

Final Report

Evaluation of the Youth Diversion Pilot Program (YDPP: Stage 3).

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Executive Summary

Overview

The Youth Diversion Pilot program (YDPP) commenced on 1st June 2015, initially for 12 months, but ultimately ran as a pilot project through until the end of December 2016. Seven sites were selected for the pilot; four were in Children's Courts in metropolitan areas: Broadmeadows, Dandenong, Sunshine and Werribee, and three were in Children's Courts in regional areas: Ararat, Stawell and Ballarat. Jesuit Social Services (JSS) were the lead agency tasked with delivering the diversion program. They partnered with YSAS to deliver diversion programs in the metropolitan areas and with Centacare Ballarat to provide diversion services across the regional sites. The diversion program, including an independent evaluation, was funded by Court Services Victoria.

This report details findings based on the evaluation of the YDPP, conducted across much of 2016. It should be noted here that this final report relates to just Stage 3 of a multi-component evaluation progressed by Court Services Victoria. Stages 1 and 2 are ongoing at the time of writing and relate to a related project that seeks to characterise young people who attend Children's Court services in the pilot sites, but who may or may not be eligible for the YDPP. Details relating to findings from Stages 1 and 2 will form a separate report.

From the outset, JSS determined that the diversion plans would need to be broad-ranging to cater for the diverse presenting needs of young people. It was also acknowledged that the diversion activities would be designed to fit the circumstances and needs of the young person and their offending. Of note, procedurally, when the diversion program had been completed, the Magistrate was to discharge the matter, with no finding of guilt being recorded against the young person's name.

While there were no predetermined eligibility criteria for diversion, the Court anticipated that it would be suited to young people who had been charged with low-level offences, who had acknowledged their offences, and who were appearing in one of the pilot

Children's Court sites for the first or second time. It was suggested that this was a group that would have otherwise been sentenced to Good Behaviour Bonds or Undertakings.

It was decided that interventions and other supports would be brief in duration to help the young person address any underlying problems associated with offending behaviour and that diversion plans would focus on the links the young person had with their family, with school and with the local community. The length of engagement on the diversion program was initially from 1 week up to 16 weeks in length, and was dependent on the presenting circumstances and presenting complexities of the young person.

Methodology adopted for evaluation

A multi-component methodology was adopted to most fully capture the different elements of the YDPP and include the voices of key experts and stakeholders. Magistrates working in Children's Courts across the pilot sites were interviewed to capture their expert views about, and experiences with, the YDPP in their respective court sites. We identified and interviewed JSS managers and diversion case workers across the pilot sites, along with youth justice workers, police prosecutors, and Victorian Legal Aid lawyers. We also interviewed a sample of young people who had experienced the YDPP to canvass their expert views and experiences as recipients of the diversion program. JSS also provided a de-identified data set of all of the referrals to the YDPP across the pilot sites from its commencement through to 19th July 2016. The evaluation was also informed by an international literature review and consideration of best practice principles for effective diversion programs. A Program Logic Model for the pilot program was also drafted (see Appendix G).

Integrated results

Overall, the Youth Diversion Pilot Program (YDPP) received a very positive evaluation. The Magistrates all agreed that it provided them with an important addition to their decision-making options, helping to keep young people away from the formal criminal justice system. All of the stakeholders and young people agreed, commenting on what a positive alternative the diversion program offered. The consensus view was that the YDPP filled an important gap and provided an increased suite of options to help keep the young people

'diverted' away from, the criminal justice system. Key points of discussion are presented below.

Comparing the YDPP to the available evidence base on 'effective' diversion

The literature review identified seven core principles of effective diversion: (1) matching risk level to diversion option; (2) that diversion operates according to evidence based frameworks and protocols; (3) that diversion addresses multiple needs; (4) that diversion provides tailored interventions; (5) that the diversion plan includes the family; (6) that the diversion program is staffed by highly qualified and well trained staff; and (7) that it incorporates ongoing evaluation.

The YDPP performed well against these seven best practice principles. While the diversion program was initially set up primarily for low-end offences, there was clear evidence that more complex cases were considered. In these more serious cases multiple services across a range of different health, justice, social and welfare sectors were commonly involved. This reflected the fundamental need of the diversion program to be able to address multiple needs, again consistent with the principles of best practice. It was also clear that the program provided a wide range of highly individualised and tailored interventions; there was good evidence to suggest that these were based on the identified needs of the young person. Importantly, the evaluation found that the young people did have 'voice' in terms of identifying their needs and of the activities associated with the diversion process, actively discussing and helping to determine what they were going to do and how they were going to do it during their diversion period. Family members were commonly included in the diversionary processes and activities and the young people (as well as the Magistrates and stakeholders) were very praiseworthy about the qualities and supports provided by the diversion case workers.

Who should diversion be for?

An expansive international literature suggests that diversion is not for everyone, and particularly not for cases where the person has committed more serious offences. While the first-time low-level offenders were initially, and continued to be seen as, a core target group for diversion, the inclusion criteria for the diversion program broadened to include

young people who had committed more serious types of offences. Decision-making processes around diversion length, scope and activities were focussed on core considerations of the complexity of the young person's presentation and their age. Interestingly here, the nature of their offending was often seen as symptomatic of their complexity, rather than the offending being seen as the central problem in the young person's life. There was a general pattern that the older youth were commonly given shorter diversions, as longer diversion periods were seen as being counter-productive, while younger teens tended to be diverted for longer periods of time, to enable deeper engagement with supports.

An 'In and out' model or collaborative case management?

Many of the people we spoke with during the evaluation spoke of the central importance that the diversion was brief and focussed, essentially an "in and out" type of model. However, the initial presenting needs of the young person all too commonly only touched on the surface of what turned out to be much more complex, ingrained difficulties and challenges which often only surfaced later on during the diversion as a degree of trust and familiarity was formed between the case worker and young person. This meant that the diversion period commonly did not have the opportunity to adequately address the core, underlying needs of the young person or, at times provide the case workers with sufficient time to get the young people connected with the appropriate services in a timely manner. This will represent a significant challenge for the roll-out of the program, both in terms of its legitimacy and with the effectiveness of the diversion program in the medium to long-term.

ATSI young people

One of the concerns raised by the Magistrates and stakeholders was the lack of representation in the diversion program of young people from Culturally and Linguistically Diverse (CALD) and ATSI backgrounds. Magistrates opined that the more serious nature and profile of the offending by the Koori youth meant that they were often not deemed eligible for diversion and where therefore being given higher sentences instead. Another Magistrate reflected that there were very few, if any, Koori programs for young ATSI people in many areas and, that even if they were available, the programs were very limited

and their location precluded meaningful participation for many in need. While these findings are generally consistent with the extant literature, this was seen by those we interviewed as a significant limitation of the YDPP, mainly because of the lack of services that were available even if a young person of ATSI background was referred for diversion. This too is likely to represent a significant ongoing challenge for the roll-out of the diversion program.

Process-related issues

One of the more significant differences evident during the evaluation was that the diversion operated differently across the seven pilot sites. There were a number of nuances between the practical operation of the diversion process that was initially proposed and its subsequent operation in the different pilot sites, suggesting an evolution of the local culture as the pilot progressed and as confidence with the program grew.

A core difference between the pilot sites related to the perceived requirement for the young person to return to court at the end of the diversion period or not. Here there was a conflict between the perceived need for accountability on the part of the young person, balanced with certain Magistrates having a keen interest in hearing how the young person had got along with their diversion and being able to give them praise/positive feedback about that, countered with a strong recognition that every effort should be made to keep the young people (diverted) away from the criminal justice system as much as possible. Decisions regarding the need for the young person to return to court at the end of the diversion period will require some further detailed consideration for the roll-out phase of the diversion program. Associated with this, the need for a common language and approach towards diversion in all of the Children's Courts was emphasized as a key challenge to address both prior to and during the roll-out phase.

Service gaps

One of the core challenges with the effective operation of the diversion program relates to the necessity of having sufficient service capacity in place and available to meet these identified needs in a timely fashion. It was apparent that these services were not available, both in metropolitan and regional areas where the pilot ran. During the roll-out period

particular challenges are likely to be associated with meeting the needs of the young people in more remote geographical areas where there are additionally limited opportunities to travel to, and therefore meet the requirements of diversionary activities required. The possible additional role of volunteers and community mentors was seen as critical by some stakeholders interviewed to help provide support assistance for young people to access the required services.

Education, training and employment opportunities

Disengagement with education has long been associated with the initiation into antisocial and criminal behaviour among young people, and is therefore seen as a priority for rehabilitative efforts with young people. One of the key areas commented upon by Magistrates, stakeholders and the young people related to the need to re-engage with education, training or provide employment opportunities. Addressing young people's educational needs, therefore, is seen as a particularly challenging area, for a range of reasons. The prevalence of this issue across the YDPP pilot sites points to the ongoing difficulties schools face in being able to meet every child's needs; the attendant issue is a lack of alternatives that are widely available and accessible. Many of the people we interviewed voiced strong support for the roll-out of the Education Justice Initiative, or a similar court-based brokerage scheme, as a way of tackling the education issue for young people coming before the Children's Court.

The legitimacy of the program

Perceptions about the legitimacy of the diversion program are of paramount importance. The findings suggest that it is only when diversion is viewed as a legitimate way of responding meaningfully and effectively to young people's offending, that the key stakeholders – lawyers and police in particular – will have confidence in diversion processes. It was apparent that over the course of the pilot program, the YDPP was increasingly seen as a legitimate way of responding to young people who had committed a range of different offences. It was apparent that as levels of familiarity grew amongst the Magistrates, and the stakeholders, that the sense of legitimacy increased, as shown by the increasing use of diversion in cases of more serious offending than was originally conceived for the program.

Operating through a restorative lens

An area discussed by the Magistrates and stakeholders involved issues around victims and the central importance of the role of the restorative conversation. Having some kind of ‘restorative conversation’, such as discussing the impact of their offending and issues around victim empathy, were common goals associated with activities targeting the young person’s offending behaviour and was considered a critical component of effective diversion. Formalising, or otherwise systematising this as a core element to diversion plans has the potential to impact more positively on a number of different perceptions of legitimacy, including those of Magistrates, prosecutors and the general community. In particular, this may help redress some Magistrate and prosecutor concerns about the lack of specificity in the diversion plans with respect to understanding about the core purposes and activities of diversion routinely involve.

Issues pertaining to the roll-out of the YDPP

Firstly, it needs to be formally recognised and acknowledged that diversion is not a sentencing option. This, in turn, strongly suggests that diversion has to operate as a separate process to other Court based sanctions. The stakeholders were clear that there was a distinct potential for the young people who are eligible for diversion to be ‘contaminated’ by being exposed to the higher-risk youth. This lends itself to the idea that diversionary practices should be carried out at a different location to other Youth Justice-base interventions and follow-up; consistent with the assertive outreach type of model adopted by the community-based organisation case workers during the pilot phase of the project. Some useful, practical suggestions were offered by the stakeholders we interviewed, based on improving the efficiencies of the structure of the court day; these are discussed further in the recommendations below.

Some of those interviewed had quite strong opinions on who the preferred provider should be either a Government agency or a community-based organisation; others were more focussed on the need to ensure that whoever the provider was, that there were adequate resources available to help maximise the likelihood of its success. The issue of resourcing was really quite fundamental to the ability of diversion workers to link the young people in with appropriate services in a timely manner. Even during the pilot period,

at a limited number of sites, this provided problematic and highly unsatisfactory for many workers. This was the case for both for rural/regional and metropolitan-based workers, but additional challenges were clearly apparent for the diversion workers servicing the more remote sites, as well as for the young people who were being required to travel quite some distance to access services that were appropriate to their individual needs.

Recommendations

A significant amount of practical knowledge has developed over the period of the delivery of the YDPP. Knowledge about effective procedures and processes developed the pilot program will ensure more effective and efficient delivery of the state-wide program. The recommendations that follow sum up the key learnings from Magistrates, key stakeholders and young people.

1) Delivery of the state-wide diversion program - Diversion is not a sentence, hence the rollout of the program needs to be cognisant of the evidence based literature which shows the potential deleterious effect of exposing young people who offend or are at risk of offending, to other young people who exhibit anti-social behaviour or are in the criminal justice system. For this reason the delivery of the state-wide program must undertake the following procedures and processes:

- Schedule the delivery of the diversion cases first thing in the morning on court sitting days. This will reduce the exposure of those suitable for diversion to young people who are likely to be sentenced in the Children's Court. It will also reduce the exposure of these young people in the out-lying regional courts to adult criminal justice matters (these matters are usually held in the same court). It will ensure that the diversion workers are present in court on court sitting days hence improve efficiency both in metropolitan and regional areas. It will address concerns of some Magistrates that diversion workers were not always present at court.
- Diversion case workers need to be located away from other Youth Justice interventions and follow-up services. This will remove the concern of many

Magistrates and stakeholders about the potential contamination of young people eligible for diversion.

- That any data collected pertaining to young people who are placed on diversion are recorded and stored separately from other justice-based contacts and outcomes.

2) **That a restorative lens remains a key component of the diversion program** - This requires investment and resourcing to ensure that staff are equipped with sufficient skills, and training to understand wide range of restorative practices and ways to use restorative skills and activities as part of and alongside diversion activities.

3) **Service mapping** - That a service mapping exercise be undertaken as a matter of priority to capture what services exist, what do not exist, and what services are required across the State, taking into account any additional nuances associated with the more rural/regional areas. Again we would emphasize the importance that the workers are well supported and that they have a high level of knowledge about, and connectivity with, local services. The following were identified:

- **Urban/metropolitan.** The data shows insufficient services, especially to ensure the success of the diversion program state-wide. The mapping needs to outline the services that are currently in place and the services that are required, both at the government and non-government level. Services available to ATSI young people need to be highlighted so that Magistrates and diversion workers are cognisant of those that young people may accept or reject.
- **Rural/regional.** The data showed significant gaps in services especially in the outlying regional areas. The gaps need to be documented and a plan developed to expand services, especially those required for ATSI young people who are at risk of offending or are at the low end of the offending trajectory. This is critical to reduce the over-representation of ATSI young people entering the criminal justice system.

4) **Flexibility and creativity** – That the two principles of **flexibility** and **creativity** are at the heart of the diversion program, so that diversion plans and activities can adapt to the changing needs of the young person, including ATSI and CALD young people, as well as opportunities in the local operating environment. This requires an emphasis on the following:

- Not ‘one size fits all’, but tailored interventions to suit young person’s needs and interests;
- eligibility for diversion should be flexible and based on young people’s individual circumstances and the context of their offending;
- diversion staff need to be sufficiently resourced to undertake outreach in order to engage young people;
- Magistrates using diversion creatively to meet the needs of young people;
- diversion workers and service providers thinking creatively about ways to engage young people in meaningful activities and opportunities;
- ensuring that staff have strong connections with services in their local area to enable the provision of after care where appropriate; and
- ensuring that there are sufficient staff resources, especially in regional and remote areas to enable to young people’s access to and participation in diversion activities.

5) **Granting agency and decision-making power to young people** - That diversion plans and activities are firmly rooted in the identified needs of the young people and that the young people are proactively involved in articulating what these needs and associated goals are. Alongside this is the need for consultation gathering young people’s feedback about what helps and what makes it hard to move away from criminal justice system involvement.

6) **Ongoing independent evaluation** – To be embedded into the diversion program from the outset and that the program is evaluated against of objectives in addition to re-offending; these would include other indices of change, such as increased pro-social attitudes, levels of engagement with school and the uptake of training and

employment opportunities. It will be important here to consider the impact of the diversion on the end user - the young people - and to formally include their voice in ongoing evaluation processes. The Program Logic Model should be adapted and updated as the program is rolled-out to reflect these changes and to consider these more immediate and longer-term outcomes.

7) **Education** - There is a much greater focus on education, both in terms of sustained efforts focusing on the re-engagement of young people with the education system, as well as an increasingly willingness of the education system to better cater for the young people who don't fit into the current mainstream schooling system. Areas of strategic focus need to include:

- Strategies to address education issues and challenges, including the expansion of Court-based brokerage initiatives such as the Education Justice Initiative (EJI);
- the provision of alternatives such as volunteering opportunities for young people, TAFE/VE, pre-apprenticeships; and
- a positive youth development focus to generate creative ways to engage young people in skills development – e.g. 'Deadly Bike' program for ATSI young people.

8) **Cultural change** – The provision of ongoing education and awareness building for Magistrates, Court-based staff and Police to support cultural change that will promote and further reinforce the philosophy and practices of diversion on a state-wide basis. This will help to ensure consistency of the delivery of diversion across different sites.