

Recommendations for reform case study examples

[Law](#), [Criminal Justice](#)



Executive Summary

This case study looks at the increasing numbers of as yet unsentenced (and therefore potentially either innocent or guilty of any offence) young people on remand in Queensland, where – in common with other states in Australia – “ Efforts are primarily focused on the rehabilitation of young offenders so that even after the establishment of guilt, detention is seen as a last resort.”(Mazerolle & Sanderson, March 2008) (p. 1). Because custodial remand brings young people formally into the justice system and into close contact with what Mazerolle & Sanderson refer to as “ deviant peers” (p. 1), it can increase the possibility of (re)offending, too. The authors also note that in several states – including Queensland – recent data indicates there are more young people on remand than there are already sentenced, which not only increases the required juvenile justice system resources requirements, but also makes it more difficult to implement intervention programmes, due to the fact that the guilt or innocence of those on remand has not yet been determined. According to Quixley (March 2008), as of 2006, young people on remand represented circa three quarters of those held in Queensland’s Youth Detention Centres.

Quixley notes that the youngsters in custody typically have a history of family problems and failures in school, and are from the lower socio-economic sector of the general population. Many have been involved with the authorities for child protection purposes and/or are in state care. Many others are homeless or have issues of mental health.

Quixley’s paper cites a number of causes contributing to the excessively high numbers of young people on remand in Queensland. These include:

- The current failure of the police and the courts to pursue diversionary options instead of custodial solutions for even minor and non-violent offences.
- The current practice of the courts setting difficult or unachievable bail conditions for youngsters charged with even low level offences.
- The government's plan to increase the number of beds by 48 in the Townsville Youth Detention Centre. Quixley claims that more beds there will inevitably mean more youths turning to adult crime, and that the policy is likely to make the Youth Detention Centres appear to be " kindergartens for a planned increase in adult imprisonment." (p. 5).
- The Queensland court system is overloaded while Community Services are under-resourced. The high expenditure requirement for Youth Detention Centres consumes funding that could be used for alternative and more cost-effective approaches to youth offending.

In terms of relevant legislation, youth justice in Queensland is implemented according to the provision of the Youth Justice Act 1992. According to " Youth justice" (updated July 2013), " The goal of youth justice is to provide a fair and balanced response to young people in contact with the youth justice system." The article continues by stating that this approach " holds young people accountable for their actions, encourages their reintegration into the community and promotes community safety." Unfortunately, it would seem from opinion researched that reintegrating the youngster into the community has taken a lower priority than holding them in custody. Also, according to Quixley (2008), by holding the great majority of them on remand instead of making greater use of diversionary options such as treatment interventions,

the community safety aspect is being jeopardised by increasing the probability of those on remand later progressing to adult crime. That situation prevails even though in the “ Youth justice” article mentioned earlier, includes reference to “ a wide range of options” available to the authorities, and that “ one-off” minor offences constitute the majority of offences encountered. The research undertaken suggests that even though the majority of offences may be minor, nonetheless too many individuals are being placed on remand.

This case study reviews the probable causes of this undesirable state of affairs and makes recommendations to correct any inappropriate policies and/or any injustice inherent in the present system, and to ultimately reduce the numbers of young people held on remand for what are often very minor first offences, by changing the approach of the various Queensland authorities involved.

Analysis of the Issues

One of the alternative options available to the Queensland juvenile justice system under the auspices of the Youth Justice Act 1992 (subsequently re-named the Juvenile Justice Act 1992), was the system of Youth Justice Conferences (YJCs). These YJCs were a technique used according to the principles of restorative justice, whereby the alleged offender would meet the victim under controlled conditions and in the presence of family members and other support personnel. The offender would be required to commit (legally-binding) to appropriate reparatory action. In the year 2011-12, according to Stone (Dec 2012), a total of 1691 court referrals comprised over half of the YJCs in that period. However, as Stone reports, the

Queensland Attorney General – Jarrod Bleijie – announced the system was to be discontinued “ by popular demand.” That, according to Stone, would result in the loss of 65 jobs, and seems unlikely to be by popular demand, as a survey of evaluation forms completed after every YJC showed a 98 percent satisfaction level from participants, including victims. As Stone comments, it is not as though Queensland is in the grip of a youth crime wave. He quotes figures from the Children’s Court that show around 15 percent less youngsters coming before that court, and 20 percent less being required to appear in the District Court. There were also 64 percent fewer juveniles processed in the Supreme Court. So, as Stone asks, why are the YJCs to be terminated? On cost grounds alone the YJC approach is at least 20 percent cheaper than using the courts. In Stone’s view, the ending of YJCs seems inexplicable. In this writer’s view, to end the YJCs seems to be very likely to cause an increase in the already excessive numbers of youngsters on remand in Queensland.

Those proposed government changes are also criticised by Janet White, Director of the Youth Advocacy Centre (Eather, May 2013), who says that the changes will not solve the problems because “ they do not address the real issues.” In her view the real issues are found in the lives of those young people, which Ms White says “ are characterised by socio-economic disadvantage, mental health issues, drug issues, family breakdown, abuse and neglect,” which according to evidence and research means that the need is for support services that focus on those issues, rather than simply locking up those youngsters. She claims that whereas the Queensland Government portray a youth crime wave, the facts are that youth crime has

decreased and that only around 1.5 percent of Queensland's 413,000 young people (aged 10-16) are likely to appear in court in any one year. In the same article Dr Angela Dwyer of the QUT School of Justice is quoted as saying that locking up these young people is likely to cause them to reoffend when they are adult. In contrast, she says, the restorative justice approach means that will be less likely.

It is apparent from the research undertaken that the informed view from those directly involved in youth justice is that the custodial approach (including remand) is counterproductive as a method of decreasing juvenile crime and increasing community safety. The impression gained by this writer is that statements and proposals made by the likes of Queensland's Attorney General are more about vote-catching than actually resolving the juvenile crime problems.

It also seems clear that if the Queensland Government continues along its present course in this regard, the numbers of young people on remand are likely to continue to increase, instead of heading in the opposite direction. It seems so obvious that having a youth detention centre population of which three quarters are merely on remand simply cannot be right, yet is apparently not obvious to those in government.

And Queensland in particular appears to have the dubious distinction of being the state having the highest percentage of young people on remand, when compared with Western Australia, Victoria, and Australia overall (Mazerolle & Sanderson, 2008) (p. 5). The authors also note (pp. 8-9) that some consider that the use of remand is inappropriate because as embodied in juvenile legislation, detention should be used only as a last resort, and

that action taken should always be in the child's best interests. In mitigation however, others point out that if a young person on remand is subsequently convicted and awarded a custodial sentence, the time spent on remand is counted and can mean immediate release following the court appearance. It must be said that in the view of this writer that is a weak argument, as it ignores the cases of many on remand who are not subsequently found guilty of any offence.

Having researched this topic, it has become evident that the juvenile justice system in Queensland needs somewhat of a shake-up. Continuing with the present policies that result in ever-increasing numbers of youngsters on remand – especially if the Attorney General's proposed changes are implemented – is simply not a viable option.

Recommendation 1: Modify the guidelines and practices for the police, such that arrests for minor and non-violent offences are as far as possible replaced by a caution, contingent upon the young person “ signing up” to diversionary programmes such as Youth Conferences, or other measures or treatment plans deemed appropriate and/or most effective. This will have the multiple benefits of:

- Freeing up court time by diverting more cases into services provided by community support, etc.
- Keeping more young people out of detention facilities, thereby reducing the likelihood of them reoffending by keeping them away from “ deviant peers.”
- Reducing the Queensland remand population from the present absurd situation where three quarters of Youth Detention Centre detainees are “ merely” on remand.

Recommendation 2: That Queensland's planned expansion of an additional 48 beds be cancelled, and the budget be diverted to be used to provide additional resources for the diversionary programmes that will be increasingly required and used if Recommendation 1 is adopted. Informed opinion is that rehabilitation is far, far preferable to incarceration, and will in the longer term make the community safer by not only reducing the numbers of young (re)offenders, but by avoiding many of them graduating into adult offenders. It has been shown that detention costs more per person per day than any other approach (Quixley, 2008, p. 3), so the changes should effectively be self-funding.

Recommendation 3: That where remand is determined to be the most suitable approach in specific instances, the case be brought to court as speedily as is practicable, so that those not subsequently convicted of any offence are detained for no longer than absolutely necessary.

References

Jabour, Bridie. (28 March 2013). " Juvenile reforms ' do more harm than good'." Brisbane Times. Retrieved from <http://www.brisbanetimes.com.au/queensland/juvenile-reforms-do-more-harm-than-good-20130327-2guqd.html>

Mazerolle, Paul & Sanderson, Jennifer. (March 2008). " Understanding Remand in the Juvenile Justice System in Queensland." Griffith University. Retrieved from http://www.griffith.edu.au/__data/assets/pdf_file/0016/338110/understanding-remand-in-the-juvenile-justice-system.pdf

Palmer, Thomas. (28 March 2013). " In the news: Queensland considers <https://assignbuster.com/recommendations-for-reform-case-study-examples/>

changes to juvenile justice system.” University of Queensland: Law Library Blog. Retrieved from [http://www.library.uq.edu.](http://www.library.uq.edu.au/blogs/law/2013/03/28/news-queensland-considers-changes-to-juvenile-justice-system)

[au/blogs/law/2013/03/28/news-queensland-considers-changes-to-juvenile-justice-system](http://www.library.uq.edu.au/blogs/law/2013/03/28/news-queensland-considers-changes-to-juvenile-justice-system)

Quixley, Suzi. (March 2008). “ Rethinking Youth Remand and Enhancing Community Safety.” Coalition Against Inappropriate Remand (CAIR).

Retrieved from http://www.cjn.org.au/docs/cair_discussion_combination.pdf

Stone, Adam. (4 Dec 2012). Queensland Cuts Youth Justice.” Newmatilda.com. Retrieved from <https://newmatilda.com/2012/12/04/queensland-cuts-youth-justice>

White, Janet (& Moo, Alicia, Ed.). (May 2013). “ Queensland to overhaul juvenile justice system.” QUT News. Retrieved from <http://www.qutnews.com/2013/05/07/queensland-to-overhaul-juvenile-justice-system/>

“ Youth justice.” (updated July 2013). Queensland Government. Retrieved from <http://www.justice.qld.gov.au/youth-justice>