

Your Ref:
Our Ref: 825

18 October 2019

The Hon Roger Jaensch MP
Minister for Human Services
Level 5, Salamanca Building
4 Salamanca Place
HOBART TAS 7000

By email: roger.jaensch@parliament.tas.gov.au

Dear Minister

Re: Integrated Therapeutic Youth Justice Model, including Youth Justice Detention

I am writing to you to express my concern about the lack of an overarching Strategic Plan governing the implementation of an integrated therapeutic youth justice model generally in Tasmania, and specifically at Ashley Youth Detention Centre (AYDC).

As you know, my general functions as Commissioner for Children and Young People, which are outlined in s8(1) of the *Commissioner for Children and Young People Act 2016* (“the CCYP Act”) are:

- (a) advocating for all children and young people in the State generally;
- (b) acting as advocate for a detainee under the *Youth Justice Act 1997*;
- (c) researching, investigating and influencing policy development into matters relating to children and young people generally;
- (d) promoting, monitoring and reviewing the wellbeing of children and young people generally;
- (e) promoting and empowering the participation of children and young people in the making of decisions, or the expressing of opinions on matters, that may affect their lives;
- (f) assisting in ensuring the State satisfies its national and international obligations in respect of children and young people generally;
- (g) encouraging and promoting the establishment by organisations of appropriate and accessible mechanisms for the participation of children and young people in matters that may affect them;
- (h) such other functions as are prescribed.

I may also make recommendations in respect of the effects of any legislation, proposed legislation, documents, government policies, or practices or procedures, or other matters relating to the wellbeing of children and young people.¹

¹ CCYP Act, s11(2)(d).



As you are aware on 4 July 2019, I wrote to Ginna Webster, then Secretary of the Department of Communities:

- a) outlining my understanding of the public commitments made by Government and actions taken as part of the move towards the introduction of an integrated therapeutic youth justice model in Tasmania; and
- b) requesting a briefing on actions completed and ongoing progress towards the implementation of an integrated statewide therapeutic youth justice model, including at AYDC.

I also asked for information about the existence of any overall implementation plan developed to guide actions and monitor progress. For your convenience, I **attach** a copy of that letter.

On 3 September 2019 I received a verbal and written briefing from officers from Children and Youth Services on a number of changes underway or planned at AYDC. However, in my opinion, there is still a need for the development of a structured and coordinated approach to the implementation of a therapeutic model of custodial youth justice which also brings together other initiatives of relevance to the broader youth justice system in Tasmania. This is required to ensure a clear acknowledgement that detention is only one element on a continuum of youth justice services and is an element of last resort. The need to position youth justice detention at one end of the continuum, and as a last resort, was described clearly in the October 2016 *Custodial Youth Justice Options Paper* commissioned by the Tasmanian Government from Noetic Solutions.² In that Options Paper, Noetic points out the limited intensive support options in Tasmania for children and young people before detention:

- There are no graduated supported and secure sentencing options under the *Youth Justice Act 1997*, including more appropriate bail accommodation for low-risk children and young people.
- There are no mandated drug, alcohol and mental health residential services with a specific focus on young people, which could address the risk factors for offending behaviour (including secular options).
- There is a lack of prevention, early intervention and diversionary services available for children and young people at risk across Tasmania.³

A lack of support for transition from youth justice detention was also noted as a factor needing to be addressed as part of the implementation of a therapeutic approach to youth justice in Tasmania.

The importance of adopting a system-wide approach has been acknowledged by Action 3 of the *Youth at Risk Strategy*:

Action #3 – Investigate an integrated and flexible therapeutic custodial youth justice system.

The State Government will work with the sector to identify the best integrated therapeutic models for juvenile detention in Tasmania. This will include further consideration of models that offer a range of additional accommodation options and would include differing levels of security. This action will also consider linkages to flexible learning, therapeutic interventions, alcohol and drug service, mental health and step-down transition support from detention.

² Noetic Solutions Pty Ltd, *Custodial Youth Justice Options Paper - Report for the Tasmanian Government Department of Health and Human Services*, October 2016.
https://www.dhhs.tas.gov.au/data/assets/pdf_file/0018/268020/99010_Custodial_Youth_Justice_Options_Paper_October_2016_-_Report_for_the_Tasmanian_Government.pdf

³ *Ibid*, p13.



Further, Action 4 under the *Youth at Risk Strategy* focuses on providing support to young people on bail and for support for them to transition out of detention:

Action #4 - Provide ongoing support for young people on bail and youth transitioning out of juvenile detention.

Ernst & Young conducted a study to measure the social return on investment in Tasmania for the Bail Support and Transition from Detention programs. The study found that for every dollar invested more than three times is returned in social and economic value, with around a third of the benefits in the form of reduced sentencing costs and two thirds of benefits as 'social value' which are derived from helping young people return to education, developing positive social connections, improving their physical health and becoming more employable. The State Government will continue to invest in these types of programs into the future.

Conclusion

In my respectful opinion, there is an urgent need for the development of an overarching strategic plan guiding all actions relevant to the realisation of an integrated therapeutic youth justice model in Tasmania. This would in turn provide a framework within which an implementation plan could be developed, incorporating targets and regular public reporting against progress. It could also provide a mechanism for responding to and implementing recommendations for improvement, such as those made by the Custodial Inspector in his recent *Custody Inspection Report – Inspection of Youth Custodial Services in Tasmanian, 2018*, in a structured and coordinated way.

I would welcome the opportunity to discuss this with you as a matter of priority.

Yours sincerely

Leanne McLean

Commissioner for Children and Young People

cc *The Hon. Elise Archer MP, Attorney-General*
Michael Pervan, Secretary, Department of Communities

Your Ref:
Our Ref: 825

COPY

4 July 2019

GINNA WEBSTER
Secretary
Department of Communities Tasmania
Marine Board Building
Franklin Wharf
HOBART TAS 7000

By email: ctecc@communities.tas.gov.au

Dear Secretary

Re: Request for Briefing – Integrated Therapeutic Youth Justice Model, including Youth Justice Detention

I am writing to you to seek an update and briefing on progress to implement an integrated therapeutic youth justice model, including at Ashley Youth Detention Centre (AYDC).

As you know, my general functions as Commissioner for Children and Young People, which are outlined in s8(1) of the *Commissioner for Children and Young People Act 2016* ("the CCYP Act"), are:

- (a) advocating for all children and young people in the State generally;
- (b) acting as advocate for a detainee under the *Youth Justice Act 1997*;
- (c) researching, investigating and influencing policy development into matters relating to children and young people generally;
- (d) promoting, monitoring and reviewing the wellbeing of children and young people generally;
- (e) promoting and empowering the participation of children and young people in the making of decisions, or the expressing of opinions on matters, that may affect their lives;
- (f) assisting in ensuring the State satisfies its national and international obligations in respect of children and young people generally;
- (g) encouraging and promoting the establishment by organisations of appropriate and accessible mechanisms for the participation of children and young people in matters that may affect them;



(h) such other functions as are prescribed.

I may also make recommendations in respect of the effects of any legislation, proposed legislation, documents, government policies, or practices or procedures, or other matters relating to the wellbeing of children and young people.¹

Having now been in this role for over six months, I have had time to research and consider the background to the development of the Tasmanian Government's policy to implement a therapeutic model for youth justice in Tasmania.

As you are no doubt already aware, the need for a therapeutic approach to youth justice detention in Tasmania was highlighted by former Commissioner for Children and Young People, Mark Morrissey, in his 4 February 2016 Advice to the Hon Jacque Petrusma MP, then Minister for Human Services. A copy of Commissioner Morrissey's Advice is **attached** for your reference. In that Advice, which I endorse, Commissioner Morrissey advocated for the pressing need to implement a therapeutic approach to the provision of youth justice detention in Tasmania and outlined the key elements of such an approach based on global best practice.

As I understand the situation, the following public commitments have been made and actions taken as part of the move towards the introduction of a therapeutic youth justice model in Tasmania:

- On 6 April 2016, in response to Commissioner Morrissey's Advice, then Minister for Human Services, the Hon Jacque Petrusma MP, announced the Hodgman Liberal Government's support for a therapeutic approach to youth justice detention to help young offenders make meaningful changes and to return to their communities as strong, resilient members of society. The Government committed to an investment of \$200,000 for the development of a Youth at Risk strategy and implementation plan, *"which will have as its main component a redevelopment plan for custodial youth detention in Tasmania [which would include] the key ingredients for a truly therapeutic environment for young people in custodial detention."*²

It was further announced in August 2016, that \$300,000 had been allocated to appoint a Senior Change Manager to assist in a comprehensive change management process at AYDC, *"including staffing and leadership structures, staff capability, safety, risk management, training requirements, trauma-informed care models and culture."*³

- In June 2017, the Youth at Risk Strategy was launched, with a dedicated action related to the implementation of a therapeutic approach at AYDC:

Action #3 – Investigate an integrated and flexible therapeutic custodial youth justice system.

The State Government will work with the sector to identify the best integrated therapeutic models for juvenile detention in Tasmania. This will include further consideration of models that offer a range of additional

¹ CCYP Act, s11(2)(d).

² http://www.premier.tas.gov.au/releases/a_new_approach_to_youth_detention

³ http://www.premier.tas.gov.au/releases/ashley_youth_detention_centre_report



accommodation options and would include differing levels of security. This action will also consider linkages to flexible learning, therapeutic interventions, alcohol and drug service, mental health and step-down transition support from detention.

I understand that as a result of a recent internal review of the Youth at Risk Strategy, further work on four priority areas was flagged, including a therapeutic youth justice model, with an increased focus on bail supports, alternative sentencing options, case planning and effective transition pathways into the community from custody.⁴

- Prior to the March 2018 State election, Minister Petrusma announced that there would be an investment of \$7.28 million to fund a major redesign and upgrade of AYDC, and to “*continue to improve the model of care, as part of a modern, integrated state-wide therapeutic youth justice model.*”⁵ This investment was in response to one of the options canvassed in the October 2016 *Custodial Youth Justice Options Paper* commissioned by the Tasmanian Government from Noetic Solutions.⁶ The Minister also committed to further investigating other options raised in the Noetic Solutions report including:
 - the introduction of bail support programs, including accommodation support such as secure welfare options, to reduce reoffending while on bail, allowing low-risk offenders to remain in the community; and
 - expanding sentencing options to include a remand order for young people to have residential drug or mental health treatment for a mandated period.
- The investment of \$7.3 million for the major redesign and upgrade of AYDC was affirmed by the Hon Roger Jaensch MP, Minister for Human Services in June 2018. The Minister indicated that the redesign of AYDC “*will make it fit for purpose and continue to improve the model of care, as part of a modern, integrated statewide therapeutic youth justice model.*” Minister Jaensch also stated that “*significant work has already been achieved via the Ashley Youth Detention Centre Change Management Program to move to a less punitive, more therapeutic model of care. This will continue alongside and in alignment with the physical redesign.*”⁷

The Minister also mentioned the establishment of an Ashley+ Approach Working Group to “*scope the development and implementation of the Ashley+ Approach. This is an overarching therapeutic model for the management of young people in custody that is trauma informed, procedurally fair and evidence based.*”⁸

⁴ Department of Communities Tasmania, *Launch of Youth Matter & Update on the Youth at Risk Strategy*, 10 May 2019.

⁵ <http://www.tas.liberal.org.au/news/liberals-will-keep-ashley-open>

⁶ Noetic Solutions Pty Ltd, *Custodial Youth Justice Options Paper - Report for the Tasmanian Government Department of Health and Human Services*, October 2016, https://www.dhhs.tas.gov.au/_data/assets/pdf_file/0018/268020/99010_Custodial_Youth_Justice_Options_Paper_October_2016_-_Report_for_the_Tasmanian_Government.pdf

⁷ <http://www.rogerjaensch.com.au/investing-in-ashley-youth-detention-centre/>

⁸ <http://www.rogerjaensch.com.au/investing-in-ashley-youth-detention-centre/>



I also note the recent release of a Right to Information Decision in relation to the Ashley+ Approach, including a copy of the Ashley+ Approach report, and documents related to meetings of the Ashley+ Approach Working Group.

- In June 2018, the Tasmanian Government released its response to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse as presented in its final report of December 2017. In response to recommendation 15.3, the Tasmanian Government stated:

The Tasmanian Government accepts in principle this recommendation and notes that it has committed \$7.28 million into a redesign and upgrade of Ashley Youth Detention Centre (AYDC) to support this recommendation.

In the Tasmanian Government's First Year Action Plan 2018-19, for implementing the recommendations of the Royal Commission, activities for January to June 2019 include:

The design of the building upgrade at the Ashley Youth Detention Centre (AYDC) will ensure building design features address elements that may place young people at risk.

Continue to implement a therapeutic approach to the operation of the Ashley Detention Centre.

- During Budget Estimates before the House of Assembly on 5 June 2019, the Minister confirmed that work has been commissioned to consider how the facility at AYDC can be made fit for purpose and to align with a therapeutic approach. The Minister referred to a related report now with the Department of Communities for consideration and noted that input from providers of services will be sought in the development of the work plan and strategy for rolling out the redesign of the AYDC facility.⁹

Request for briefing

Considering the various activities currently underway or foreshadowed, I would appreciate a verbal or written briefing updating me on actions completed, and ongoing progress towards, the implementation of an integrated statewide therapeutic youth justice model, including at AYDC. In particular, I would like to understand whether there is an overall implementation plan which is guiding actions, and if so, I would appreciate receiving a copy.

Noting the overrepresentation of Aboriginal and Torres Strait Islander young people in youth justice detention, it would be helpful for the briefing to include information on any initiatives underway or planned at AYDC, or as part of the broader integrated statewide therapeutic approach to youth justice, to promote and uphold the rights of Aboriginal children and young people to connect with and exercise their culture.

⁹ Tasmania, *Estimates Committee A*, House of Assembly, 5 June 2019 (Roger Jaensch, Minister for Human Services), <http://www.parliament.tas.gov.au/ParliamentSearch/isysquery/d84e7984-f6a1-4572-a46b-8a7c9e75901a/3/doc/>



Please do not hesitate to contact me should you wish to clarify or discuss this briefing request.

Yours sincerely

Leanne McLean
Commissioner for Children and Young People

Attachment: Commissioner Morrissey "Memorandum of Advice – A Therapeutic Approach to Youth Justice Detention (4 February 2016)

cc *The Hon. Roger Jaensch MP, Minister for Human Services*

Level 1,
119 Macquarie St,
Hobart TAS 7000
phone (03) 6233 4520
fax (03) 6233 4515
childcomm@childcomm.tas.gov.au
www.childcomm.tas.gov.au



Our Ref: 508

Hon Jacque Petrusma MP
Minister for Human Services
Murray Street
Hobart 7000

COPY

4 February 2016

Dear Minister

Re: A Therapeutic Approach to Youth Justice Detention

As you know, my functions as Commissioner for Children pursuant to section 79(1) of the *Children, Young Persons and Their Families Act 1997* (the Act) include the following:

(fa) on the Commissioner's own initiative or on the request of the Minister, to act as an advocate for a detainee under the *Youth Justice Act 1997*; and

(fb) to advise the Minister on any matter relating to the health, welfare, education, care, protection and development of detainees under the *Youth Justice Act 1997*.

In my capacity as advocate for young detainees at Ashley Youth Detention Centre (Ashley) I believe I have a responsibility to bring to your attention the pressing need to implement a therapeutic approach to the provision of youth justice detention in Tasmania.

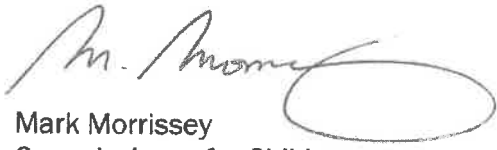
The therapeutic approach is globally accepted as best practice, and has been proven to provide better outcomes for young people in detention and upon their release. This approach is rights-based – policies and practices are informed by an understanding of the rights young people in detention have, those young people are made aware of their rights and of their fundamental responsibility to respect the rights of others.

I understand that the application of a therapeutic approach at Ashley will require commitment, perseverance and leadership from the Department and I am confident of their ability to achieve positive results for youth in detention.

I attach for your consideration a memorandum providing some background information on what a therapeutic approach to detention entails and how such an approach has been adopted in other jurisdictions.

I am available to discuss this matter in further detail and look forward to your reply.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mr. Morrissey', with a large, stylized circular flourish at the end.

Mark Morrissey
Commissioner for Children

Cc Mr Mike Pervan, Secretary, Department of Health and Human Services
Cc Mr Tony Kemp, Deputy Secretary Children and Youth Services

Attachment : Memorandum : Therapeutic Approach to Youth Justice Detention.



COMMISSIONER FOR CHILDREN'S OFFICE
MEMORANDUM

TO: HON JACQUIE PETRUSMA, MINISTER FOR HUMAN SERVICES
FROM: COMMISSIONER FOR CHILDREN MARK MORRISSEY
SUBJECT: A THERAPEUTIC APPROACH TO YOUTH JUSTICE DETENTION
DATE: 4 FEBRUARY 2016

A Therapeutic Approach to Youth Justice Detention

Background

The *Convention on the Rights of the Child* and UN rules on the administration of youth justice (*Havana Rules, 1990; Beijing Rules, 1985*) state that the aim of the youth justice system is to promote the well-being and best interests of the child.¹ As children differ from adults in their physical and psychological development, and emotional and educational needs, they require a different and appropriate response when in conflict with the law. This may mean that the traditional objectives of criminal justice, such as repression/retribution, give way to principles of rehabilitation and restorative justice when dealing with child offenders.²

The *Youth Justice Act 1997* is based on a restorative youth justice model premised on a belief that young people who offend should be accountable and accept responsibility for their actions, whilst recognising that they are children and therefore should have the maximum opportunity for rehabilitation. Consistent with the objectives and principles of the Act, where a child or young person is sentenced to a period of detention, their health, well-being and rehabilitation are all primary considerations in the administration of their detention. It is also important to note that the *Youth Justice Act 1997* also states that a young person in detention is not to be treated more severely than an adult.³

The Act therefore recognises that the two main functions of youth justice detention are preventative and therapeutic; and both need attention and resources to ensure a holistic and effective approach. The primary goal of preventative detention is to provide protection to the community and ensure public safety, noting that detention is to be used as a last resort.

¹ United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") (1985), General Principle 1.1; *Committee on the Rights of the Child*, General Comment No. 10 (2007) Children's rights in juvenile justice, para. 10; United Nations Rules for the Protection of Juveniles Deprived of their Liberty ("Havana Rules" (1990)), Fundamental Perspectives 1.

² *Committee on the Rights of the Child*, General Comment No. 10 (2007) Children's rights in juvenile justice, para. 10.

³ *Youth Justice Act 1997* section 5(1)(b)

Whereas the goal of therapeutic detention is to examine what detention can do to assist the young person to begin the rehabilitation process. These goals are not necessarily mutually exclusive; however the difficulty is integrating both into the daily practice of managing a youth justice detention facility.

In addition there are differing approaches on the most appropriate way to meet these goals, and how the detention process is conceived. Youth justice detention can be conceived as a "place" or a "process", or a combination of the two.⁴ Detention as a "place" focuses on the physical structure of detention including the buildings, bed capacity, security hardware, and square meterage, as well as the development of administrative and operational policies and procedures,⁵ all of which are essential to the day-to-day running of a facility. Detention as a "process" is equally, if not more important, as it focuses on the "how" of detention and the quality of the services, care, and relationships which are provided. The focus on both place and process is essential to the achievement of therapeutic detention.

What is a therapeutic approach to youth justice detention?

A therapeutic approach recognises the need to bring about behaviour change by facilitating and promoting personal development of young people in detention. It is not achieved by providing a standalone therapeutic program or programs, but is rather an approach to all aspects of the detention facility. This includes staff, the physical environment, policies and practices, and programs (education, recreation, counselling etc.). The environment in detention should be replicative of a family, as far as practicably possible, where the young person is provided with guidance and support, a sense of self, and with safety and security to encourage growth and development.⁶ The following are examples of how a therapeutic approach can be implemented across different aspects of a youth justice detention facility:

- **Staffing:** The most critical element in providing successful therapeutic detention is the quality of staff. This does not only refer to professional qualifications but also to their personal qualities and attitudes. Some of these qualities include; the ability to relate well to young people, a caring attitude, empathetic approach, professionalism, patience, and treating young people with respect and dignity. These qualities should apply to all staff in the facility, as all interactions between young people and staff can be an opportunity to build a therapeutic relationship.
- **Professional Development:** The professionalism and commitment of staff is essential to creating and maintaining a therapeutic and supportive environment for young people. Staff should be provided with ongoing personal and professional development and support, to ensure the maintenance of a quality service and to increase staff motivation. All staff should be trained in how to support and communicate with young people, particularly young people with a history of trauma. Clinical interventions should be based on best practice and staff should have the option to be provided with professional supervision and support, due to the nature of the work.
- **Assessment:** To ensure a thorough understanding of a young person's needs, a detailed assessment should be undertaken when a young person enters detention. The aim of the assessment is to comprehensively assess their physical and psychological well-being and identify areas where further attention may be required. This assessment should capture both the strengths of the young person, as well as the challenges they face, and identify clearly their aspirations and goals for the future.

⁴ Roush, D. W. (1996). Desktop guide to good juvenile detention practice: A research report. *Office of Juvenile Justice and Delinquency Prevention*.

⁵ Ibid.

⁶ Bowles, J. (2014). *What can be done? Residential therapeutic treatment options for young people suffering substance abuse/mental illness* The Winston Churchill Memorial Trust of Australia

- **Physical Environment:** Whilst it is fully appreciated that a detention facility needs to be externally secure, the inside of a detention facility can be therapeutic by providing an environment which is homely and inviting. The physical layout can facilitate a community feel by incorporating lounges and communal areas which replicate a home, and provide an environment where young people feel comfortable and safe. This can be achieved without compromising the safety and security of everyone at the facility.
- **Community:** Fostering a sense of a therapeutic community in detention can provide young people with the opportunity to develop open and trusting relationships with staff and other young people, which can be beneficial to changing behaviour. The attitudes and behaviour of the staff should encourage openness and honesty, as young people will quickly identify whether staff are genuine and committed. Shift changes between staff should be as non-disruptive as possible (rolling shift changes) to emulate the consistency of a home environment.
- **Participation:** Detention facilities need rules which are developed and imposed by the management, however this does not mean that young people cannot make suggestions or contributions to improve centre operation. Young people can be involved in centre management through regular meetings with staff, through youth representatives, or through regular feedback mechanisms. Young people should be aware of the rules, be able to input or take part in disciplinary discussions, and have access to an advocate at all reasonable times, and on a confidential basis. Young people should also be involved in all planning regarding their release. Participation should not be seen as tokenistic, and participation in daily activities such as making beds, cleaning their rooms/communal areas can prepare young people for life upon release.
- **Education:** Education in detention is not restricted to formal schooling. All adults who are connected with youth justice detention and who have contact with youth are involved in some aspect of education, and should therefore lead by example. Education should promote prosocial behaviour, through formal or informal instruction, including daily learning such as following rules, social skills and appropriate behaviour. Young people need to be given the opportunity to continue their education, ensuring it is relevant to their needs and abilities. The education options provided should be designed to prepare young people for their return to society, including vocational training which is relevant to future employment. Education activities should not be withdrawn as punishment, as this suggests education is a privilege, when it is a right.
- **Accountability:** Youth justice detention facilities need to be transparent and accountable, and young people in detention should be aware of their rights to contact regulatory agencies and independent authorities, such as the Ombudsman. Detention facilities need to be open to monitoring by external agencies, to ensure that young people's welfare in detention is maintained and monitored.
- **Complaints Mechanism:** Young people in detention should be aware and have access to a complaints mechanism. Complaints procedures should be discussed with young people upon arrival, including who to contact and how. Youth detention staff should ensure young people in detention maintain an awareness of complaints management processes, should promote access to these mechanisms, and assist young people to make a complaint to an external agency if they wish. It is important for young people to be advised of the outcome of their complaint.
- **Access:** Young people need to have access to correspondence and visits from family, friends and support organisations, and as much as possible maintain contact with their community whilst in detention. This contact is essential to prepare young people for their return to society following detention. Ideally, young people should be allowed

day release from detention to visit family and friends, or participate in educational, vocational or other activities. Visits from family and friends should not be fraught with concerns about strip-searching and should occur in a welcoming environment.

- **Programs:** The provision of well-run programs in detention (recreational, educational, vocational, counselling, therapy etc.) provides an opportunity for young people to participate, discover hidden abilities, release emotional and physical tension, keep busy and engaged, develop healthy habits and physique, develop new skills, and build self-confidence and rapport with staff. Recreation activities, in particular, have the greatest potential to increase self-esteem and enhance relationships between staff and young people, however they can also have the greatest negative effects if they are not well executed. Therapeutic recreation activities should be offered seven days a week and ideally include non-competitive activities, daily physical exercise, and constructive leisure time. Provision of recreation programs should be accompanied by a healthy and nutritious diet to promote good health and wellbeing.

Child safe

A young person in detention has a legitimate expectation of safety from abuse and neglect and to recourse to processes for expressing concern about inappropriate or abusive behaviour. The creation of an organisational culture which promotes safety and wellbeing – a child safe organisation- and operates in accordance with child safe principles – is essential.

All of these measures are consistent with the Australian Children's Commissioners and Guardians *Model Charter of Rights of Children and Young People Detained in Youth Justice Facilities*.

What are the outcomes of utilising a therapeutic approach?

A large scale meta-analysis (548 studies spanning 1958-2002) of the effects of youth justice approaches found that the therapeutic approach to youth justice (restorative justice, skill building, counselling etc.) was more effective in reducing recidivism rates than a punitive or control approach (deterrence, surveillance, discipline).⁷ Within therapeutic interventions, the interventions with the largest mean recidivism effects were mentoring, group counselling, cognitive-behavioural and behavioural skill building. Quality of implementation was also a key factor in the magnitude of the effects experienced, and factors such as high staff turnover, poorly trained personnel, and incomplete service delivery were associated with reduced outcomes.

Best Practice Examples

Outlined below is a number of best practice examples of therapeutic approaches to detention adopted internationally.

Missouri, United States

The Missouri model has been widely referenced for its success in implementing a therapeutic treatment model for youth corrections. Developed over a number of years, the model encompasses six core characteristics:

- Small facilities located near the young people's homes and families, rather than incarcerating youth in large, far-away, prison-like training schools.
- Young people are placed in small, closely supervised, groups which receive a rigorous group treatment process, which offers extensive and ongoing individual attention.

⁷ Lipsey et al. (2010). *Improving the effectiveness of juvenile justice programs: A new perspective on evidence-based practice*. Centre for Juvenile Justice Reform.

- Greater emphasis on keeping young people safe from physical and emotional abuse whilst in detention, through constant staff supervision and supportive peer relationships, rather than through coercion.
- Allowing young people to develop academic, pre-vocational and communication skills that increase their ability to succeed upon release. This includes investigation of the root causes of their delinquent behaviour and new competencies to acknowledge and solve problems.
- Involving family members in the treatment process and using them as allies in planning for success upon release, rather than keeping families at a distance and treating them as a source of the young person's problems.
- Intensive support and supervision for young people transitioning out of detention, including aftercare planning prior to release and ongoing monitoring and support in the weeks post release.⁸

The outcomes of the program illustrate significant gains in improving safety for young people in detention, increasing educational achievements, increasing positive reintegration back into the community, reducing recidivism rates, and achieving all of these outcomes at a relatively low cost.

Juvenile Detention Alternatives Initiative (JDAI), California, United States⁹

In 1992, the Annie E. Casey Foundation launched a multi-year, multi-site project entitled the Juvenile Detention Alternatives Initiative (JDAI) with the aim of demonstrating that jurisdictions could establish more effective and efficient systems to accomplish the purposes of youth justice detention.

When the JDAI began, the Sacramento facility was using pepper spray to intervene in behavioural incidents, reflecting a climate in which staff felt unsafe and overwhelmed about dealing with aggressive or "acting out" youth. During the course of the program, through determined administrative leadership, staff received additional training on de-escalation techniques and communication skills. They reviewed incident reports with the faculty psychiatrist and discussed different methods for avoiding crises or responding in a better way. A new behaviour management system was implemented that focused on rewarding positive behaviour instead of punishment. Staff learned that they could prevent violent incidents and effectively intervene without pepper spray. The administrator then eliminated the use of pepper spray in the detention centre. Through conscious efforts to change attitudes and provide staff with the skills needed to succeed, Sacramento adopted much more humane behaviour intervention techniques.

New Zealand

Similar to the approach taken in Tasmania, the New Zealand youth justice system emphasises diversion from courts and custody, and holding young persons accountable. The system aims to facilitate rehabilitation and reintegration of young people, provide support for their families and serve the needs of victims. The most serious order for youth persons which can be imposed in New Zealand is a supervision with residence order, which is a detention order to be served in a secure youth justice centre. The minimum sentence of detention is 3 months and the maximum is 6 months.

In one youth detention centre in New Zealand (Te Puna Wai), young people have the opportunity to provide input into the everyday life of the centre through regular youth council meetings.¹⁰ Two youth representatives then attend a meeting with management to discuss the youth council decisions and concerns.¹¹ The young people in the detention centre

⁸ The Annie E. Casey Foundation, (2010). *The Missouri Model: Reinventing the practice of rehabilitating youthful offenders.*

⁹ The Annie E. Casey Foundation, (1999). *Improving conditions of confinement in secure juvenile detention centres.*

¹⁰ Bowles, J. (2014). *What can be done? Residential therapeutic treatment options for young people suffering substance abuse/mental illness* The Winston Churchill Memorial Trust of Australia

¹¹ Ibid.

decided to raise money for local charities and were able to make jewellery and artwork to sell, so that the money raised could be donated. Young people have also made suggestions to management on improving the procedure on admission which was then acted upon by detention centre management.¹²

Conclusion

As a result of observations I have made over the 12 months period I have been performing my role of Advocate for young people detained at Ashley, I am firmly of the view that it is now timely to reconsider implementing evidence informed policies and processes for young people at Ashley. Adoption of a therapeutic approach to youth detention as described in this Memorandum has the potential to improve the outcomes for young detainees upon their release. There is no doubt that policies and procedures which are not informed by the therapeutic approach described have the capacity to entrench anti-social behaviour and do nothing to reduce recidivism.

I trust that the issues addressed in the memorandum will be of assistance.

Mark Morrissey
Commissioner for Children

¹² Ibid.