



Mary Ward Justice Lecture 2015

***Homelessness not Hopelessness:
Youth Disadvantage in the Criminal Justice System***

by

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Introduction

I am greatly honoured to have been invited to give the 2015 Mary Ward Justice Lecture for Western Australia, and particularly pleased that the organisers of this year's address have chosen to focus upon homeless youth. That topic resonates particularly well with the focus of Mary Ward's life and mission, including her commitment to social justice generally, and through the education of girls in particular. In Australia that work is being carried on by the Loreto sisters and Mary Ward International Australia, which is committed to the development of a more just world in general and the empowerment of women and children in particular. The aspects of youth disadvantage which we are addressing tonight are very relevant to the achievement of those important objectives.

Homelessness has a moral dimension arising from the shared obligations of humanity. Shelter is a basic human need, and our community long ago accepted the obligation to provide the necessities of life for those who are unable to provide for themselves. I will address the extent to which we are discharging that obligation, particularly in relation to homeless children and youth.

The Traditional Owners

Because of the topic we are addressing this evening, it is more than usually appropriate to acknowledge the traditional owners of the lands on which we meet, the Whadjuk people who form part of the great Noongar clan of south-western Australia. I pay my respects to their

Elders past and present, and acknowledge their continuing stewardship of these lands.

Of course, homelessness is not restricted to Aboriginal people, but it is one of those many areas of social disadvantage in which Aboriginal people and Aboriginal children in particular are tragically over-represented. That over-representation is the direct consequence of the dispossession of Aboriginal people from lands which they had occupied for countless millennia at the time of colonisation. The dispossession of Aboriginal people from their traditional lands cannot be attributed only to the early colonists, but has been a continuing characteristic of post-colonial development, inhibited to some extent only by the recognition of native title in the latter part of the last century.

Within a few blocks of where we meet this evening, in the early 20th century at around the time the suburb of Nedlands was being developed, there was an Aboriginal camp situated in the area between what is now Bruce and Archdeacon Streets.¹ My researches have not identified what happened to that camp, but it may have suffered a similar fate to an Aboriginal camp established in Swanbourne which was closed by the then Nedlands Road Board in 1951. Professor Geoffrey Bolton describes what happened:

¹ Nedlands Primary Centenary 1913-2013, 'School History' available at: <http://www.ozbods.com/nps100.com.au/history.html>

finding that the spread of metropolitan settlement brought the Aboriginal camp at Swanbourne too close to the eyes and ears of suburban ratepayers, [the Road Board] sent in a bulldozer without warning and razed the camp to the ground.²

My point is obvious. It is vitally important to view the over-representation of Aboriginal people in general and Aboriginal children in particular amongst the homeless in the context of the forceful dispossession of Aboriginal people from their traditional lands by European colonists and the cultural dislocation and multifaceted social disadvantage and dysfunction which has followed their dispossession.

Homeless youth - a complex web

Studies in Australia and elsewhere establish that there are many and varied reasons why young people become homeless. Significant factors include exposure to domestic violence including physical, sexual or emotional abuse and neglect, mental illness and substance abuse. It is quite common for more than one of these factors to be present in any individual case. In such cases, the multiple factors present often interact and magnify the risks to which the homeless child or youth is exposed. The relationship between mental illness and self-medication through substance abuse is fairly obvious. Less obvious perhaps is the relationship between physical or sexual abuse and the downward spiral of mental illness and substance abuse which can so often be triggered by such abuse.

² G C Bolton, 'Black and white after 1897' in *A new history of Western Australia* (ed C T Stannage, 1981) 155, citing 'Department of Native Affairs' record 283/31.

There are a number of points that I would make about the multifaceted and interactive causes which contribute so significantly to homelessness in general, and to the homelessness of youth in particular:

- The causes are often beyond the control of the homeless person and very often involve the victimisation of the homeless.
- Interaction between multiple causes of homelessness often increases the risk that the homeless person will suffer much greater deprivation and disadvantage than the discomfort of having no regular place of abode, including the risk of physical and mental illness, victimisation and criminalisation.
- The common presence of multiple interactive factors contributing to homelessness makes it more likely that the homeless person will lack the capacity to initiate for themselves any behavioural changes that may be necessary to alleviate their homelessness, or to effectively seek the assistance and support of State and non-government welfare agencies.
- Where multiple factors have contributed to homelessness, the State will often be exposed to the risk of significant cost through the various health, mental health and criminal justice agencies of the State.
- Because the causes of homelessness may be complex, it does not necessarily follow that the solutions must also be complex - in fact,

there is evidence to suggest that the solution may be disarmingly simple - namely, providing a home.

The preceding discussion should not be taken to connote the proposition that all homelessness can be attributed to multifaceted issues of victimisation, health and behaviour. In some cases, homelessness can be attributed to purely economic disadvantage, particularly over recent years in Western Australia when the resources boom created demand for housing which has had the effect of placing the cost of rental accommodation beyond the reach of some of those who have not themselves benefitted from the boom.

The magnitude of youth homelessness

The most comprehensive source of data relating to homelessness generally, and youth homelessness in particular, is the data provided by the Australian Bureau of Statistics (ABS) drawn from the censuses which that bureau conducts regularly. However, it is likely that this data understates homelessness for a number of reasons. First, and most obviously, people who are homeless are less likely to complete the census form than those who are in stable accommodation. Second, the ABS itself has drawn attention to the significant difficulty of distinguishing between the large proportion of young people who are homeless and "couch surfing",³ but who report a "usual address"

³ This term is used to refer to those who are staying temporarily with other households. The ABS notes that:

A usual address may be reported for 'couch surfers' either because the young person doesn't want to disclose to the people they are staying with that they are unable to go home, or the person who fills out the Census form on behalf of the young person staying with them assumes that the youth will return to their home (ABS, *Census of Population and Housing: Estimating Homelessness, 2011* (2049.0) (2012) – 'Factsheet: Youth Homelessness').

elsewhere, from those who are not homeless but simply visiting friends on census night.

Third, the ABS has confirmed that its census data significantly undercounts the Aboriginal population and similarly acknowledges that its estimate of Aboriginal homelessness is also an underestimate.⁴

Despite these limitations, the census data provides useful information revealing the age and racial profile of the homeless. Data collected during the 2011 census revealed that in Western Australia children under the age of 12 constituted more than 15% of the homeless population. Children 18 and under constituted more than 25% of that population, and almost 40% of all homeless people in Western Australia were under the age of 25.⁵

Translating those percentages into actual numbers, according to the ABS at the time of the 2011 census there were 1,493 children in Western Australia under the age of 12 who were homeless. The ABS estimated that a further 1,383 children in WA under the age of 12 lived in housing described as "marginal",⁶ which is a polite word for inadequate as a result of such things as overcrowding or lack of basic facilities.

⁴ The census undercount of Indigenous Australians is 17.2%, a rate of almost 1 in 5 (ABS, *Census of Population and Housing: Estimating Homelessness, 2011* (2049.0) (2012) – 'Factsheet: Aboriginal and Torres Strait Islander Homelessness').

⁵ ABS, *Census of Population and Housing: Estimating Homelessness, 2011* (2049.0) (2012) 16.

⁶ Ibid, 'State and territory of usual residence: All persons' Table 6.

On census night in 2006, 90,000 people were homeless, of whom 18% were sleeping in temporary accommodation such as boarding houses, and another 8% were sleeping rough - that is, in parks, in impoverished dwellings, on the streets or under bridges. More than 15,000 children under the age of 12 were among the homeless, as were 22,000 young people between the ages of 12 and 24. The finding that children and young people comprised over 40% of the homeless is consistent with the data collected by the ABS as part of the 2011 census.⁷

Aboriginal youth homelessness

Data gathered at the 2011 census showed that 35% of Western Australia's homeless people were Aboriginal,⁸ even though Aboriginal people constitute only a little over 3% of the Western Australian population. The reported data from the census does not reveal the age profile of Aboriginal homeless people in Western Australia. However, combining the fact that young people constitute a comparatively larger proportion of the Aboriginal population with the age profiles derived from the census data on the homeless generally, it is fair to conclude that a significant proportion of the State's homeless are Aboriginal children or young people.

The extent of homelessness among Aboriginal children and young people may have worsened since the census was conducted. A recent study of the unmet civil legal needs of Aboriginal people in Western

⁷ Ibid, 11, 12.

⁸ Ibid, 19.

Australia reported legal practitioners and others working in the field as estimating that more than 2,000 Aboriginal children had been made homeless in Western Australia over the last three years as a result of policies adopted in relation to public housing, and in particular, policies relating to the eviction of tenants from such housing as a result of their breach of the terms of the tenancy.⁹ Of course, I have no way of knowing whether those estimates are accurate. However, the same report reveals that housing was identified as the most frequent issue by Aboriginal people responding to a survey with respect to their unmet legal need - having been identified by more than 60% of respondents.¹⁰

The economic utility of strict enforcement of eviction policies with respect to social housing has been questioned. Twenty years ago the Social Justice Commissioner Mick Dodson observed:

Although carried out in the name of good business and cost recovery a strictly enforced eviction policy costs the state dearly - the costs are manifested in dollar terms in the criminal justice system, in welfare agencies, in schools and in health centres and hospitals. The social costs of this approach are also significant - rising crime rates, social unrest and increased levels of violence. The human cost involved, especially to the kids, is enormous - physical, mental and emotional stress which often shapes a child's future.¹¹

⁹ Fiona Allison, Melanie Schwartz and Chris Cunneen (Indigenous Legal Needs Project), *The civil and family law needs of Indigenous people in WA* (2014) 34, 36. The report states (at 33):

By far the subject attracting the greatest amount of comment and criticism was eviction; in particular, in relation to what is seen as DoH's [Department of Housing's] recent hard line approach to tenant debt and 'anti-social behaviour' as part of its 'three strikes policy' or Disruptive Behaviour Management Scheme (DBMS).

¹⁰ *Ibid*, 10-11. The report states (at 33): "Evictions, according to stakeholder legal services and other advocacy organisations, definitely appear to be on the rise across rural, remote and urban WA."

¹¹ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Fourth Report* (1996) 69, 70.

The causes of youth homelessness

A national study on the cost of youth homelessness in Australia has identified two significant risk factors associated with homelessness among young people - out-of-home care arrangements, and the experience of violence in the household.¹² Following a survey of homeless young people between the ages of 13 and 25 conducted in 2012, the study reported that:

- almost two-thirds¹³ of the homeless group reported that they had been placed in some form of out-of-home care by the time they turned 18 - compared to less than 1% of all Australian children being in out-of-home care;
- homeless youth were first placed in out-of-home care at a median age of 14;
- more than half of the sample¹⁴ had to leave home because of violence between parents or guardians on at least one occasion;
- of those who ran away from home because of violence between parents/carers, the median age of their first experience of leaving home was only 10;
- two-fifths of homeless respondents experienced police intervention in the household due to extreme conflict between parents, with 14% of respondents reporting police having come to their house more than ten times; and

¹² Paul Flatau, Monica Thielking, David MacKenzie and Adam Steen, *The Cost of Youth Homelessness in Australia Study: Snapshot Report 1 – The Australian Youth Homeless Experience* (2015).

¹³ 63%.

¹⁴ 56%.

- about one-quarter of those who ran away from home due to violence between parents went to stay with relatives, 32% stayed with friends, while 20% went to the street or to the park (slept rough).¹⁵

The authors of the study concluded:

The results begin to shed light on the impact of family violence on children's outcomes, especially in relation to homelessness, and highlights the need for strong early intervention programs for families and children and a sustained effort to curtail this insidious social problem.¹⁶

Intergenerational homelessness

A recent report on intergenerational homelessness suggests that behavioural and other characteristics which result in homelessness may be passed from parent to child.¹⁷ The researchers concluded that:

- almost half of those who were receiving homelessness assistance had parents who had experienced homelessness;
- the intergenerational homelessness rate for Indigenous participants in the study was 69%, compared to 43% for non-Indigenous participants;¹⁸
- half of all respondents experienced their first period of homelessness prior to the age of 18;

¹⁵ Ibid, 2, 8, 15.

¹⁶ Ibid, 15.

¹⁷ Unless otherwise indicated the source is Paul Flatau, Elizabeth Conroy, Catherine Spooner, Robyn Edwards, Tony Eardley and Catherine Forbes, 'How significant is parental influence in explaining homelessness in Australia?' *AHURI Research & Policy Bulletin* (Issue 172, June 2014).

¹⁸ Paul Flatau, Elizabeth Conroy, Catherine Spooner, Robyn Edwards, Tony Eardley and Catherine Forbes, *Lifetime and intergenerational experiences of homelessness in Australia* (February 2013) 2.

- Indigenous respondents were much more likely than non-Indigenous respondents to have experienced sleeping rough prior to the age of 18 (twice as many before the age of 12);¹⁹ and
- close to half of all respondents who indicated that they had a father in their life reported that their father had a serious drinking problem. Incarceration rates for the fathers of respondents were also high. These issues were especially significant amongst Indigenous households.²⁰

The authors of the study concluded that:

Prevention and early intervention programs, especially those oriented to indigenous people, are critical in breaking the cycle of intergenerational homelessness.²¹

Health and wellbeing among homeless young people

The national study on the cost of youth homelessness to which I have already referred also assessed health and wellbeing among homelessness young people. The study found that:

- One in five (20%) homeless young women had attempted suicide in the past six months, compared to around one in ten (12%) young men. More than one in four (28%) young homeless women had engaged in non-suicidal self-injury behaviours compared to 17% of young men.

¹⁹ Ibid, 51.

²⁰ Ibid, 3.

²¹ Note 17 above, 1.

- Just over half (55%) of homeless youth who had attempted suicide in the past six months had not received any counselling or professional support. Of those who had received support, 59% reported that the counselling or support helped them either to stop or to cope effectively with suicidal ideation.
- Amongst the group of homeless youth who had attempted suicide in the preceding six months, almost 8 in 10 (78%) reported diagnosis of a mental illness at some prior time.
- 55% of homeless young women reported a diagnosis of at least one mental health condition in their lifetime, compared to 50% of young homeless men.
- Although these rates are alarmingly high, they are less than the equivalent rate for Australian homeless adults as a recent study found that over 80% of such people reported at least one diagnosed mental health condition.²²

The results of the Australian studies to which I have referred are consistent with similar studies in North America. Professor Stephen Gaetz, from York University in Toronto, wrote:

In the case of homeless youth, a consensus has emerged suggesting that a majority of street youth in Canada and the United States come from homes characterised by high levels of physical, sexual or emotional abuse and neglect, compared with domiciled youth ... [S]treet youth are five times as likely as domiciled youth to report having been victims of sexual abuse as children. These young people are likely to experience low self-esteem, an impaired ability to form effective and trusting relationships with adults,

²² Note 12 above, 11, 13.

higher rates of depression and suicide attempts, running away, or being kicked out of home.²³

Similarly, an American Assistant Professor in Paediatrics, Dr Elizabeth Miller, has observed that in the case of runaway and homeless youth:

[T]here is ample evidence that multi-complex trauma is more often the norm, meaning multiple histories of trauma. These histories include: family violence; parental neglect; parental mental illness; childhood sexual and physical abuse; sexual exploitation, rape, sexual assault; survival sex [trading sex for basic needs such as food and housing]; gang violence; intimate partner violence.²⁴

Responding to youth homelessness

What do these studies of the causes of youth homelessness tell us about the appropriate character of our response? I could not put it any better than the authors of the intergenerational study to which I have referred, who observed:

Effective programs in childhood and young adulthood could have major positive benefits in reducing subsequent adult homelessness.

Parental violence, drug and alcohol problems are at the heart of the issue - preventative and early intervention programs around parental domestic violence, parental alcohol and drug use problems and entry into out-of-home care for children and young teenagers could break the cycle of homelessness across generations of the same family. It is critical an equal focus be put on children, young teenagers and adults in programs that address issues around the behaviour of adults in the family home.²⁵

Significantly, however, as the authors also note:

²³ Stephen Gaetz, 'Whose Safety Counts? Street Youth, Social Exclusion, and Criminal Victimization' in J David Hulchanski, Philippa Campsie, Shirley Chau, Stephen Hwang and Emily Paradis (eds) *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book, 2009) Chapter 3.2, 2.

²⁴ Elizabeth Miller, 'Runaway and Homeless Youth and Relationship Violence: Research Summary' (2009).

²⁵ Note 17 above, 3.

It is important to recognise that, in focusing on a specific set of individual risk factors, we are not suggesting that these are the only risk factors that are of potential significance in influencing future homelessness. In particular, the chosen set does not focus attention directly on the role of poverty and social isolation in influencing future homelessness trajectories. Furthermore, by focusing on this specific set of risk factors we do not wish to deny the role of a range of individual protective factors that act to reduce entry into homelessness or increase the resilience of those who become or are homeless ... Finally, we do not wish, in focusing on individual risk factors in the parental home, to deny the critical role of structural determinants of homelessness including the failure of the housing market to provide sufficient affordable housing or the labour market to provide accessible jobs.²⁶

The effects of homelessness on children's learning and educational development

A study was recently conducted in Victoria drawing upon the experience of primary school teachers in relation to homeless students. The study was entitled "*The empty lunchbox*" because teachers reported this to be one of the first indicators of a child's homelessness.²⁷

The survey solicited responses from 45 schools. Those responses highlighted:

the multiple negative effects that impacted on a student's academic, social and behavioural development. Common difficulties observed by the schools were: tiredness/lack of concentration, mood swings/poor behaviour (84%), poor attendance (78%), lack of adequate nutrition (76%), difficulties with appearance/cleanliness (73%) and frequent changes of school (73%). Difficulty with homework (69%) and social problems with other students (69%) were also common issues affecting the students.²⁸

²⁶ Note 18 above, 8, 9.

²⁷ Roy Martin, *The empty lunchbox: the experience of primary schools with students who are homeless* (2014) 4.

²⁸ *Ibid*, 25.

The author of the report concluded:

Learning and educational development is critical to immediate and long term outcomes. Intervening early is essential to breaking the cycle of educational disadvantage and primary schools are well placed to do this. But schools need to be supported and to receive the necessary resources required to respond to the welfare and education needs of young students. Education is, after all, fundamental to solving homelessness.²⁹

Homeless youth as the perpetrators and victims of crime

In 2012, the Australian Institute of Health and Welfare (AIHW) investigated and reported on the links between homelessness, child protection and juvenile justice. The Institute found:

There is strong evidence that children who suffered abuse or neglect are more likely to engage in criminal activity than those who did not. There is also extensive research demonstrating that young people who have been involved in the child protection system are over-represented among the homeless, and there is evidence that many young people under juvenile justice supervision were not living in a family home before entering supervision. Less research has been conducted into the levels of homelessness among young people who have been under juvenile justice supervision, but there is evidence that they have difficulties finding stable accommodation.

There are several possible reasons for the links between child maltreatment, criminal activity and homelessness. First, children who are maltreated typically have parents or guardians who, usually due to social and economic stress, are not able to provide adequate supervision, which increases the probability of the child's involvement in delinquent activity. Second, young people who have been involved in the child protection system are more likely to be homeless and often have low levels of educational attainment and employment, and thus are more likely to commit survival crimes such as theft. They are also more likely to have drug and alcohol problems. These links between homelessness and crime also exist for young people who have not been involved in the child protection system. Third, young people under juvenile justice supervision typically have higher levels of substance abuse and mental and physical illness than other young people, and typically have lower levels of

²⁹ Ibid, 48.

educational attainment. These attributes are likely to increase their probability of being homeless.

...

It is also likely that involvement in multiple sectors is concurrent; for example, that children and young people in the child protection system are simultaneously under juvenile justice supervision and that homeless young people are in and out of juvenile detention. Additionally, it is likely that the type and severity of child maltreatment affect the type and frequency of criminal activity, that being homeless will affect the type of juvenile justice supervision experienced (for example, homeless young people are more likely to be placed on remand instead of released on bail, especially in jurisdictions without supported accommodation programs), and that the type and frequency of juvenile justice supervision could affect factors such as educational attainment and employment that affect a young person's ability to find safe and stable accommodation.³⁰

Of course, these interactive causal relationships do not operate in only one direction. So, while child maltreatment, including physical and sexual abuse, physical and mental illness and substance abuse may all contribute to the likelihood of a child or young person being homeless, the fact of a child or young person being homeless may well contribute to the likelihood of them suffering one or more of these conditions.

Tragically, the connection between what the ABS would describe as "marginal" housing, child maltreatment and the juvenile justice system is all too apparent in a number of regional communities in Western Australia. Typically in those communities there will be far too many children on the streets late at night because the houses in which they live are chronically overcrowded or unsafe as a result of adults drinking or using other intoxicating substances. The children may not

³⁰ AIHW, *Children and young people at risk of social exclusion: Links between homelessness, child protection and juvenile justice* (2012) 5, 6 (citations omitted).

have been fed because their parents were distracted, playing cards or partying. They break into houses to steal food and while there, trash the house, some in order to elevate the scale of their offending to the point where they are either placed in detention in Perth, or in the bail facilities which have been developed in regional parts of the State over recent years, and where they will be properly fed and given a safe place to sleep at night. Put simply, the failure to provide adequate accommodation, care and protection for these children results in them entering the criminal justice system, often at an early age, and contributes to the gross over-representation of Aboriginal children in that system.³¹

Victimisation of homeless youth

The phenomena I have just described contributes to a public perception that homeless youth are significantly involved in criminal activity. While there is no doubt that homeless youth are more likely to intersect with the juvenile justice system than domiciled youth, often as a result of the multifaceted causative factors I have described, it should also be remembered that homeless youth are also more likely to be victims of crime. As Professor Gaetz has observed:

³¹ Although the proportion of Aboriginal children in detention varies from time to time, in recent years, Aboriginal children have generally comprised 75% of all children in detention. This means that the chance of an Aboriginal child being in detention in Western Australia is approximately 50 times greater than the chance of a non-Aboriginal child being in detention (AIHW, 'Youth justice in Australia 2013-14' (*Bulletin 127*, April 2015) and Supplementary Table S75a).

When homeless youth are discussed during public debates on crime, it is usually with reference to their role as perpetrators. This perspective, rooted in popular and enduring notions of delinquent street urchins, typically characterizes homeless youth as kids who are "bad" or "deviant" (or, more generously, troubled or misguided) and who leave home for fairly insignificant reasons. Once on the streets, they become involved in delinquent activities and, as a result, put the health and safety of the general public at risk. It is "they" who are causing problems for ordinary citizens; it is "they" who are driving away tourists and making the streets unsafe. The persistent public focus on street youth as potential offenders overlooks the real possibility that they may disproportionately be victims of crime.³²

The vulnerability of homeless youth to exploitation and criminal conduct was well expressed in a study of homeless youth in Toronto, which concluded that:

Street youth are vulnerable to exploitation, whether by petty criminals, sexual predators, unscrupulous landlords or employers, or a whole range of other individuals who can wield power over them, because potential perpetrators recognize that young people who are homeless have few resources to defend themselves and little recourse to challenge them.

The high rate of criminal victimization experienced by street youth means that they are forced to live from day to day with the very real fear of theft and robbery, of being attacked or sexually assaulted. For some, this becomes just another hazard associated with life on the streets; for others, the trauma associated with victimization has a devastating effect and can present yet another barrier to moving successfully off the streets.

The circumstances that produce such high levels of victimization among homeless youth cannot be explained simply in terms of these youths' previous history of criminal victimization, nor by their own delinquent or offending behaviour. The argument here is that the vulnerability of street youth to crime is most acutely experienced when multiple dimensions of social exclusion intersect. The problematic backgrounds and difficult home lives of street youth can inhibit their ability to fully participate in society as teenagers and, later, as adults. Once they are on the streets, their exclusionary trajectory intensifies as their inadequate access to housing, limited educational and employment opportunities, and restricted access to public spaces increase their vulnerability to crime. For young women who

³² Note 23 above, 1.

are homeless, the severity of social exclusion and victimization is compounded.³³

Dr Miller has summarised surveys of homeless youth in the USA in these terms:

In one study of surveyed homeless youth, 70% had experienced some form of violence; of those who experience violence, 32% had been sexually assaulted, 15% after being on the streets. 29% of all sexual perpetrators of young men were female. In another study, 60% of female homeless youth and 25% of males reported having been sexually assaulted prior to leaving home. The earlier one's age is of leaving home, the higher the risk for sexual exploitation and sexual victimisation by a stranger.³⁴

Tragically, there is no reason to think that the situation for homeless children and young people in Australia is any different. The Australian Institute of Family Studies has reported that:

The experience of homelessness dramatically increases the risk of being sexually assaulted. Sleeping rough offers little protection from sexual assault. Homeless women and young people also report being sexually assaulted in shelters. In particular, young people who are homeless have little power to negotiate their safety: "loneliness, hunger, and material needs forced these young people into situations that made them extremely vulnerable". Many young people are forced to leave home before they are emotionally, physically and economically able to fend for themselves. Perpetrators exploit these situational vulnerabilities to perpetrate sexual assault(s), and also to employ an array of tactics or psychological mechanisms causing the young person to blame themselves, creating debilitating feelings of self-hatred and shame.³⁵

It seems that the victimisation of homeless youth is an enduring phenomenon. The same report referred to a study in 1991 which found:

³³ Ibid, 13.

³⁴ Note 24 above.

³⁵ Zoë Morrison, 'Homelessness and sexual assault', *ACSSA Wrap* No 7 (2009) 4 (citations omitted).

70% of young women and 20% of young men had been sexually assaulted while homeless - only 20% had discussed it with any service provider. When asked about victimisation in the preceding 12-month period, 52% of young women who were homeless reported that they had been sexually assaulted and 65% had been physically assaulted. The Human Rights and Equal Opportunities Commission (1989) found that 50-75% of young people in SAAP services (Supported Accommodation Assistance Program) had experienced sexual assault.³⁶

Over-representation as victims of crime has also been observed amongst the adult homeless. A study of 300 homeless men and women living on the street and in temporary accommodation in three cities across the United Kingdom in 2005 found that, compared with the public, homeless people were 13 times more likely to have experienced violence, and 47 times more likely to have been victims of theft. Almost one in 10 of those interviewed for the study had experienced sexual assault in the last year, around half had experienced damage to property and one-fifth had been the victims of burglary (presumably while in temporary accommodation). Almost two-thirds of homeless people reported having been insulted publicly and one-tenth had been urinated upon while sleeping.³⁷

Many of the perpetrators of crime against homeless people are homeless themselves, with offenders suffering from mental illness and substance abuse issues being over-represented amongst such perpetrators. However, the UK study reported that nearly one-third of the violence experienced by homeless people was committed by members of the public (32% of violent acts, 33% of threats, 24% of

³⁶ Christine Adler, 'Victims of violence: The case of homeless youth' (1991) *The Australian and New Zealand Journal of Criminology* 24(1), 1-14 cited in note 35 above, at 3.

³⁷ Australian Institute of Criminology, 'Homeless people: their risk of victimisation', *AICrime Reduction Matters* (No 66, 15 April 2008).

theft and 3% of sexual assaults). The same study found that homeless people seldom reported the crimes which they experienced to police because of their fear of police and their general social exclusion.³⁸

Is there any cause for optimism?

I confess to having painted a very gloomy picture of homeless children and young people in Australia. There are far too many of them. They are too often driven from their homes by serious crime, including family violence and sexual abuse or other forms of mistreatment, or they are, in effect, forced to leave homes which are utterly dysfunctional because of mental illness or substance abuse or both. Once homeless, these children and young people are likely to resort to crime but are also very likely to become the victims of crime.

Are there any rays of light which might brighten this gloomy picture?

Happily, I think there are some rays of light. They include the various studies to which I have referred in this paper, which reveal increasing interest in, and awareness of the causes and consequences of youth homelessness. These studies provide us with the information and insight we need to achieve change in this important area.

The increasing national focus on the importance of addressing family violence also gives cause for some optimism in relation to homelessness. State and Federal governments of all political

³⁸ Note 37 above.

persuasions are now well aware that their constituents look to them to provide effective responses to family violence which has been all too prevalent in our community for too long. If governments respond effectively to community expectations in this area, there is every reason to expect that the numbers of children and young people who are homeless in Australia will be significantly reduced.

As with family violence, I detect a discernible increase in public interest in mental health issues, and a corresponding increase in the preparedness of State and Federal governments to address those issues and, albeit perhaps to a lesser extent, related issues of substance abuse. Again, if more effective responses to those significant public health issues can be found and implemented, it can confidently be expected that the number of homeless children and youth will diminish significantly.

In the criminal justice sector, as I have noted, recent years have seen great improvements in the capacity to provide safe places for children, mostly Aboriginal, who have come to the attention of police and the courts in the regions of our State. Happily, it is now much less common for a young offender to be transported over long distances in order to be placed in detention in Perth, far from family and country because of the lack of a safe and secure facility suitable for that child in his or her region.

It is also very encouraging that juvenile justice systems in Australia generally and in Western Australia in particular have been able to

avoid the alarming escalation in incarceration rates evident in the adult criminal justice systems of this country, including Western Australia. Incarceration is by far the most expensive response to homelessness, and arguably the least effective in providing a long-term solution to homelessness, because of the high rates of reoffending amongst those incarcerated. The numbers suggest that we have got better at diverting young offenders away from detention, although the gross over-representation of Aboriginal children amongst those in detention remains a grave concern. Certainly we should not rest on our laurels in this area. I believe that there is scope for greater diversion of young offenders away from the juvenile justice system and into programmes of support and intervention which will address the often multifaceted aspects of dysfunction within their family environment and which may result in homelessness from time to time through the processes I have described above. Public investment in the provision of programmes and general support for young people at risk is likely to provide dividends measured in terms of multiples of the funds invested by avoiding the very substantial costs likely to be incurred by the State in the health, mental health and criminal justice sectors if the risks to which these children are exposed eventuate.

Of course, in each of the areas of beneficial development which I have just identified there is much more that can and should be done. If we are successful in our endeavours to reduce levels of family violence and dysfunction, physical and sexual abuse, the mistreatment of children generally, mental illness and substance abuse - if we can provide safe places for young offenders that are not detention centres

and divert young offenders away from the justice system and support them in the community in circumstances which increase their prospects of living a fulfilling and law-abiding life, we will at the same time significantly reduce levels of homelessness.

But should we be doing more, and if so, what?

In my view, there is a disarmingly simple answer to this question - we should provide more housing for the homeless. Of course, providing housing consumes limited public funds, but so does not providing housing. The connections between homelessness and other aspects of disadvantage and dysfunction which have been identified in this paper strongly suggest that homeless people are very likely to impose a significant burden upon the agencies of the State responsible for delivery of health, mental health and criminal justice services. Put bluntly, the cost to the public of providing beds in hospitals, mental health institutions, juvenile detention centres and prisons is much greater than the cost of providing housing, even without taking into account the very substantial public costs incurred providing non-residential health and mental health services to the homeless, and the public costs incurred in policing and administering community-based justice to the homeless.³⁹

These economic realities have been recognised in the American state of Utah. It is difficult to contradict the observation of Mr Gordon Walker, the director of the Utah Housing and Community

³⁹ For example in 2013-14 it cost \$334 per day to place an adult in prison, and \$817 for each juveniles in detention (Department of Corrective Services, *Annual Report 2013-14* (2014) 13). I would expect hospital places to be far more expensive.

Development Division, when he observed, "If you want to end homelessness, you put people in housing... This is relatively simple."⁴⁰

Before this startlingly obvious observation, Utah's approach to the chronically homeless was as follows:

The model for dealing with the chronically homeless at that time, both here and in most places across the nation, was to get them "ready" for housing by guiding them through drug rehabilitation programs or mental-health counseling, or both. If and when they stopped drinking or doing drugs or acting crazy, they were given heavily subsidized housing on the condition that they stay clean and relatively sane. This model, sometimes called "linear residential treatment" or "continuum of care," seemed to be a good idea, but it didn't work very well because relatively few chronically homeless people ever completed the work required to become "ready," and those who did often could not stay clean or stop having mental episodes, so they lost their apartments and became homeless again.

In 1992, a psychologist at New York University named Sam Tsemberis decided to test a new model. His idea was to just give the chronically homeless a place to live, on a permanent basis, without making them pass any tests or attend any programs or fill out any forms.

"Okay," Tsemberis recalls thinking, "they're schizophrenic, alcoholic, traumatized, brain damaged. What if we don't make them pass any tests or fill out any forms? They aren't any good at that stuff. Inability to pass tests and fill out forms was a large part of how they ended up homeless in the first place. Why not just give them a place to live and offer them free counseling and therapy, health care, and let them decide if they want to participate? Why not treat chronically homeless people as human beings and members of our community who have a basic right to housing and health care?"⁴¹

The way in which the model was altered in Utah has been conveniently described in a recent article in *The Washington Post*:

The nuts and bolts: First the state identified the homeless that experts would consider chronically homeless... the chronically homeless are both

⁴⁰ Terrance McCoy, 'The surprisingly simple way Utah solved chronic homelessness and saved millions' *The Washington Post* (17 April 2015).

⁴¹ Scott Carrier, 'The shockingly simple, surprisingly cost-effective way to end homelessness', *Mother Jones* (17 February 2015) available at: <http://www.motherjones.com/print/269071>

the most difficult to reabsorb into society and use the most public resources. They wind up in jail more often. They're hospitalized more often. And they frequent shelters the most. In all, before instituting Housing First, Utah was spending on average \$20,000 on each chronically homeless person.

So, to in part cut those costs - but also to "save lives," Walker said - the state started setting up each chronically homeless person with his or her own house. Then it got them counseling to help with their demons. Such services, the thinking went, would afford them with safety and security that experts say is necessary to re-acclimate to modern life. Homelessness is stressful. It's nearly impossible, most experts agree, to get off drugs or battle mental illness while undergoing such travails

...

It is now years later. And these days, Walker says the State saves \$8000 per homeless person in annual expenses. "We've saved millions on this" Walker said, though the state hasn't tallied the exact amount.

He conceded, however, that "It's not that simple" everywhere.⁴²

Of course, I do not suggest that it can be assumed without investigation that the Utah experience⁴³ could be replicated in Western Australia. But the possibility of significantly improving the lives of the homeless while at the same time reducing costs to the State by increasing the supply of low-income housing is so obviously attractive, it merits serious investigation. I suspect that public policies in this area may have been influenced by the fact that it is relatively easy to establish the cost of providing housing, but much more difficult to establish the cost of not providing the housing required to reduce homelessness, because those costs are incurred by a wide

⁴² Note 40 above. See also Jayme Day, Lloyd Pendleton, Michelle Smith, Alex Hartvigsen, Patrick Frost, Ashley Tolman, Tamera Kohler and Karen Quackenbush, *Comprehensive Report on Homelessness: State of Utah 2014* (October 2014).

⁴³ Which was funded through federal tax credits for large financial organisations to provide financing for housing authorities and non-profits to build low-income housing as well as state taxes and charitable organisations, with on-going expenses covered through federal subsidies and state and county funds (Note 41 above).

variety of public agencies in a wide variety of ways. Given the large amounts of public funds involved, it seems to me that a rigorous analysis of the costs and benefits associated with the provision of increased housing for the homeless is easily justified, and could produce surprising results - not just in relation to the financial cost-benefits.⁴⁴

⁴⁴ A "first assessment" of the cost-effectiveness of existing homelessness programs in Australia not only demonstrated positive outcomes for homeless people but also suggested "that there is potential for homelessness programs to be dramatically cost-effective" (Paul Flatau, Kaylene Zaretzky, Michelle Brady, Yvonne Haigh and Robyn Martin, *The cost-effectiveness of homelessness programs: a first assessment* (Volume 1 - main report, 2008) 12, 13).