
The Importance Of Youth Diversion & Current Conditions Of Diversion Programs In Victoria

Introduction

Youth crime has long been one of the heated topics among researchers in the criminological area (Crime Statistics Agency, 2017). In the history, children who got involved with the criminal justice system were treated no differently than adult offenders. According to Carrington and Pereira (2009), this was the case in Australia until the early twentieth century that juvenile offenders were still subject to the same penalties as adults. It is generally acknowledged that there are two possible approaches to tackle juvenile delinquency, punitive treatment, and rehabilitation approach, which is to divert young people from the justice system. And diversion strategies are the main aspect of the rehabilitation approach. The purpose of diversion is to redirect young people away from the justice system so that they could avoid the stigma and negative impact that comes with their contact with the system (Cunneen & White, 2002; Farrington, 1977).

In the report Recorded Crime – Offenders 2016-17, young offenders are defined as people aged between 10-17 years old (Australian Bureau of Statistics [ABS], 2018). In this period of time, 8,280 youth offenders were recorded in Victoria, 5% decrease compared with the figure of 2015-16 (ABS, 2018). According to the data released from ABS (2018), theft was the most prevalent principal offence in Victoria when it comes to young offenders, with acts intended to cause injuries coming at the second. It is important to divert young people from the criminal justice system because of two main reasons, which are to give young people who come into contact with the justice system a second chance and improve community safety by reducing youth reoffending rate. Part three is about current conditions of youth diversion system in Victoria and some recommendations to improve current situation.

The reasons for diverting young people from the criminal justice system

One of the reasons that Australia and the international community try to divert juvenile offenders from the criminal justice system is that they are fundamentally different from adult offenders (Richards, 2011). Young offenders are at an important stage of developing their personality, moral values, intellectual abilities, and a fairly good understanding of the community around them and the world as a whole. As they are still at the phase of developing cognitive abilities, they can be easily influenced by the surrounding environment. Being unable to tell right from wrong and lacking a good influence in their life, children and young people can easily slip into

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the path of criminal behaviour. Furthermore, according to Wright and Kutcher (2013), young people are normally more emotional than adults because of their raging hormones. This might explain why some young people exhibit violent or uncontrollable behaviour, which can escalate into criminal behaviour sometimes. Moreover, it is generally believed that adolescents are bad at decision-making. This can be linked to their involvement in high-risk and often dangerous activities, reckless automobile driving behaviour, drug and alcohol use, and unprotected sex. It seems obvious that these young people enjoy taking risks. And there have been quite a number of studies trying to offer explanations for the link between adolescent psychology and risk-taking.

Johnson and Malow-Lroff (2008) summarise a few theories to explain this, such as attention seeking, rebellion, a conscious decision, immaturity and present orientation, and so on. It means that some young people are unable to recognise potential risk or consequences of their behaviour simply because they are immature or enjoy living in the present. So they refuse to think about all the risks or intentionally take risks to rebel against the authority figures, such as parents and teachers. Therefore, it is not hard to come to the conclusion that young people are poor decision makers, which is one of the factors attributing to the difference between young offenders and adults. The stigma that comes with early contact with the criminal justice system can have a negative impact on young people's adult life. Some scholars concede that the stigma could impact their education and employment opportunities, sometimes even later relationships.

By keeping young offenders away from the criminal justice process, we can protect them from being traumatised by the life-long stigma. Hence they will be blessed with a second chance and embark a clean and fresh journey into their adult life. Besides, most juveniles would grow out of 'crime' as they become mature and adopt new lifestyles as responsible and law-abiding adults. On the other hand, once young people who commit a criminal behaviour are processed in the justice system, they would be labelled as criminals ever since. Labelling processes could result in further deviance, in which case labelled individuals recognise such identities and become one (Lemert, 1969). Redirecting young people away from the criminal justice system can avoid such stigma and label.

Diversion is also an important way to protect these vulnerable children and young people and in the meantime address the causes of their criminal behaviours. With diversion schemes, young offenders can get access to suitable support services, for example, mental health services, education and training opportunities, which can help them build a meaningful life. Otherwise, these juvenile offenders may continue their delinquent behaviour and eventually commit a crime as an adult. Furthermore, by providing young people who have delinquent behaviour with all the necessary support services that they need, they could reconnect with their family, friends, and the community. In some way, this can help them fight against their offending behaviour. For

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instance, if juvenile offenders' criminal behaviour is caused by mental health problems, offering them counselling and therapeutic treatment is beneficial for them to control their impulse and anger, which can reduce their reoffending rate. All the support services that diversion programs offer can help address young people's problems in drug and alcohol use, displacement, education, and training needs. Therefore, compared with punitive punishment and incarceration, diversion serves better at addressing the problem of youth crime. And diversion programs make our community safe by reducing the reoffending rate of young offenders at a low cost.

The Crime Statistics Agency (2017) found that young offenders who were cautioned had a lower reoffending rate than those who were charged. And police caution is one of the means of diversion, which happens before young people appear in court. Moreover, according to Smart Justice (n.d.), diversion cost much less than the incarceration of young offenders in a youth justice facility. According to KPMG (2010), community-based diversion programs cost 10% less than youth justice facilities. This is another reason why we should divert young people from the criminal justice process.

Current conditions of diversion programs in Victoria and recommendations for improvement

Victorian Police Cautions

In Victoria, the police can issue a formal caution to young people if they admit that they have committed a crime. Various factors come into play when the police are issuing a caution, such as the seriousness of the crime, circumstances of the victim and the offender, the consequences of the offence, and the previous record of getting cautions if there is any. Although it is recorded in the police files, it will not affect young people's criminal background check. Cautions can also be in an informal form, which is not recorded, at the discretion of the police if the offence is minor (Jordan & Farrell, 2013). Since there is no legislation about police cautioning, the whole process lies in the discretion of the Victorian police, which creates some problems. Diversion decisions are inconsistent. Over-representation of indigenous young people in the criminal justice system as they are less likely to be diverted than non-indigenous people.

According to Richards (2009), Victoria is much less likely to divert young people from the criminal justice system than any other state and territory in Australia. Richards (2009) compared trends of different states with regards to juvenile diversions from 2002-2007, which easily leads to the conclusion mentioned before. These problems are caused by the fact that the police are acting as the primary gatekeeper of the diversion system. Without legislation to support and verify their decision, it is hard for the police to avoid any bias in diversion decisions. And we cannot ensure the fairness of the process when the decision of whether a young person will be diverted is dependent on the officer who is handling this case. My recommendation for the

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improvement of police cautioning would be a proper framework and legislation for the process so that the police will have basic principles and criteria to follow when they make the decision of diverting young people to services and programs other than court.

Youth Justice Group Conferencing

The group conferencing is a program based on restorative justice that aims to help offenders realise the impact of their offending behaviour on the victims and the community and to negotiate possible amending plans. This happens at the pre-sentence stage, and not only the victim, the offender, their family members, but also community members and police informant would attend this meeting. One of the purposes is to strengthen the links between the young offender and their family and the community. Through group conferencing, young people are given an opportunity to get a better understanding of the consequences of their behaviour and encouraged to take responsibility for their action. Moreover, by involving the victim, family members, the police, and the community in the process, it improves people's trust in the criminal justice system.

One of the problems with the group conferencing lies with one of its eligibility requirements, which is that it targets young people who have plead guilty or have been found guilty of non-serious offences. If the group conferencing could happen before young people have their first contact with the court, it would be more efficient in diverting young people from the criminal justice system (Parliament of Victoria, 2018). Another problem is that only the Children's Court can refer young people to the group conferencing program. This diversion option is not available to the Victoria Police. In this way, some young people who might have benefited from this diversion program are denied access.

ROPES and Right Step

ROPES is a diversion program operated by the police and the Children's Court, which mainly aims at educating young people about the impact of having a criminal record. And the access to this program is restricted to young people without any previous contact with the court. The result followed by successful completion of this program is that the young offender does not need to appear in court. The problem with this meaningful diversion plan is its limitations in length and availability since it is only a one-day activity and only accessible in Melbourne and a small number of country areas (Jordan & Farrell, 2013). With sufficient funding, this program should be able to cover more educational activities and help more young people get rid of their offending behaviour. Compared with ROPES, Right Step is a more intensive diversion program, which counts for eight week's counselling and support service. However, it has a similar problem in availability as it largely operates in Moorabbin.

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According to the Youth Affairs Council of Victoria (n.d.), this program aims at tackling the underlying causes of young people's delinquent behaviour. After successful completion, the magistrate would make a decision about whether charges will be dismissed based on the case manager's report. However, this program is heavily reliant on the donation from philanthropy. If resources and funding can be allocated efficiently, a larger number of young offenders can benefit greatly so that we can improve community safety. Another serious issue with current diversion system is limited access to diversion programs in rural and remote areas. The Youth Affairs Council of Victoria (n.d.) raised concern for young people living in rural areas that they may be less likely to have the same access to necessary programs and services that address the causes of their offending behaviour. If there is legislation about state-wide diversion program in the Children's Court and ongoing government funding for effective programs like Right Step, a considerable amount of young people can have a second chance and enter their adulthood without any criminal record.

Conclusion

Diversion is an important approach if the objectives of youth justice are to be fulfilled. The main objectives of the Youth Justice Service are to divert young people from the criminal justice system when appropriate, reduce reoffending, provide young people with services and programs that address their offending behaviour and help them reconnect with the community, and improve the general public's confidence in the Youth Justice Service. Diversion programs can be of great help as they recognise the difference between youth offenders and adult offenders, and the variety of diversion options offer young people valuable courses that challenge their criminal behaviour. Moreover, instead of simply locking juvenile offenders in prison, diversion programs address the causes of young people's offending behaviour. This is why it is of great importance to keep young people away from the criminal justice system whenever possible and applicable. In Victoria, there are currently some diversion programs working at different stages to educate and rehabilitate young offenders, which is far away from enough due to limited access and funding within the current diversion system, and the fact that Victorian Police are acting as the primary gatekeeper in youth diversion.

My recommendations would be as following: Set up proper framework and legislation, provide the police with basic principles and guidelines in deciding whether to redirect young offenders. Ensure sufficient and ongoing government funding in diversionary programs so that more young people could have access to services and programs that challenge their offending behaviour, especially in rural and remote areas; and Introduce legislation about state-wide diversion program in the Children's Court.

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