



the Australia and New Zealand
School of Government

Victoria's Youth Justice System: Where to next?

Insights from ANZSOG's Towards Strategic Leadership Program 2016



Foreword from Live Case Study facilitators

Towards Strategic Leadership and the Live Case Study method

The Towards Strategic Leadership (TSL) program is specifically designed for experienced managers who are moving into or have recently moved into public sector senior executive leadership roles. Participants are given the opportunity to examine different approaches to decision-making and leadership.

A Live Case Study (LCS) is an impactful, illustrative exercise that moves people from the abstract work of theory into the complexity of the lived world. By engaging with a range of stakeholders in relation to a complex adaptive challenge, participants get to see how problems are played out in practice. They experience the passion, purpose, innovation, confusion and avoidance first-hand.

The LCS on Victoria's youth justice system

During the course of this LCS, eight small teams of TSL participants collectively spoke with 20 expert contributors (Annex A). All discussions were covered by the Chatham House Rule.¹

Armed with these accounts, participants were required to deepen their understanding through further discussion and analysis in three large 'presentation groups', each of which was constructed to include participants who had heard from all 20 expert contributors. The groups were given one night to produce a series of presentations that were delivered the following morning to stakeholders, including many of the expert contributors from the previous day.

The participants' task was to share their learnings, provide their thoughts and perspectives, and frame to the LCS stakeholders the adaptive challenges they saw the system as facing today. An adaptive challenge is a disparity between the values people in a system hold and the reality of the situation they face, that cannot be reduced by the application of technical means and known solutions.

The purpose of this paper

Here we have captured some of the insights and discussion points identified by participants and expert contributors during this process. We have organised the insights into four themes that came through strongly in the presentations to stakeholders:

- Changing the narrative
- Early intervention
- Improving the current system
- Lack of shared vision

Youth crime and youth justice is a vast and complex policy area, and we understand that our TSL participants will not have been able to talk to all relevant stakeholders, cover all relevant angles, or 'solve' the problem in their two days of immersion. The aim of this work is to platform the issues that TSL participants felt had significance in this policy area, and to present them for discussion. The insights presented here are not attributable to individual TSL participants, expert contributors, or the School.

The paper was compiled by ANZSOG Research Fellow Sophie Yates for TSL facilitators Paul 't Hart and Robbie Macpherson. ANZSOG gratefully acknowledges the assistance of Ian Lanyon (Director, Secure Services at the Department of Health and Human Services) in designing the LCS and facilitating access to stakeholders.

¹ "When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed."

Victorian youth justice: facts and figures

Who?

- In Victoria, children over the age of 10 can be charged with a criminal offence. The youth justice system responds to young people aged 10-17, and some between 18 and 20.
- Victoria has a 'dual track' system: some 18-20-year-olds convicted of serious offences can be detained in a youth justice centre instead of an adult prison if the court believes the young person has reasonable prospects for rehabilitation, or is particularly impressionable, immature, or likely to be subjected to undesirable influences in an adult prison.²

How many?

- Fewer than 1.5% of Victorian 10-17 year olds are involved in any way with the criminal justice system, and fewer still are subject to supervision orders. There is a steady trend and reduction in these numbers (see Figure 1).
- However, Victorian Aboriginal and Torres Strait Islander youth continue to be significantly overrepresented in its youth justice system. Fewer than 2 per 1,000 non-Aboriginal young people are subject to detention or community-based supervision, whereas the rate for Aboriginal and Torres Strait Islander youth is roughly 12 per 1,000.³ Pasifika and Sudanese/South Sudanese youth are also overrepresented.⁴

What are their backgrounds?

- The annual survey of 1094 young people subject to youth justice supervision on a given day in 2015 showed that:
 - 15% resided in out-of-home care prior to their involvement with youth justice.
 - 21% had a current child protection order.
 - 44% had been subject to a child protection order at some point in their lives.
 - 55% had offences against the person as their primary offence category.
 - 49% were aged 13-15 when they first became involved with youth justice. Of this cohort, over half had a previous child protection order and nearly a third had a current child protection order.⁵
- The Australia Institute of Health and Welfare found that young people most likely to be under youth justice supervision include young men, Aboriginal young people, or young people whose first experience of supervision occurred as a very young adolescent.

What are the principles for response?

- The Victorian Department of Health and Human Services (DHHS) recognises that responding to complex trauma is central to achieving positive outcomes for young people.
- Diversion efforts are embedded across the service system, and sentencing principles require the judiciary to consider custodial options as a last resort.

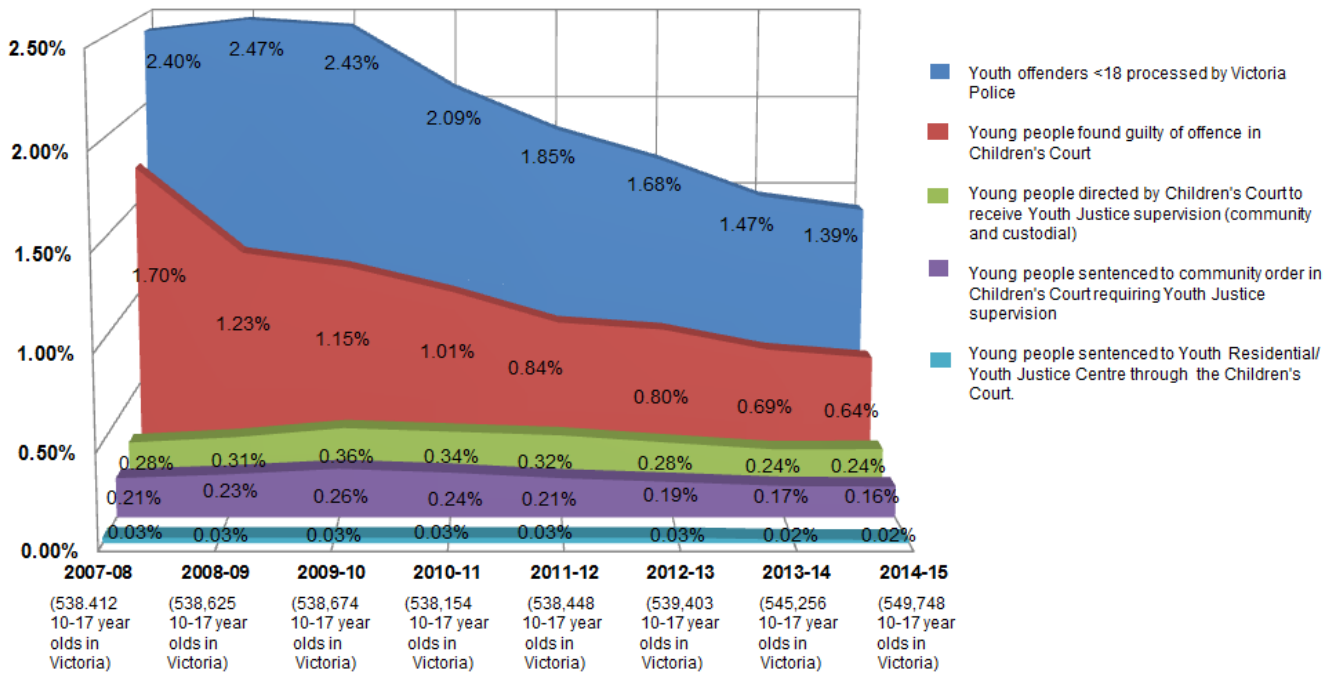
² DHHS (2016) *Youth Justice in Victoria*. Available at http://www.dhs.vic.gov.au/__data/assets/pdf_file/0020/660413/Youth-Justice-in-Victoria-2016.pdf.

³ Department of Health and Human Services (DHHS), figures provided to ANZSOG.

⁴ Centre for Multicultural Youth (2014) *Fair and accurate? Migrant and Refugee Young People, Crime and the Media*. CMY: Melbourne.

⁵ DHHS, figures provided to ANZSOG.

Figure 1. Percentage of 10-17 year olds involved with the criminal justice system⁶



⁶ Graph provided by DHHS.

1. Changing the narrative

Key thoughts:

- The public narrative on youth justice is about youth crime, gangs, and public safety
- The system-internal narrative is about duty of care, trauma-informed responses, and listening to young peoples' voices
- Public pressure, especially through the media, is undermining the current government's progressive tendencies

The public narrative

All participants observed the stark difference between the media-driven community conversation on youth crime, and the trauma-informed, rehabilitation-focused narrative of the professionals that operate within the youth justice system. On the one hand, the sense from the media is that car-jackings, home invasions and youth gangs sell newspapers because they are what the public wants to read about (see Figure 2). In turn, stories about youth crime and disorder featuring emotive language such as 'thugs' and 'crime spree' fuel fears of the threat to public safety posed by young people who are 'out of control'. These fears by their very nature lead to a demand for punitive approaches, and make trauma-informed and strength-based approaches seem 'soft on crime'. Prevention is seen as a luxury that society cannot afford in the present 'crisis' of youth criminality: as one stakeholder commented, "only when people feel safe can we start to look at prevention".

Figure 2. Youth crime front page⁷

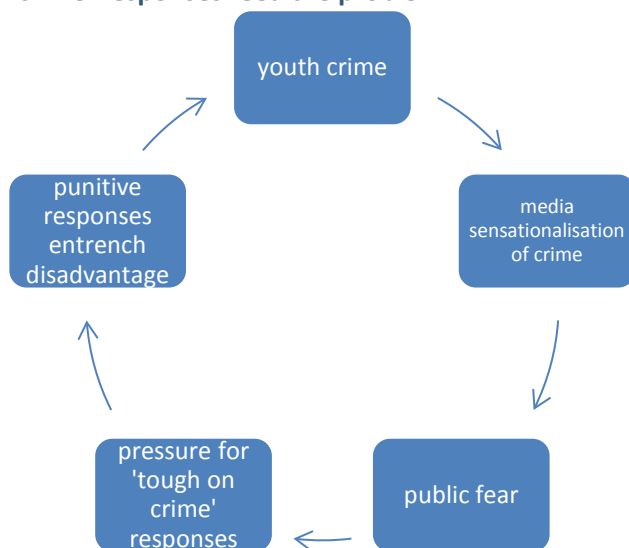


⁷ Herald Sun, 24 October 2016.

Unfortunately, research evidence shows that ‘tough on crime’ responses have little, or in fact detrimental, effects on youth crime.⁸ Responses that punish and don’t rehabilitate serve to entrench disadvantage and further disenfranchise vulnerable young people, leading to more crime and feeding into the cycle depicted in Figure 2. There is also a racial disadvantage angle here, as disproportionate focus on young offenders from some ethnic groups (e.g. Sudanese and South Sudanese) increases the marginalisation of those communities.⁹

As one key stakeholder commented, in the context of media sensationalism: “The *Herald Sun* is the greatest recruitment page for kids to join gangs”.

Figure 3. ‘Tough on crime’ responses feed the problem



In presenting their insights, one group felt a role-play could best get the point across:

Editor [on the phone]: “Hello? Have you got that youth justice story for the front page on Saturday? What?? What do you mean ‘diversion and education’? No-one’s interested in that crap. How am I going to sell some papers with that? Crime’s what they want. I want stories about car-jackings, house invasions, youth gangs. I want law and order, I want people angry and fired up!”

Jo/Joe public: “I’m scared. I don’t want people breaking into my house. Where are the parents? If they want to live in Australia they should be obeying our laws or sent home. What’s the government doing? We need more police to lock them up, we’re too soft on these kids. They need some discipline. Schools are failing them and they’re ending up on the streets stealing our cars.”

⁸ Buchanan, L. and Jackomos, A. (2016) *Opinion Piece: NT footage reminds us the end result of a ‘tough on crime’ approach to children*. Commission for Children and Young People, Victoria. Available at <http://www.ccp.vic.gov.au/downloads/opinion-piece-ccyp.docx>.

⁹ Centre for Multicultural Youth (2014) *Fair and accurate? Migrant and Refugee Young People, Crime and the Media*. CMY: Melbourne. See e.g. “[Terrified staff barricade themselves in an office as armed CHILDREN ‘linked to notorious the African Apex Gang’ run riot for two hours at youth jail](#)”, *Daily Mail Australia*, 12 September 2016.

The system narrative

On the other hand, staff members from the youth justice system talked consistently of collaboration and evidence-based, trauma-informed and culturally diverse responses. Young offenders are seen as receiving appropriate consequences and support to improve their lives, rather than punishment for their wrongs. But the public narrative does not distinguish strongly enough between the youth and adult justice systems. As one group noted:

It seems clear that the youth system has a very different philosophy to the adult system. It's not focused on punishment, but we don't think the punters see it that way.

Amplifying young people's voices

Voices are a very important component of changing public narratives. One element of the changing story of domestic and family violence in Australia has been the increasing attention paid to the stories of victim/survivors, leading to an understanding of their plight and a sense of public commitment and responsibility to help improve the situation. This is more challenging in the case of youth justice, partly because the children are seen as perpetrators rather than victims and thus do not immediately invite sympathy.

The reality is much more complex and troubling. Perhaps the most powerful experience TSL participants had in the course of this case study was the opportunity to visit the Parkville youth justice facility and hear the stories of these young people firsthand. As stakeholders pointed out, the evidence is clear that prior to any wrongdoing on their part, most of these children have experienced violence, trauma and exclusion – “they’ve first been victims”, and “hurt people hurt”. Secondly, amplifying the voices of the children is difficult due to ethical considerations; these vulnerable young people cannot be Rosie Batty-style figureheads.

“The old saying goes that it takes a village to raise a child, and we think the point has to come where we accept that we are all part of that village, the whole of society is that village and should take responsibility for these children.”

Shifting the public narrative

Forging a shift in the public’s understanding of juvenile crime and the ways in which it should be addressed will be difficult. But it is not impossible: there are cases where seemingly hardened and unhelpful public beliefs and behaviours have been modified successfully, in areas such as speeding, drink driving, skin cancer, and smoking. Rather than belittling those who hold genuine fears, the system should engage them, listen to them, educate them, and show them how things can be different. Exposing citizens and news editors to some of these children and hearing their stories would be powerful, although this would have to be approached carefully. Finding respected community figures to act as public champions for a progressive approach to youth justice issues would be another device to move the public narrative away from ‘us and them’, fear and safety, towards a concept of recovery from trauma, of collective responsibility, rehabilitation, and investment.

2. Early intervention

Key thoughts:

- The system is focused on the acute end
 - Unanimous agreement from participants that early intervention would have the biggest impact on outcomes
 - Better use of data collection, linkages and analysis should guide these efforts
 - Preventions and early intervention efforts should focus on families, not just individual young people
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“You can’t arrest your way out of it”

There’s an understandable focus on the acute, but the evidence suggests the most gains are to be made *before* young people start offending – “what needs to happen is upstream” of the youth justice system, argued one group.

Despite the great work of its various component parts, youth justice is primarily focused on treating the symptoms, which doesn’t address the underlying causes.

This change needs to be delivered by the stakeholders, who are unfortunately quite disparate and only take carriage of very small pieces of the puzzle (see section 4 on the complexity of the system). There is already a good consensus on the need for an upstream focus, but stakeholders separately have little or no ability to achieve change because childhood and early childhood responsibilities are spread across so many policy areas. There are opportunities to link and leverage other government reform initiatives (e.g. family violence) – many of the Royal Commission into Family Violence’s 227 recommendations overlap with family crisis, child protection and youth justice issues.

While the theme of early intervention came through at almost every expert contributor meeting, there was no clear consensus on what it actually meant. From the police to the courts to the service providers, the story was slightly different. TSL participants did not encounter any sophisticated, data-driven stories being told about early childhood development, but this seemed an ideal time period to focus interventions:

Let’s draw a line in the sand and attack the problem before it becomes a problem - a ‘prevention is better than cure’ sort of mantra.

The earlier we can start that process, start identifying those red flags and start taking action, the more impact we’re likely to have.

The pre- and post-natal period ought to be a crucial target for early intervention, with a focus on the family rather than on individual children. For example, couples expecting their first child could be provided with better services to strengthen their bond and help them know what to expect and decide how to allocate caring responsibilities fairly. Or carers taking on children who have been removed from their parents could receive training in caring for children who have experienced trauma. More sophisticated use of data, backed up by a strong commitment to evidence-based policy and rigorous evaluation, would inform these interventions. All participant teams noted the currently inadequate attention to the intelligent use of linked datasets to design responses and interventions:

For example, wouldn’t it be amazing if a young woman who had a bit of a history or trouble, backed up by research, received subtle interventions around the time of pregnancy without even knowing it; intervention by stealth. Rather than being told “you’ve got to go off and get yourself dealt with”.

An adaptive challenge: balancing safety and early intervention

Several expert contributors emphasised to participants the tension between the necessity for early intervention on the one hand and its dubious political status on the other. Participants acknowledged that it will be difficult to encourage more progressive views from the public when they hold understandable fears about what is going on around and to them right now:

It's not a vote winner in the same way as punitive law and order policy prescriptions, so the adaptive challenge is to convince society that long term investment in early intervention will actually improve its safety.

Most participants considered that there would always be a need for at least some elements of the current youth justice system, but that the focus should definitely be on early intervention. The approach should address current problems (e.g. repeat offending) more effectively, while preventing its future occurrence by dealing with the 'upstream' causes. One way this could potentially be achieved is to reframe the effort as a focus on early childhood programs, which may have more voter appeal.

3. Improving the current system

Key thoughts:

- There are opportunities for improvement in the areas of bail, remand, and sentencing
 - Young people need much better support post-release
 - Current, encouraging initiatives should be strengthened and built upon
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Participants who visited youth justice facilities observed very encouraging characteristics in the staff who worked there. Staff displayed hope, compassion, commitment, resilience, and gratitude for being able to help disadvantaged young people to a better path in life. They truly felt that staff were motivated by putting the needs and interests of kids first. There was also a lot of creativity and willingness to think systemically at the individual level.

When talking to the young people, participants observed a lack of literacy but a hunger for learning. They saw kids trying to move past their traumatic backgrounds. They saw kids light up when they talked about their own personal journeys. But it was clear that these young people need a high level of support once released, and the system is not able to provide this.

As one group observed:

At Parkville College we saw a common purpose and a successful collaboration that delivered real benefits, but those benefits were sadly delivered too often for so many of those children. The 'frequent flyers' demonstrate that the benefits are often lost when the young people leave Parkville; they're not properly supported to sustain those positive changes they've made.

Systemic inertia

Overall the system seems to be struggling to evolve from rigid and outdated structures, or adapt to emerging trends or patterns of offending. In particular, its design does not effectively support rehabilitation. Individual actors are striving to improve their own programs, but this only serves to highlight the gaps and inconsistencies within the overall structure. There are weaknesses and failures at all of the various transition points, such as during bail, or when a child leaves state care, or is released from custody:

We need a much more integrated, end to end case management approach, particularly at points of transition, into and out of care, into and out of custody. It can work quite well when it does all come together, we saw that at Parkville, but that is more than the exception than the rule.

Ideally the client unit would not just be the child, but the whole family. One of the consistent themes that we heard was that so much of the trauma in these children's lives is caused by family breakdown and family problems, so we need a view of the family as a whole rather than just a single child.

At its heart, society really needs a vision of inclusion. We need to move away from ideas of banning families, banning kids, excluding people from school, putting them out of sight out of mind into care – we need to take an approach that's based on bringing them back in, on integration.

Some ideas about parts of the system

At a number of different points in the system, participants saw potential for improvement or consolidation of promising initiatives.

Diversion: A key message across all of the stakeholders was that diverting people away from the youth justice system is important, and there are already some encouraging diversion initiatives in Victoria. Youth Justice Group Conferencing is aimed at reducing further or more serious offending, and lowering the

possibility of a custodial sentence being imposed. A sentencing discount is offered to young people who participate in a group conference attended by their family, victims and victims' family/representatives, police, and community members, and agree to the terms of an outcome plan. Eighty percent of young people who go through that process do not reoffend in the subsequent two years – compared to 43% of those receiving custodial sentences – so there are strong indicators about the benefits of this program.¹⁰

More recently, the Victorian Government has funded a youth diversion program in the Children's Court that will target young people who acknowledge their offences and have little or no history of offending. The aim is to have their criminal matters successfully dismissed.¹¹

Victoria Police also operates a number of diversion initiatives, such as formal and informal cautions and the court-based program ROPES.¹²

While these programs are certainly encouraging, many are limited in scope and locality or have insecure funding. Participants advocated for long-term funding for evidence based initiatives, which involves picking up on some of this work being done, extending it where possible, and ensuring that there is data collection to support evaluating the effectiveness of these programs.

Bail and remand: Relatively high numbers of young people charged with offences are on remand rather than out on bail, often because there is no safe place for them to go. This is far from ideal, as young people can make unhelpful peer connections while on remand, and experience things that heighten rather than divert their offending trajectory. Remand also disrupts children's support networks and engagement in education. Participants felt that the government should examine the scope to use more community accommodation to avoid remand. Discreet electronic monitoring devices might also facilitate bail.

At the Children's Court, the Koori Court is another of those initiatives that's attempting to adapt and provide, within the rigid structures, but it's limited in its capacity to provide that more tailored and nuanced approach, because of the overarching system that we've already described. The judges and the magistrates, they don't want to lock people up on remand, but a lack of services and accommodation options makes them feel like they have no choice.

Participants also felt that bail conditions could be improved to better support community engagement (e.g. attending sports training)¹³ and ongoing education.

If bail is not possible, TSL participants felt that those on remand should have access to better support services. While therapeutic interventions are available for those who have been sentenced, young people on remand are not able to access the same services.

Sentencing: Victoria's 'dual track' system described earlier in this report is a good initiative, but should be extended. Sentencing should have a strong education focus; one creative solution could be to link sentencing to educational outcomes or other rehabilitation goals rather than time served.

Parole/transition: Our participants received the message that when young people leave the custody environment and go out on parole, the system does not support them with the transition services they need. Services should be related to need, and handover between services also needs to improve. Joining up the services would help to provide holistic support for these young people during this vulnerable period of transition.

¹⁰ Smart Justice (2014) [Diversion](#).

¹¹ Reducing youth offending by intervening early. Media release, Minister for Families and Children, 24 April 2016. Available at <http://www.premier.vic.gov.au/reducing-youth-offending-by-intervening-early/>.
<http://www.childrenscourt.vic.gov.au/jurisdictions/criminal/youth-diversion>

¹² Overall, T. (2013) [Why diversion leads straight to crime prevention](#). *Insight*, issue 8, VCOSS. Available at

¹³ Although here as well unhelpful media coverage can work against the positive aspects of bail conditions, for example the [coverage](#) of one magistrate's decision to relax bail conditions to allow a young offender to attend cricket training.

4. Lack of shared vision

Key thoughts:

- Broad consensus on what needs to happen, but no clear vision
- No political champion
- Youth justice is a small part of a very broad system

While all expert contributors agreed that things needed to change, it was obvious to all the presentation groups that stakeholders had no clear vision for a program that unified youth justice services. In this vacuum of a clear vision, the stakeholders – in a very committed and inspiring way – are attempting to do their best:

There seemed to be this huge amount of passion and will at the individual level, but at the institutional level the collective will seems a bit incoherent.

In addition, while the youth justice system enjoys broad political support, participants noted a lack of strong political will for systemic reform and evidence-based policy changes – where is youth justice’s political champion?

There did seem to be a broad consensus within the system about the overall objective, which is to keep young people out of the youth justice system. Consequently, there was an understanding that rehabilitation was key.

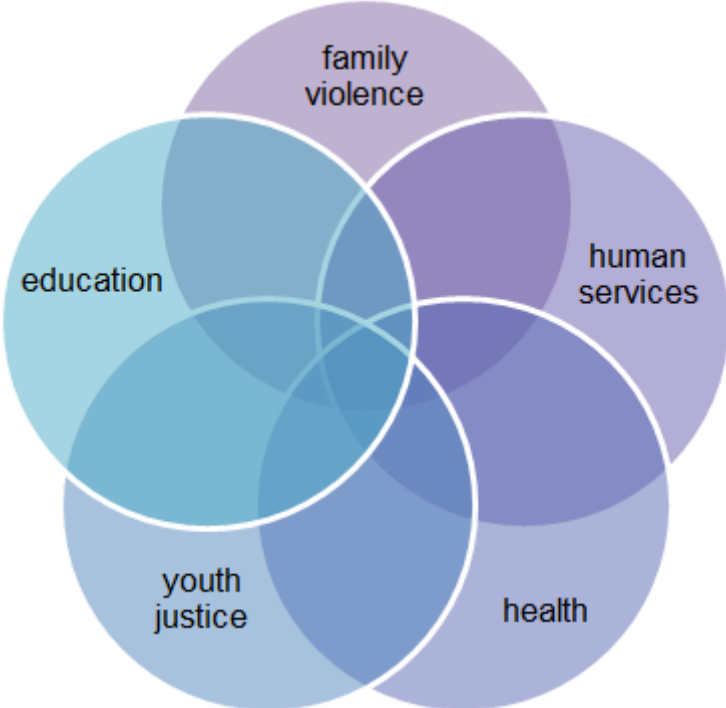
Figure 4. A system of many parts



Not only are there many parts to the youth justice system (Figure 4), but participants urged stakeholders to remember that youth justice itself is just a little part of a very large system that includes other policy areas including (but not limited to) human services, education, health, and family violence (Figure 5):

Unless you look at the big picture, and all the other bits and pieces that feed into it, you're only ever going to have part of the solution.

Figure 5. Overlapping systems



Provocative questions from live case study participants

What would happen if we had no power to remove kids from their parents?

Why are we bringing 10 – 13 year old kids into the youth justice system?

How would the outcomes change if there was a 'no exclusion' policy from education?

What if we had no power to incarcerate children?

Can the dialogue change from crime and punishment to welfare and community?

List of Experts Consulted

Ms Tracy Beaton
Chief Practitioner, Department of Health and Human Services

Mr Murray Robinson
Manager, Client Services – Secure Services, Department of Health and Human Services

Ms Rudy Gonzalez
Principal Practice Leader – Secure Services, Department of Health and Human Services

Justice Michael Bourke
Chair, Youth Parole Board

Mr Mark Madden
Deputy Director, Centre for Innovative Justice, RMIT

Mr Stan Winford
Principal Coordinator, Legal Programs, Centre for Innovative Justice, RMIT

Mr Wayne Muir
CEO, Victorian Aboriginal Legal Service

Mr Brendon Murray
CEO, Parkville College

Ms Emily Hurley
Lead Teacher, Parkville College

Mr James McCann
General Manager, Parkville Youth Justice Precinct

Ms Teresa Bonadio
Youth justice worker, Parkville Youth Justice Precinct

Mr Ian Lanyon
Director – Secure Services, Department of Health and Human Services

Ms Catherine Lane
Manager, Operations and Practice, Youth Justice and Forensics Unit, Department of Health and Human Services

Mr Gregory Levine
Reserve Magistrate, Children’s Court

Ms Liana Buchanan
Principal Commissioner, Commission for Children and Young People

Ms Carmel Guerra
CEO, Centre for Multicultural Youth

Ms Sarah Nicholson
Sector and Community Partnerships Manager, Centre for Multicultural Youth

Ms Julie Edwards
CEO, Jesuit Social Services

Ms Sarah Covill
Manager, Youth Justice, Jesuit Social Services

Mr Stephen Leane
Assistant Commissioner, North West Metro Region, Victoria Police

Ms Ruby Page
Cultural Support Worker, Department of Health and Human Services
