

Does the NT Youth Justice deliver justice for vulnerable young offenders or their victims?

CLANT 2015 CURING INJUSTICE

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A presentation in two (short) parts:

Part I The rise of restorative justice

Diversion

s39: Diversion of youth

- (1) This section applies if a police officer believes on reasonable grounds that:
 - (a) a person has committed an offence; and
 - (b) the person is a youth or was a youth when the offence was committed.

- (2) The officer must, instead of charging the youth with the offence, do one or more of the following as the officer considers appropriate:
 - (a) give the youth a verbal warning;
 - (b) give the youth a written warning;
 - (c) cause a Youth Justice Conference involving the youth to be convened;
 - (d) refer the youth to a diversion program.

Why?

Section 5, Youth Justice Act:

- Balanced approach between the needs of youth, rights of any victims and community
- Victims should be given the opportunity to participate in the process of dealing with the youth
- Unless the public interest requires otherwise, criminal charges only if there's no alternative means of dealing with young person

Diversion

An evaluation of the juvenile pre-court diversion scheme in the Northern Territory analysed 3597 apprehended youths over a 5 year period

Those who were diverted reoffended less than those who attended court and those who went to court reoffended more quickly.

Evaluation found that three-quarters of the participants (76%) did not reoffend in the first 12 months following diversion (Cunningham 2007)

Pre-sentence conferencing

s84 Court may order pre-sentencing conference

- (1) The Court may, when determining the appropriate sentence for a youth who has been found guilty of an offence, adjourn the proceedings and order the youth to participate in a pre-sentencing conference.
- (2) A pre-sentencing conference may be with any of the victims of the offence the youth is charged with, community representatives, members of the youth's family or any other persons as the Court considers appropriate.
- (3) The Court may:
 - (a) direct that the conference be convened at a specified time and place; and
 - (b) appoint a person who is appropriately qualified as the convenor of the conference.
- (4) The convenor must report to the Court as to the outcome of the conference.

Examples

‘Roy’ – entrenched in system, issues difficult to reach

- 5th sentencing exercise over 7 months
- In breach of orders
- Problems at home with father
- Two parts:
 - i) Men’s health meeting
 - ii) conference

Examples

‘Cindy’ – welfare issues, difficult to reach

- In care of DCF since 2
- Just turned 18
- Intellectual disability, equivalent intelligence of 8.3 year old, foetal alcohol syndrome (FAS), pregnant
- All offending care-based
- Conference not easy to arrange

Outcomes

- Roy's conference was in October 2014. Followed 12 month period of solid offending. Hasn't been back
- Challenging and confronting for young person
- Victim anecdotal feedback very positive
- One example of work that incredibly dedicated, expert Magistrates, lawyers, social workers, education experts and others doing in Youth Justice Court

PART II The toxic NT youth detention environment

The toxic NT youth detention environment

- 11 escapes in last 12 months, compared to 0 escapes in the previous 2 years
- Several other incidents of damage, unrest
- **Vita Review:**
 - ‘absence of a coherent operating philosophy, staff training, direction, appropriate infrastructure, leadership and resourcing’
 - ‘It’s hard to be strategic when operating in a **climate of daily crisis**’ (youth detention worker)

Increasingly punitive response

Commissioner of Corrections:

"They have a propensity to show more violence and we need to be able to separate the various levels and ages and by using the facilities in Berrimah that'll give us an opportunity to do that"

Increasingly punitive response

Minister for Corrections:

"All courtesies that we have attempted to bring to bear on them or give to them up until now have been withdrawn"

"These are strapping young lads, but my goodness gracious me we will crack down on them and we will control them."

"The conditions are not horrific and are appropriate for the **most dangerous and violent** offenders."

Media response

Gatecrashing idiots



FRED MCCUE
 Commentator

The 19-year-old teenage scumbag returned to the scene of the crime to spectacle his behaviour. What the cops took into Don Dale Youth Detention Centre after breaking out was less than 40 hours earlier.

John Gorman and John Gorman were recently shown how Don Dale's reputation as a state's worst youth detention centre after breaking out was less than 40 hours earlier.

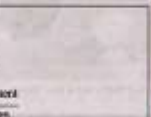
After escaping from the cell, the two teenagers were taken to a nearby house to hide out from the police.

Police and Gorman were part of a group of teenagers who caused the death of a 15-year-old boy in Darwin in 2004.

Youth facility to get tougher

THE Don Dale Youth Detention Centre, which Youth Research and Action Council (YRAC) director Peter Gorman says is "the worst youth facility in Darwin", will be replaced by a new, tougher facility. The new Darwin Youth Detention Centre will be built on the site of the old Darwin Detention Centre, which was closed in 2004. The new facility will be built on the site of the old Darwin Detention Centre, which was closed in 2004. The new facility will be built on the site of the old Darwin Detention Centre, which was closed in 2004.

More than \$60 million worth of infrastructure was completed at the site in February 2012. Despite the earlier need to rebuild the old Darwin Detention Centre, the Government's decision to build a new facility on the site of the old Darwin Detention Centre, which was closed in 2004, was a "big step forward" for the Darwin community.



THREE DAYS OF LIVING DANGEROUSLY

5. NY police night in stolen car, in Darwin, in Forest Hill, the third car the pair are believed to have stolen while on the run. They came to police attention after allegedly smoking pot at Fannie Bay and followed it via Dept Rd to the Stuart Hwy.



Copper joint shows on this April 2012 photograph of the Darwin Youth Centre.

take turn for worse



2. The two escapees allegedly steal a car from Robbe Reserve.



1. Sunday, five inmates try to escape from Don Dale Youth Correction Centre, Tenn. Ethan Austrial and Jason Bismans, succeed but are believed to have killed out themselves on radio wire.

6. The York was then driven South Tiger Rossman toward Palmerston then through Gray before it returned to the Stuart Hwy and headed towards Don Dale.

3. Ethan Austrial, bleeding heavily, stops at his aunt's place in Woodroffe for bandages.

WHO ARE THESE SCUMBAGS?

JOSHUA BURGINS



17-year-old Joshua Burgins had a reputation for being a troublemaker at Don Dale Youth Detention Centre. He was one of the inmates who escaped from the centre in 2012.

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ETHAN AUSTRIAL



Ethan Austrial was one of the inmates who escaped from the centre in 2012. He was one of the inmates who escaped from the centre in 2012. He was one of the inmates who escaped from the centre in 2012.

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Obscene public comments (eg. NT Police Facebook page)

The screenshot shows a Facebook post by Liz Statham from April 16, 2014, with 100 likes and 21 comments. The post text is: "Hi You're reporting on the education department is crap. the teachers don't want a pay rise they want their aids back. T...". Below the post are several "LIKED BY THIS PAGE" entries, including Helifish, Northern Territory Parks and Wildlife, and City of Darwin.

The comment thread contains the following comments:

- Alyson Gibb** (3 hrs): "Poor bugger....another child flung to the dirt as parents are loosers and cannot raise children properly." (2 likes)
- Beryl Gleeson** (17 hrs): "i sure i seen him at humpty doo" (1 like)
- Clair Murden** (3 hrs): "I think i just saw him get on the number 8 to toen from palmerston" (1 like)
- Kylie Hall** (9 hrs): "Electrify the fences with high volt when they try to escape they get fried. Show these young fools it's not a joke taking up police time by their stupid stunts. Our police have bigger things to worry about then to keep searching for escapees." (1 like)
- Beryl Gleeson** (16 hrs): "just take him out we dont need scum like him" (1 like)
- Beryl Gleeson** (16 hrs): "take him out asap" (1 like)
- Christine Jeffries** (2 hrs): "Poor kid. Probably never shown compassion" (1 like)
- Deborah Pollard** (16 hrs): "wont amount to anything get use to bars hes not afraid of no cops been outsmart by a kid whats wrong with that place they can get out so easy eed an full investigation i should think" (1 like)
- Jason Mundy** (16 hrs): "Send way out west where the rain don't flow , dry community maybe ." (1 like)

At the bottom of the page, there is a post from "Nine News Darwin" shared from the "Northern Territory Police Force" page, dated 19 hours ago. A chat window for 60 people is visible in the bottom right corner.

Where are things going wrong?

- Increasingly punitive
- Giving up on rehabilitation
- Cruel and inhuman conditions
- Absence of transparency
- Failure to comply with legal requirements
- Dangerous deterioration for young people, staff, community and continuing 'powderkeg' re further unrest, escapes

Where are things going wrong?

1. **Isolation and lockdowns**
2. **Behaviour management**
3. **Staff training, leadership**
4. **Inappropriate infrastructure**
5. **Use of Force, Restraints**

Where are things going wrong?

6. **Case management**
7. **Education, Health, Counselling, offence-related programs**
8. **Transfers to adult prison, approval of DCC and ASCC**
9. **Informing about rights**

Recommendations

1. Punitive approaches to youth detention must end

- ✓ Therapeutic
- ✓ Youth-trained
- ✓ Trauma-informed
- ✓ Financial investment imperative

Every child deprived of their liberty shall be treated with humanity and respect for their inherent dignity, and in a manner which takes into account their age and level of maturity.
(Convention on the Rights of the Child)

Principles in Youth Justice Act

Youth Justice Act sets out fundamentally different approach for young people:

1. **Rehabilitative rather than punitive approach: acknowledging young person's needs, treating in manner consistent with age and level of maturity, custody as a last resort, dealing in way that will allow to be reintegrated, acknowledging sense of identity, decision making in timeframe appropriate for young person**
2. **programs and services, not unnecessarily withdrawing from family, school**
3. **Punishment designed to help young person develop a sense of social responsibility**
4. **Individualised case management**
5. **Use of isolation**
6. **Emergency only use of restraints**

Note also application of:

- ❖ UN Convention on the Rights of the Child 1989 (CROC)
- ❖ UN Rules for the Protection of Juveniles Deprived of their Liberty 1990 (the 'Havana Rules')
- ❖ Standard Minimum Rules for the Administration of Juvenile Justice 1985 ('The Beijing Rules')

Recommendations

2. Wrongs must not be ignored

The previous Children's Commissioner's report must be publicly released.

New inquiry is needed

3. Transparency and accountability is needed now

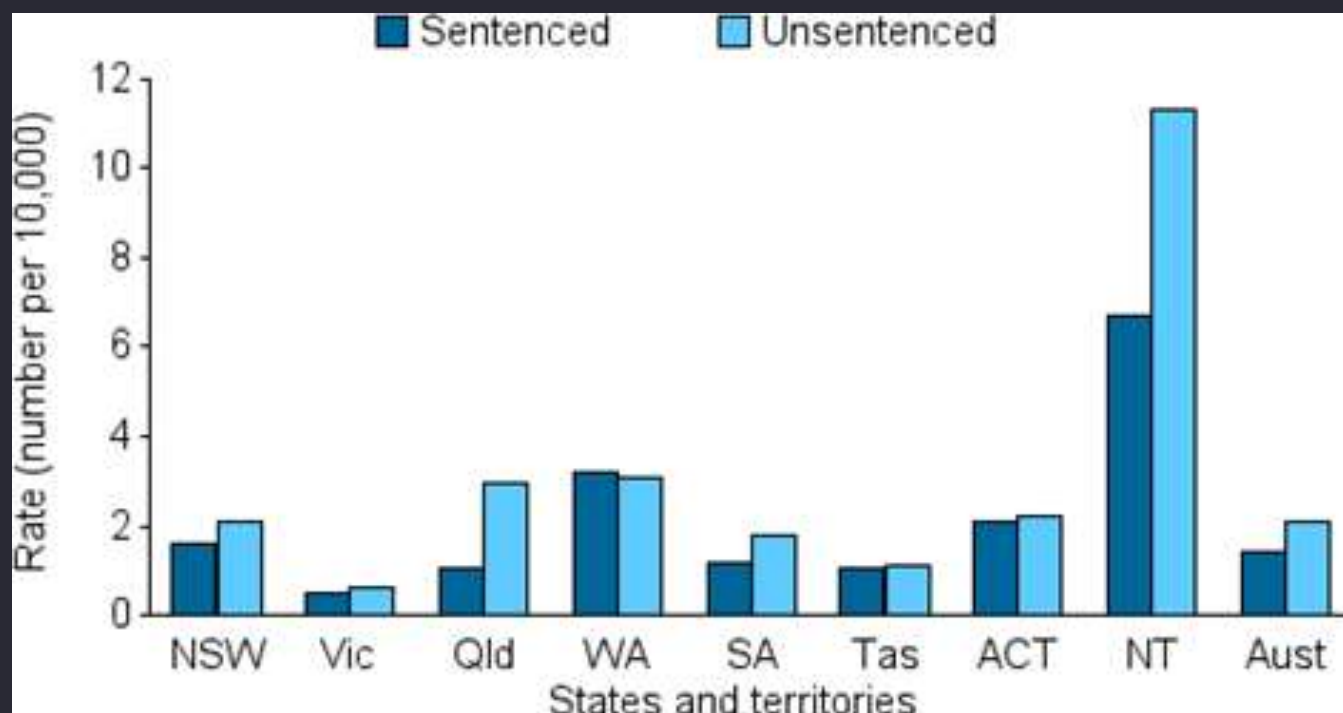
NT needs an Independent Custodial Inspector.

4. Infrastructure and staff training

- Improved infrastructure and youth-expert staff are essential.
- Cannot meet service level standards with Berrimah infrastructure or staff who are not experts in working with young people in detention.
- Clear time frame needed to either commission new facility, or fully renovate old Don Dale centre

Young people aged 10–17 in detention, states and territories, 2013–14 (rate)

AIHW, Youth Justice in Australia 2013-14



Recommendations

5. Reduce remand numbers

- 40-50 young people in detention at any one time
- 75% of kids in detention are on remand
 - 37 out of 44 as at June 2015
- 60% approx. in care of DCF
- 98% are Aboriginal
- NT's youth detention rate 6 times above national average
 - **NT - 18 per 10,000 (was 12 per 10,000 in June 2009)**
- Tasmania reduced number of young people in detention from 32 to 9 between 2009-2014

Timeline 2014-15

2 August: Two teenagers break out from Darwin's Don Dale detention centre. They are on the run for almost four days. The break-out prompts the NT Government to speed up plans to move juvenile offenders to Berrimah Prison.

23 August: One detainee escapes cells armed with glass and smashes windows and light fittings. Tear gas is used on 5 teenagers, 4 of whom were in their cells. The five are moved to the new prison at Holtze as a stop-gap measure while the old adult prison at Berrimah is being renovated.

3 September: Children's Commissioner, Howard Bath announces own initiative investigation into the incident and the response by staff, including the use of tear gas. Investigation to consider 'the management, the procedures, what were the circumstances, context of this event occurring'

14 September: Two teenagers escape from their cells at the new prison at Holtze. They are found sitting on the roof of the prison. The two are moved to maximum security.

15 September: A teenager kicks in a security screen at a new maximum security cell in the \$500m prison and escapes into an adjoining courtyard.

15 September: Three teenagers overpower security guards about 9:00pm and steal a security swipe card at the prison at Holtze. They are found on the roof. The teenagers are moved to maximum security. NT Attorney-General John Elferink calls the juvenile offenders "the worst of the worst".

2 October: NT Government commissions review into youth detention by Michael Vita, Superintendent Reiby Youth Detention Centre, NSW

Timeline 2014-15

29 December: detainees moved to Berrimah, which was partially renovated and re-opened as the new Don Dale Youth Detention Centre

5 January: detainees in G block of Berrimah (not renovated) smash windows, doors and set fire to mattress. One youth gets on roof.

February: Vita Review handed down, cataloguing systemic deficiencies in NT youth detention.

24 February: three youths attempt escape by taking tradies' car and ramming into fence, one escapes over razor wire

April: 2 boys escape from separate correctional services vans transporting them to Berrimah

31 May: youths in B Block alleged to cause damage, **two youths escape Berrimah**. Corrections Commissioner says latest escapes an 'embarrassment' that would not be tolerated, with anti-climb fences to be installed at more secure B Block and adult prison guards to be used at Berrimah. Maximum security youths moved to C block. Youths return by driving through roller door two days later, moved to adult prison

1 June: another youth escapes C Block at Berrimah

12 June: Corrections **application for two boys to be remanded to adult prison for 15 days** on basis that Berrimah 'not an appropriate environment'. Reasons include presence of asbestos in C Block, rust, damage and other structural weaknesses in cell doors, internal and external security doors, lack of trained staff

16 June: Attorney-General approves Darwin and Alice Springs correctional centres as places where young people refused bail can be detained

Thank you!

More information?

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