sup>27</sup> Wan & Weatherburn, above note 16, 10-11.

<sup>28</sup> See for example the pioneering work of Professor Eric Edwards in this field in Western Australia - *The treatment of juvenile offenders : a study of the treatment of juvenile offenders in Western Australia as part of an overall review of the Child Welfare Act (1982)*.

<sup>29</sup> Muncie, above note 19, 58.

makers and political agendas'.<sup>30</sup> I consider this conclusion to be encouraging, by suggesting that at least in the area of juvenile justice, there are opportunities to depart from the punitive policies which have characterised the Australian adult criminal justice system for decades and to develop more sensitive, nuanced policies enlightened by evidence and science, and which respond appropriately and effectively to the particular conditions and circumstances of each offender and the conditions and circumstances of their family environment and the community in which they live. In this paradigm, organisations like PCYC have a vital role to perform.

### **Tailored local intervention - the role of PCYCs**

In most Australian States and Territories, the need for policy and programme responses to youth at risk to be specifically tailored to local conditions and cultural contexts is exemplified by social, cultural, geographic and demographic variations across the relevant State or Territory. Western Australia, which occupies about one-third of continental Australia, provides a striking example of the need for flexible and varied policies and programmes. The policies and programmes which appropriately respond to the needs and interests of inner suburban youth are different from those which respond appropriately to the needs and interests of youth in the 'mortgage belt' of our major cities, which are different again to the policies and programmes which appropriately respond to youth at risk in areas with a significant Indigenous population, which are different again to areas with significant migrant and/or refugee populations, which are different again to the policies and programmes which appropriately respond to youth at risk in regional areas.

Organisations like PCYC are ideally structured to respond to the differing needs and interests of young Australians in differing communities. In Western

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<sup>30</sup> Ibid.

Australia, PCYC operates 20 centres throughout the State, and each centre has the opportunity and the capacity to offer programmes and activities that are specifically tailored to meet the needs of the communities which they serve. For example:

- Kensington PCYC offers the Drive to the Future diversionary programme to help youth at risk to obtain a driver's licence and the 5<sup>th</sup> Gear programme provides certificate 1 in Automotive and Leadership to young people who may have fallen through the cracks of mainstream education.
- Midland PCYC has introduced the Safe Space programme which provides young people with a safe environment in which to socialise and encourages activities which will reduce anti-social behaviour and increase positive recreational opportunities - the Midland PCYC Judo Club is the fastest growing judo club in Western Australia.
- Roebourne PCYC has introduced three new programmes - Kids Safe Space, Drop In, and various school holiday programmes which provide opportunities for children to gather in a safe space free from domestic violence and abuse - the PCYC also offers Protective Behaviours training, which seeks to reduce child abuse by building awareness and encouraging appropriate responses from children at risk.
- Albany PCYC offers the Keys to Life diversionary programme which encourages young people to obtain driver's licences and teaches defensive driving skills and has also introduced Ice Breakers, a non-residential rehabilitation programme that helps people and family struggling with ice addiction - more than 50 people have attended over 200 educational and individual counselling sessions offered through this programme.<sup>31</sup>

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<sup>31</sup> WA Police & Community Youth Centres, above note 3.

## **Cost**

In 2015-16 the cost of operating 20 PCYC centres in WA was less than \$7 million.<sup>32</sup> Those costs were met by donations and support provided by Commonwealth, State and local governments, corporate sponsorships, and income derived from fees and grants for the provision of services, and has been supplemented by the support and dedication of hundreds of volunteers across the State, and support in kind from WA Police.

The most recent figures available report that the average cost per day of keeping a child in a juvenile detention centre in WA was \$991<sup>33</sup> (or about \$360,000 per year!). So, the total cost of operating 20 PCYC centres around Western Australia was slightly less than the cost of detaining 20 children in custody over the last financial year.

## **Cost Effectiveness**

I served on the Board of PCYC (WA) long enough to know that PCYC clubs are highly valued by the communities which they serve. When PCYC (WA) was forced by circumstances to close one of its clubs, the disappointment of the community served by that club was palpable and vociferously expressed. The various meetings I attended with representatives of local government also left me in no doubt of the value attributed to the services provided by PCYC. When one compares the relatively modest cost of providing community-based programmes and services through PCYCs to the public costs incurred in the juvenile justice system, the value attributed to PCYC services by the community appears sufficient in itself to justify their cost. Community support for PCYC services is also evident from the many hundreds of volunteers who provide their time and effort to ensure that those services continue.

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<sup>32</sup> Ibid 24.

<sup>33</sup> Department of Corrective Services, *Annual Report 2015-16* (2016) 121.

However, appropriate standards of accountability for public expenditure generally require that programmes must be justified by objective empirical evidence rather than anecdote or intuition. There appears to be little publicly available data with respect to research focused upon the effectiveness of programmes provided by PCYCs.<sup>34</sup> One exception is a relatively recent analysis of PCYCs in Queensland by senior academics from the Queensland University of Technology. Their study, based on qualitative interviews with a wide variety of PCYC stakeholders, concluded that PCYCs are thought to provide a range of benefits including:

providing structured low-cost activities for young people and other community groups; developing positive relationships and trust between young people and police; developing young people into effective citizens; providing a safe place for young people and a hub for whole communities; addressing disadvantages faced by young people; and fostering social inclusion. Depending on the particular activities and programs delivered by a branch, PCYCs have the capacity to minimise risk factors and enhance protective factors relating to young people's involvement in crime. For example, PCYCs can play an important role in strengthening young people's engagement with education and family. However, the crime prevention and community safety aims of PCYCs, and measures that might work towards these aims are not widely- or well-understood, or appreciated, by those working in and with PCYCs. The key recommendation of this evaluation is therefore that the crime prevention and community safety aims of PCYCs in Queensland need to be better articulated, understood and reflected in the practice of those working in and with PCYCs. A related key finding is that many of the activities and programs currently provided by PCYCs could be better oriented towards the goals of crime prevention and community safety without major resource implications.<sup>35</sup>

I suspect that these conclusions resonate strongly with those involved in PCYC organisations across Australia.

There appears to be very little publicly available data reporting detailed criminological analysis of the effectiveness of particular or specific PCYC programmes. One exception is a recent study conducted by the Bureau of Crime Statistics and Research in New South Wales with respect to the effectiveness of

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<sup>34</sup> Cassandra Cross, Angela Dwyer & Kelly Richards, *Examining the Effectiveness of Police-Citizens Youth Clubs on Crime Prevention and Community Safety* (2015) 5.

<sup>35</sup> *Ibid* 1.

a particular PCYC programme offered in that State as a means of endeavouring to reduce recidivism amongst young offenders.<sup>36</sup> The programme is known as the Young Offender Programme and provides individually tailored programmes for young offenders who are case managed and offered support services and activities, depending upon their particular needs and the programmes available through the club which they attend.

It must be conceded that the results of the analysis were not encouraging, although the researcher was careful to make clear that there were significant limits to the methodology employed which may have skewed the results. The conclusion of the study was to the effect that while the data showed no significant improvement in the reoffending outcomes of those who had been referred to the programme, it may well be that pre-existing differences between the groups that were referred to the programme, and the groups that were not referred to the programme and which were not evident in the data analysed may well explain the outcome.<sup>37</sup> Put more bluntly, it may well be that young people referred to the programme would have been qualitatively assessed as more likely to reoffend, and therefore as justifying the cost of specific intervention programmes, when compared to those young offenders who are not referred to the programme, had different criteria of qualitative assessment been used, but which are not evident from the statistical data analysed.

Any analysis of this kind must also be evaluated in the context of the depressing analysis of outcomes in the juvenile justice system generally. Although there is also a surprisingly limited amount of publicly available data in this important area, we do know, for example, that in Western Australia one out of two young people sentenced to detention will return to detention within two

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<sup>36</sup> Clare Ringland, 'Participation in PCYC Young Offender programs and re-offending' *Crime & Justice Bulletin* (No 18) (May 2016).

<sup>37</sup> *Ibid* 1.

years of being released.<sup>38</sup> However, even this depressing figure significantly overstates the effectiveness of youth detention in reducing recidivism because it appears that the counting rules used to provide this data exclude young people who enter prison within two years of leaving youth detention. It is likely that if those offenders were included in the data, the percentage of young offenders returning to either detention or prison within two years of release would be significantly higher than 50%.

We should not be surprised by these results. As I have noted already, analysis within the adult criminal justice system has repeatedly shown that imprisonment is not a particularly effective deterrent to crime. In the juvenile sphere, Professor Muncie has observed that:

it is clear that locking up young people is driven by something other than global increases in crime, or, as has been most recently assumed, by increases in violent crime. International research has consistently found that there is no correlation between crime rates and custody rates. The use of custody appears politically and culturally, rather than pragmatically, inspired. For some jurisdictions prison seems to 'work' at a political and symbolic level even when it is a demonstrable failure.<sup>39</sup>

Nor should we allow the data to discourage innovative programmes specifically tailored to local conditions which can be effective in reducing juvenile offending. One example of such success is provided by a community-based programme in the remote town of Laverton which is situated on the edge of the Great Victorian Desert.

The change in approach taken to crime in Laverton had a number of elements but a key component of all elements was engagement with local agencies and Aboriginal Elders to identify programmes and responses which would be effective in that community. The responses were overseen by a group known as the Laverton Safety Group. Its co-chair, Wendy Duncan MLA, the

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<sup>38</sup> Department of Corrective Services, above note 34,120.

<sup>39</sup> Muncie, above note 5, [23].

Member for Kalgoorlie in the WA Parliament, observed that community engagement was critical to the success of the venture:

To have that sort of grassroots involvement in finding solutions has made a huge difference ... It's come through the fact that we set up an Aboriginal Residence Group, we've brought in a camping policy... and a community-driven alcohol accord.<sup>40</sup>

In March this year, the officer in charge of Laverton police station, Senior Sergeant Heath Soutar, reported a 35% fall in crime reported in the area.<sup>41</sup> The president of Laverton Shire, Mr Patrick Hill, observed that children and young people had been the priority, and youth had been engaged by such activities as blue light discos provided by police, and swimming lessons funded by a mining company. Mr Hill observed that 'keeping the youth occupied, that's the most important thing'.<sup>42</sup> Senior Sergeant Soutar confirmed that as a result of these interventions, police were seeing less criminal activity by teenagers:

Juvenile crime is a huge problem in this region and last year we had periods of school holiday activity where there was no juvenile crime in Laverton... That's virtually unheard of.<sup>43</sup>

A more recent report on the outcome of the Laverton programme revealed that only one juvenile had been prosecuted in the past 14 months - an extraordinarily successful outcome.<sup>44</sup> Crime reports had consistently fallen over a two-year period and juvenile offending had diminished significantly. Reopening the youth centre in Laverton has been regarded as a critical component of these successes. Ms Duncan MLA observed:

I think the critical thing that we've achieved here in Laverton, is that the community understood that they needed to take ownership of the problem.<sup>45</sup>

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<sup>40</sup> Rebecca Curtin, 'Northern Goldfields town blossoms with reduced crime: police' (ABC news online, 18 March 2016).

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Nathan Morris, 'Remote community campaign holds agencies to account and turns around youth crime rate' (ABC news online, updated 7 October 2016).

<sup>45</sup> Ibid.

I digress to observe that one of the critical strengths of PCYCs is the opportunity which they provide for local communities to take ownership of the responsibility for providing positive opportunities for their children and young people, through initiatives specifically designed at the local level to serve the particular needs and interests of those children and young people.

Encouragement is also provided by the outcomes of the implementation of programmes which could generally be described as 'justice reinvestment' in the NSW town of Bourke. Although rigorous criminological analysis of the outcomes of programmes and services which have been provided in Bourke over the last couple of years has not yet been published, early indications are positive. The project team was established in 2014

with the over-arching aim of convincing all tiers of government to shift policy and spending away from incarceration – and from services not effectively being utilised in the community – to be reinvested into programs which address the underlying causes of youth crime and meet community need.<sup>46</sup>

Cost effectiveness of the programmes delivered in Bourke will be assessed in a context in which more than \$4 million per year was spent locking up children and young people from Bourke prior to the implementation of these programmes. Although analysis of cost effectiveness remains to be performed, it seems to me to be likely that substantial cost savings will be identified, together with more positive outcomes than the rather depressing outcomes of detention to which I have already referred. That prediction is supported by experience in a number of overseas jurisdictions in which justice reinvestment programmes have been shown to reduce crime and therefore offenders at a cost which is less than the cost of imprisoning those offenders.

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<sup>46</sup> Just Reinvest NSW, 'Justice Reinvestment in Bourke' at: <http://www.justreinvest.org.au/justice-reinvestment-in-bourke/> (accessed 12 October 2016).

## **The fine line between victims and offenders**

Another reason for the sparing application of punitive policies, especially in respect of juveniles, is the fact that all too often today's offender is yesterday's victim. My anecdotal experience of this phenomenon is augmented by data. For example, in the important area of family violence, particularly Indigenous family violence, the *Little Children are Sacred* Report cited research conducted in relation to Aboriginal male prisoners who had been convicted of sexual or violent offences. The researcher, Caroline Atkinson-Ryan, found that 22 of the 58 prisoners she interviewed reported that they themselves had experienced rape or sexual abuse. She classified 19 of those 22 as suffering from post-traumatic stress symptoms. She also noted the number of family members who:

. . . have been incarcerated, are presently incarcerated, are either a perpetrator or victim of sexual assault/rape, a perpetrator or victim of physical violence, have committed suicide and abuse drugs and alcohol is significantly higher in the present generation when compared to the older generations. This suggests that the 'flow down' of traumatic events and dysfunctional behaviours across the generations for those specific items results in those events and behaviours being repeated at an increased rate, and will continue to increase across successive generations without effective intervention.<sup>47</sup>

Of course, I do not contend that these observations support the conclusion that those who perpetrate serious crimes should not receive a punishment appropriate to the crime they have committed, even if they are juveniles. Rather, these observations point to the critical importance of timely and effective responses to children who have been identified as being at risk, either as victims or offenders, with a view to breaking the cycle of inter-generational offending. Community based programmes with the flexibility to design responses and supports which are appropriate to the specific needs and interests of a particular young person are essential if the cycle is to be broken

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<sup>47</sup> Caroline Atkinson-Ryan, unpublished PhD thesis quoted in Rex Wild & Patricia Anderson, *Ampe Akelyernemane Meke Mekarle: Little Children are Sacred* (2007) 67.

and the community protected from the effects of the 'revolving door' which we see all too often in our courts. Organisations like PCYC are well placed to assist in the achievement of these important objectives.

### **Family violence**

Many judicial officers across Australia, including me, have been very pleased to see that levels of attention proportionate to the scourge which family violence represents within our community are at last being directed to that issue by government and the community generally. While I would not for a minute suggest that offenders who commit offences involving sex or violence in a domestic or family setting should receive sentences any less severe than those imposed upon other perpetrators, I do suggest that the considerations to which I have already referred should be borne in mind when designing public policy responses to the multi-faceted problems of family and domestic violence. In particular, the fine line between victims and offenders, patterns of inter-generational offending, and the need for early and effective intervention utilising community based programmes specifically designed to meet the particular needs and interests of children and young people identified as being at risk are essential components of effective public policy in this area.

### **Conclusion**

The various considerations which I have identified in this paper all point strongly towards the need for juvenile justice systems to be supported by effective community based programmes designed and delivered at local community level in a manner which is specific to the particular needs and interests of children and young people who have been identified as being at risk. Organisations like PCYC are ideally structured to provide those programmes. PCYC provides many and varied opportunities to divert children and young people from anti-social or risky behaviour and to provide programmatic

responses which are directed to reducing the risk of that child or young person becoming a repeat offender and which increase the likelihood of that child or young person living a fulfilling and rewarding life and making a positive contribution to the community in which they live. Programmes of that kind provide the courts with a vital alternative to responses which have a more punitive focus and which we know, from long experience, are unlikely to effectively break cycles of offending behaviour. In that context, I conclude by commending PCYC (WA) for organising this conference and providing an opportunity for representatives of organisations involved in this important work throughout Australia to gather and learn from each other's experiences.