



The Uniting Church in Australia  
QUEENSLAND SYNOD

# Issues Paper Youth Justice

The Uniting Church in Australia,  
Queensland Synod

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Uniting in **Christ**  
acting with **love**  
living with **hope**  
witnessing in **faith**  
working for **justice**

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## Introduction

The Uniting Church in Australia, Queensland Synod is deeply concerned about proposed changes to the youth justice system in this state. It is from a position of extensive informal and formal experience in supporting and working with people in crisis, and with our deeply held views about social justice that we speak about this issue.

The Queensland Government has undertaken to review many aspects of the youth justice system in response to community concern about young people and the perceived “youth crime wave”. They have repeatedly promised to be “tough on crime”. This approach may be popular in sections of the community, but the Uniting Church in Queensland’s concern is that it will be ineffective and even damaging to young people in the long run.

A “Blueprint for the Future of Youth Justice” (the Blueprint) is expected to be released in early 2014. We note that a Parliamentary Committee will consider the proposed amendments to the legislation after they are tabled in Parliament in February 2014. We urge extensive, open, accountable consultation with community groups, service providers and other stakeholders.

The Uniting Church in Queensland is particularly concerned about the disproportionate impacts legislative changes will have on Aboriginal and Torres Strait Islander young people who are already overrepresented in the youth justice system.

## Our Vision

The Christian story calls us to work toward communities in which everyone belongs, can contribute and is valued – communities characterised by love and justice. We believe children and young people have the right to live, develop and learn in safe and supportive environments and the right to opportunities to enhance their life chances and quality of life.

Our vision is for a community structure which provides sufficient support to enable children, young people and their families to meet their potential. They would be encouraged and enabled to identify and build the skills and knowledge they need to participate fully in the community as responsible citizens, enhance their life chances and improve their quality of life.

Our vision is for a community where young people are recognised and valued as the key to both the present and future of our society. In that community, young people who offend would be given the maximum chance of addressing the causes of their offending behaviour so that they can go on to live crime-free lives. They would have access to caring and enabling supports when, where and how they are needed. In that community youth justice issues would be addressed using evidence-based, developmental approaches.

## Facing the Issues

The following issues are of particular concern:

### **Detention as a last resort**

The Queensland Government proposes to alter legislation, abolishing the principle of using detention as a last resort for young people before the courts. This principle is embedded in the *Youth Justice Act 1992*, in alignment with our international commitments to uphold the human rights of young people. Removing this principle increases the risk of criminalising young people by involving them in the detention system earlier than is necessary. Detention is the most significant punishment courts can use, and should be reserved for situations where every other option is not possible or has failed.

Detention has not been shown to be particularly effective in preventing recidivism and is very expensive.

## Overrepresentation of Indigenous young people in the youth justice system

It is very concerning that in 2012-13, Aboriginal and Torres Strait Islander offenders accounted for 66 per cent of young people in detention in Queensland<sup>1</sup>, while making up only about six per cent of all young people aged 10-17.

The Commission for Children and Young People and Child Guardian noted that “Offences by Aboriginal and Torres Strait Islander young people were 17 times more likely to result in an arrest by police, 12 times more likely to result in Childrens Court proceedings, 19 times more likely to result in a youth justice supervision order to be given by the courts and 33 times more likely to result in a sentenced detention order. Aboriginal and Torres Strait Islander young people aged 10 to 13 years were detained in un-sentenced Detention (including Remand) at a rate 29 times that of non-Indigenous young people the same age”<sup>2</sup>.

Young Indigenous people are more likely to have their first contact with the youth justice system at an earlier age and to have multiple contacts than other young people. This overrepresentation is likely to be symptomatic of the chronic social and economic disadvantage experienced by many Indigenous young people, including family and community violence, child abuse and neglect, inadequate housing, poor health and low educational achievement<sup>3</sup>. Efforts to reduce this overrepresentation must address the underlying reasons for Indigenous offending.

We note with concern that there is a shortage of quality legal representation in regional and remote communities and a lack of appropriate bail support, diversionary and rehabilitation programs<sup>4</sup>.

### Developmental factors

The brain development of children and young people is complex and multifactorial. It is not complete, meaning the transformation of the child brain into the adult brain, until at least 24 years of age in healthy development. The developing brain is directly influenced by early environmental enrichment and social experiences and can be disrupted by trauma and chronic stress.

Most young people who come into contact with the police will not go on to be “career criminals” – they will “grow out” of offending from late adolescence<sup>5</sup>.

It is noted that young people who are repeat offenders are characterised by low socioeconomic status, low educational attainment, significant physical and mental health needs

including dyslexia, communication disorders, autism spectrum disorder and foetal alcohol spectrum disorder, substance abuse and a history of child abuse and neglect<sup>6</sup>. Australian studies highlighted that over 50 per cent of young offenders had clinically significant, but previously undetected, oral language disorders. The implications for success in schooling, coping when interviewed by police and in court are very significant<sup>7</sup>.

Child maltreatment has also been linked to an increased risk of youth offending, and as at 30 June 2012, 72 per cent of children and young people in the youth justice system were known to the child protection system<sup>8</sup>. This has significant implications for the support of young people known to government departments and the preventative programs that are needed.

We strongly believe rates of offending and recidivism will most effectively be reduced by addressing and recognising these developmental factors.

### Breach of bail

A child who fails to attend court or breaches a condition of their bail can be arrested and brought back to court. The court can then decide not to grant bail again but to order the child to remain in custody until their case is dealt with. This is different to the adult experience where a breach of bail becomes an offence.

Under the proposed changes to the youth justice system a child offender would be treated the same as an adult offender in that breach of bail would become an offence. This does not take into account the developmental factors affecting children, nor the challenges in their lives over which they have no control and can make no choices, for example issues related to where they live.

Balanced Justice notes that some bail conditions are particularly difficult for young people and can “set them up to fail”; it is unrealistic to tell a young person not to associate with their friends or go to a certain place where young people meet<sup>9</sup>. Bail conditions should be reasonable and take into account the young person’s situation, as well as protecting the community.

<sup>1</sup> Youth Justice Performance & Reporting, 2013, *Youth Justice Pocket Stats 2012-13*, October 2013.

<sup>2</sup> Commission for Children and Young People and Child Guardian, 2014, *Commission releases Child Guardian Report: Youth Justice System 2011-12*, <http://www.cycpcg.qld.gov.au/about/news/2014/january/Commission-releases-Child-Guardian-Report-Youth-Justice-System2011-12.html>

<sup>3</sup> Australian Institute of Health and Welfare, 2012, *Indigenous young people in the juvenile justice system*, Bulletin 109, November 2012.

<sup>4</sup> Commission for Children and Young People and Child Guardian, 2011, *Views of Young People in Detention Centres, Queensland*, 2011, Brisbane, p.5.

<sup>5</sup> Balanced Justice, 2013, *Busting the myths...* op cit.

<sup>6</sup> Balanced Justice, 2013, *Busting the myths – the facts about addressing youth offending – Part 2*, Balanced Justice project, May 2013.

<sup>7</sup> Snow and Powell, 2012, *Youth (in)justice: Oral language competence in early life and risk for engagement in antisocial behaviour in adolescence*, Australian Institute of Criminology, Trends and issues in crime and criminal justice, No 435 April 2012.

<sup>8</sup> Commission for Children and Young People and Child Guardian, 2014, *Highlights, Child Guardian Report: Youth Justice System 2011-12*, [http://www.cycpcg.qld.gov.au/pdf/publications/reports/Child-Guardian-Report\\_Youth-Justice-System\\_2013/Highlights\\_Child\\_Guardian\\_YJ2011-12](http://www.cycpcg.qld.gov.au/pdf/publications/reports/Child-Guardian-Report_Youth-Justice-System_2013/Highlights_Child_Guardian_YJ2011-12)

<sup>9</sup> Balanced Justice, 2013, *Detention and Bail for Children*, Balanced Justice Project, April 2013.

## 17 year olds in adult prisons

Queensland is the only state in Australia where 17 year olds are treated as adults in the criminal justice system. This means that they are dealt with in adult courts and imprisoned in adult jails. The Queensland Government has also proposed automatically transferring young people who are in youth detention to adult prisons once they turn 17, if they still have at least 6 months to run on their custodial sentence. Previously they remained in youth detention until aged 18.

Young people aged 17 are treated as adults in the criminal justice system, yet they are not considered adults in other ways, for example, registering to vote and the Age of Majority.

The characteristics of juvenile offending are different from adult offending in several ways and for a variety of reasons, including the immaturity of the brain and the prevalence of risk-taking behaviours, disability and mental illness<sup>10</sup> as noted above.

The practice of incarcerating seventeen year olds in adult prisons is a breach of our international obligations under the United Nations Convention on the Rights of the Child. Since 1992 Queensland Governments have acknowledged that, in theory, seventeen year olds should not be in adult prison. In order to save on costs, despite their recognition of this rights violation, governments have not acted on this important principle.

## Access to juvenile criminal history

Proposed changes to the legislation would allow courts access to a person's juvenile criminal history when sentencing them as an adult, so the court can see their full criminal history. Currently only those convictions which are recorded can be referred to in adult courts. Convictions are recorded by judges in cases where the young person's crime is extremely serious, or the offender has a significant offending history. In more minor matters a reprimand or good behaviour order is likely to be made, which currently cannot be made available to the adult court. When an adult appears before the court, even if only one conviction is recorded, the magistrate or judge knows there is a significant offending history.

We are concerned that harsher and unfair punishments might result from allowing courts to see people's records from the Children's Court, and also that the rehabilitation focus of Children's Court may be undermined, harming the young person's chance of leading a meaningful life and making a positive contribution to the community as a mature citizen.

## "Naming and Shaming"

Proposed new legislation to implement "naming and shaming" for young repeat offenders is unlikely to be effective in reducing re-offending. According to Balanced Justice, "Naming and shaming young people involved in the justice system is likely to undermine their chances of rehabilitation. It ignores fundamental, widely accepted principles contained in international law, and the evidence which shows that it can actually lead to increased levels of offending. The existing protections in the Youth Justice Act 1992 provide an appropriate balance of holding offenders to account for their actions, while protecting vulnerable young people and encouraging rehabilitation. These laws should not be changed"<sup>11</sup>.

## Boot Camps

In implementing boot camps as a common mode of detention/rehabilitation for young offenders, two types of military style boot camps have been trialled and are being rolled out across Queensland: Early Intervention Youth Boot Camp (EIYBC) and Sentenced Youth Boot Camp (SYBC).

The international evidence is unclear as to the effectiveness of boot camps for young offenders. While the types of camp vary, their common features are that they are established on militaristic lines. There is emphasis on deference to authority, conformity, intimidation, isolation and concentrated physical training. The format for SYBCs in Queensland appears to be similar. The program is designed to:

- instil discipline and respect
- address the causes of crime
- provide a direct consequence for offending
- increase supervision<sup>12</sup>.

The concept of boot camps is based on the notion of taking individual responsibility for crime and anti-social behaviour. However, the notion of self-knowing/awareness is a function of the mature adult brain, and not that of a young person's brain. Therefore the very concept of boot camps for young offenders runs contrary to the way the young person's brain works.

Rev Kaye Ronalds, Moderator of the Uniting Church in Queensland notes: "It would be my personal observation, as a long-term army reserve chaplain, that the kind of positive transformation that occurs for some young members of society who join the military is achieved by the combination of strongly held boundaries, working together in training and an extensive network of pastoral care within and beyond the chain of command."

<sup>10</sup> Kelly Richards, 2011, *What makes juvenile offenders different from adult offenders?*, Australian Institute of Criminology, Australian Government, Trends and Issues in crime and criminal justice, No 409, February 2011.

<sup>11</sup> Balanced Justice, 2013, *'Naming and shaming' young offenders*, [www.balancedjustice.org/uploads/1/3/1/0/13108841/final\\_-\\_naming\\_and\\_shaming\\_young\\_offenders.pdf](http://www.balancedjustice.org/uploads/1/3/1/0/13108841/final_-_naming_and_shaming_young_offenders.pdf), accessed 13 November 2013, p 2.

<sup>12</sup> Queensland Government, 2012, *Sentenced Youth Boot Camp Fact Sheet*, Department of Justice and Attorney-General.

The Attorney General has stated that the sentenced boot camp program being trialled by Queensland “incorporates delivery of a range of services which take account of the young participants’ developmental needs, including intensive family support, education and employment services and health services. The program also includes a mentoring component, both during the program and on an ongoing basis following completion of a young person’s boot camp order.<sup>13</sup>” We are reassured to see this developmental, holistic focus and will watch the outcomes with interest.

### The “youth crime wave”

Despite the political rhetoric and media coverage to the contrary, The Youth Advocacy Centre reports that there simply is no “youth crime wave”<sup>14</sup>. According to the Department of Justice and Attorney-General’s figures<sup>15</sup>, the number of young offenders in Queensland actually has decreased by nine per cent over the past three years. Only 0.9 per cent of young people aged 10-16 years in Queensland were found guilty of an offence in court in 2012-13. Ten per cent of young offenders are responsible for almost half of all proven offences.

We note that employing the rhetoric of fear in referring to crime naturally predisposes the community to ask for tougher measures.

## The policies we seek to build the future for young people

The Uniting Church in Queensland seeks a collaborative approach to youth justice issues, where established research evidence and long established experience in successfully helping young people are recognised and valued. Our concern is for the young people themselves; that they might have every opportunity to grow and develop, to become mature and responsible citizens. Most of these young people experience a complex range of risk factors which has resulted in their contact with the youth justice system. These risk factors must be addressed if we wish them to live lives free of crime and thus create a safer community.

In reviewing the Youth Justice System, we request the Queensland Government abandon their “tough on crime” stance. We ask that they commit to working together with all stakeholders, to identify best practice models, develop cost-effective integrated early intervention approaches and plan the best possible strategies to assist young people caught up in the youth justice system.

We ask that the relevant Parliamentary Committee consults widely with community groups, support agencies and other stakeholders, so that the youth justice system will truly be positively and effectively reformed, bringing best practice and the collaborative efforts of the whole community together.

We also request that a round-table discussion be held, including with leaders of the churches and faith communities in Queensland, to further discuss the Government’s proposals before the any legislative amendments are finalised.

Furthermore we request that submissions and survey responses made to the public consultation held in 2013, be made publicly available as soon as possible.

## Within the Uniting Church in Queensland

The Uniting Church in Queensland is committed to reaching out and speaking out about issues impacting on vulnerable groups of people, such as young people. In 2007, in a gathering of the whole Synod, a resolution was passed by consensus, speaking out about the social justice issue of seventeen year olds being treated as adults by the criminal law<sup>16</sup>. We believe all juvenile offenders should be dealt with under a youth justice system that accommodates their developmental needs.

<sup>13</sup> Jarrod Bleijie, 2014, correspondence to the Moderator, Uniting Church in Queensland, January 2014.

<sup>14</sup> Janet Wight, 2013, *Youth offending in Queensland*, Youth Advocacy Inc., October 2013.

<sup>15</sup> Queensland Government, 2013, *Youth Justice Performance and Reporting*, Department of Justice and Attorney-General.

<sup>16</sup> Uniting Church in Australia, Queensland Synod, 2007, *Seventeen year olds in adult prisons*, Resolution of the 26th Synod, Minutes of the 26th Synod, May 2007, pp 32-33.

The Uniting Church in Queensland is actively and deeply involved in supporting young people who are at risk of being or are involved with the youth justice system, and their families. This occurs at the community level through 250 local congregations and faith communities, as well as through extensive formal service provision by our schools and Uniting Church agencies.

## Schools

The Uniting Church is involved in a number of schools across Queensland, with 20,000 students. The school students come from a range of socio-economic backgrounds and social situations, some coming from very remote areas of the state.

## Wesley Mission Brisbane

Wesley Mission Brisbane (WMB) offers a wide range of practical programs for vulnerable teens and young adults, encouraging them to be the change agents in their own life, and providing them with the support they need to achieve those changes. WMB has had long term involvement and success in programs working holistically and collaboratively with other agencies.

WMB firmly believes that punishment has little gain in relation to changing a life course. Rather, the earliest possible intervention, based on trust and relationship building together with practical support, conducted over a timeframe that meets individual needs, is the best and most productive approach for long-term change and short-term gain in re-engaging with the community.

### Geoff's story

*Geoff is a young adult whose family has a history of incarceration and interaction with the justice system. He had been in and out of youth emergency accommodation for years. He became involved in the justice system and received a two year youth justice order.*

*WMB became involved, providing support to Geoff over several years, in partnership with a number of other agencies and government departments. Through this intensive support he was able to complete his youth justice order without reoffending. He received the Duke of Edinburgh Award and became a mentor for other young people. Geoff also completed a Diploma of Community Service and is now a youth worker in residential care programs. He has been successful in gaining kinship care of a family member. Geoff was involved in a supported housing program, where he was a member of the Tenant Steering Committee. He then progressed through Community Housing and has now secured his own private accommodation.*

*Thanks to intensive holistic support, Geoff has been able to change the path of his life<sup>17</sup>.*

## UnitingCare Community

UnitingCare Community<sup>18</sup> provides a range of primary, secondary and tertiary services that support children, young people and families within the Queensland community.

### Townsville services

*Under the Queensland Government Youth-at-Risk Initiative, UnitingCare Community provides a number of targeted youth programs in the Townsville area that seek to engage with young people aged 10–18 years and prevent their involvement in statutory services like youth justice. They have contact with around 400 young people a month.*

*One part of the Detour Program engages with young people in the Cleveland Detention Centre in order to develop relationships that will connect young people to pro-social activities post release. UnitingCare Community's Youth Engagement Program engages with young people through local parks, alternative education programs and schools. It provides outreach to young people engaging in high risk behaviours, seeking to enhance their health and wellness and link them with physical activity as a preventative strategy.*

UnitingCare Community also provides a range of out-of-home care and family intervention and support services that work directly with children, young people and families involved in the child protection system, where there is an increased risk that young people will become involved in the youth justice system.

Other UnitingCare Community programs support children, young people and families with regard to domestic and family violence, sexual abuse, family separation, homelessness and suicide prevention, intervention and postvention. Exposure to emotional and physical adversity may increase the risk of children and young people developing high-risk or offending behaviour.

Primary services, such as generalist counselling, neighbourhood centres and community development and support programs aim to build social capital within communities that also impacts on reducing the number of young people coming into contact with youth justice services.

UnitingCare Community's Prison Ministry provides pastoral care to men and women in 12 adult prisons. Some of these people had involvement with youth justice services in the past and were failed by a system which did not provide the support they needed to be able to change their lives.

<sup>17</sup> Name has been changed for privacy reasons; however, details are used with permission.

<sup>18</sup> Uniting Care Community is part of UnitingCare Queensland, the health and community service provider of the Uniting Church in Queensland.

## Conclusion

The Uniting Church in Queensland is encouraged that the relevant Parliamentary Committee will examine the proposed reforms to the youth justice system, and urges an open and accountable process of extensive consultation.

The Uniting Church in Queensland has extensive informal and formal experience in working with young people in crisis and their families. We are keen to work closely with the Queensland Government in addressing the needs of young people who have become or will be at risk of becoming involved in the youth justice system.

## Contact

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