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The perception of street-frequenting homeless youth as a threat is a misconception derived from their visibility and their sometimes loud and boisterous behaviour in public spaces. Homeless young people are often the victims of crime rather than the perpetrators. But trapped in chronic homelessness and without stable accommodation for long periods of time, these young people end up engaging in petty crime – public transport fare evasion, offensive language, failure to obey a police order to move on, shop-lifting etc – to survive. The penalties levelled at homeless young for transport fare evasion create conflict and make a homeless young people’s situation even worse. The relationship between homeless youth and police, was uneven. In some places it was a source of conflict and antagonism, while in other places there have been programs to improve policing on the streets. However, the situation for homeless young people is ripe for escalation and conflict. Street youth, in particular, face greater discrimination from landlords and other businesses because of the way they present and the stigma of being homeless. If homelessness continues, then the chances of legal complications increase, raising a concern about the inadequate support for young people in these situations.

Chapter 18 | Crime and Legal Issues

I ran away from home due to violence and then entered a community [that] revolved around violence I experienced all sorts of things including drug dependency, criminal acts and shop theft.¹

Introduction

18.1 There is a perception of young homeless people in street settings as gang members or drug addicts, which leads some people to fear them. Also, more generally, young people tend to gather in groups and are often loud and boisterous. This behaviour may make other people in the community feel anxious or threatened. Governments have responded to these putative perceptions by introducing laws that regulate public space and provide police with powers to tell people to ‘move on’ if they are believed to be causing a nuisance or anxiety to others. Relationships between young people and the police deteriorate when these laws are over-used or abused.

18.2 Homeless young people are often the victims crime and discrimination. Sometimes the crime is the reason a young person becomes homeless especially in the case of child sexual or physical abuse. Homeless people suffer from discrimination and are often refused goods and services on the grounds that they are homeless. Indigenous young people, migrants and refugees suffer additional racial discrimination and prejudice.

18.3 For those young people sleeping rough and living on the street, crime is seen as necessary for survival and a means to an income. It is certainly part of the sub-culture of street living. Common crimes committed by homeless young people include public transport fare evasion, offensive language, and failure to obey a police order to move on. ‘Survival crimes’ include shop-stealing, bag-snatching and breaking and entering.

18.4 This chapter considers homeless young people as both the perpetrators and victims of crime, the criminalisation of homelessness, and the relationship between homeless young people and police. Discrimination against homeless young people is also discussed.

Homeless young people as the victims of crime

18.5 Young people are more likely to be the victims of crime than their older counterparts. The Australian Bureau of Statistics reported that:

More than 45 per cent (6,674 people) of victims of robbery were aged 15–24 years, followed by those aged 25–34 years at 20 per cent (2,953 people).²

18.6 Some witnesses to the Inquiry confirmed that homeless young people are often the victims of crime. For example, a witness from Shopfront Youth Legal Centre told the Inquiry that:

... most of our clients are victims of very serious crimes well before they become offenders.³

18.7 The Inquiry was told in many places that the crimes of sexual and physical abuse against children were often the reason young people became homeless in the first place.⁴ Homeless young people living on the street are exposed to high levels of crime especially violent crime⁵ and this crime is less likely to be reported to police.

18.8 Young people told the Inquiry that they do not feel safe alone living on the streets and so tend to gather in groups for better protection.⁶ One young woman told the Inquiry of her terrible experience alone at night:

One of the worst things that happened would have to have been one night when I was sleeping on a park bench and got surrounded by this gang of guys that tried to rape me. It was only by chance that a friend of mind came by and helped me get away. Since that night I couldn't sleep outside without a horrible fear.⁷

18.9 As the victims of crime, young people can come into contact with the police but their experiences are not always positive. A witness from Shopfront Youth Legal Centre (NSW), when asked about how the police would respond to a homeless young woman reporting a sexual assault, told the Inquiry that the police response depends on:

... which police station it is and who the individual police officers are. Some of them are absolutely fantastic. They can't do enough. Others are not particularly interested and drag their feet on the investigation particularly if the young person is known to them as an offender or as a sex worker or, you know, somebody who may not be the police's idea of a model citizen. The police will give them short shrift and not really assist them. I think there is a perception of course that if a young person is homeless, if she's reporting a sexual assault she'll have disappeared by next week, so it's a waste of time taking a statement, because they're never going to be able to properly investigate it ...⁸

18.10 On the other hand, this witness told the Inquiry:

We have really come across some fantastic police officers who will work really, really hard, to assist victims of crime when they are homeless young people.⁹

Homelessness young people as the perpetrators of crime

18.11 The Burdekin Inquiry reported research that homeless young people engaged in various crimes to supplement their income or avoid expenses, from robbery with vio-

lence to public transport fare evasion.¹⁰ The evidence presented to the Burdekin Inquiry considered that most crimes committed by homeless young people were for economic reasons.

18.12 In a review of literature, the National Crime Prevention section of the Australian Attorney-General's Department cited research suggesting that economic reasons were the most common reasons for criminal behaviour amongst homeless young people.¹¹ Homeless young people can slip into a sub-culture of crime and homelessness where the techniques of crime are taught and the values and beliefs that it is acceptable are reinforced.¹²

18.13 The evidence presented to 2007 Inquiry suggested economic needs are still important reasons for homeless young people to commit crimes. These were referred to as 'survival crimes' and include shoplifting and fraud.¹³ It was also suggested to the Inquiry that mental illness and drugs and alcohol are significant factors in criminal behaviour.¹⁴

The criminalisation of homelessness

18.14 There can be no doubt that a small proportion of homeless young people commit crimes for economic and other reasons. However, of greater concern to people presenting evidence to the Inquiry were the laws and police powers that make criminals of young people for the normal behaviour associated with being homeless. The term 'criminalisation of homelessness' was used by workers from the PILCH Homeless Persons' Legal Clinic (Victoria) to refer to the range of issues that cause homeless young people to come into contact with the police and justice system. The punitive impact of many laws on these young people can lead to a 'downward spiral' that heightens the negative consequences of homelessness. The Inquiry was told that:

*Without secure accommodation, behaviour that would otherwise be routine in the home can suddenly become unlawful. By definition, somebody who is homeless doesn't have the opportunity to comply with some laws that prohibit conduct like begging, sleeping, drinking, conducting affairs in a public space.*¹⁵

18.15 A result of the accumulation of offences brought against homeless young people '... is borne out in a disproportionate representation of young people in the infringements and criminal justice systems.'¹⁶ For example, homeless young people are vulnerable to accumulating large amounts of unpaid fines that can lead to the issue of arrest warrants and, potentially, incarceration. In Queensland, the Inquiry was told that begging is an offence for which the maximum penalty is currently a \$750 fine or six months in custody.¹⁷ Although it is unlikely that a homeless young person will receive the maximum period in custody, it is foreseeable that a magistrate may incarcerate someone with unpaid fines and a lengthy criminal history of low-level offences such as begging.¹⁸

Public space issues

18.16 While witnesses throughout Australia raised the use of public space by young homeless people, it received emphasis at the hearings in Perth and Brisbane. Queensland Public Interest Law Clearing House, QPILCH, told the Inquiry certain laws that govern public space:

*... criminalise behaviour of young people such that they cannot actively participate in society...*¹⁹

18.17 In Queensland, the Summary Offences Act (2005) and the 'move-on' laws under the Police Powers and Responsibilities Act (2000) were cited as legislation used to charge homeless young people. QPILCH suggested that the offence of 'public nuisance' was a catchall used to charge young people who have not otherwise committed an offence.²⁰ The impact of Queensland police move-on powers is to criminalise behaviour by homeless young people, that is unavoidable. The Inquiry was told that:

The move-on direction empowers police to direct the person to leave the place and not return for up to 24 hours, or to move away from a location for reasonable distance in a stated direction for up to 24 hours. The police officer must also give the person or group their reasons for giving the direction.

*Receiving a move-on direction is not an offence in itself, however contravening the direction is. The maximum fine for contravening a move-on direction is \$3,000. There is no statutory defence. If a person contravenes the direction and believes the move-on direction is itself unlawful, the only way a person can contest the fine is by defending it in court.*²¹

18.18 Anglicare WA suggested that there was a culture of policing and monitoring in Perth.

Within inner city Perth for example,

The area is heavily policed (police are present on foot, horseback, bicycle, car, wagon and remotely by camera)

It is monitored by extensive use of CCTV cameras ('manned' 24 hours per day).

Move-on notices (banning for 24 hour periods) are frequently applied to "undesirables".

A curfew applies in the Northbridge area for young people at night.

*The area is also monitored by private security, local government security officers, transit police and transit guards.*²²

18.19 In the Northern Territory, under the Summary Offences Act (NT), young people can be prevented from re-entering a designated area for up to 72 hours by the issue of a 'loitering notice'.²³ If a person does not leave or is caught in the designated area within the period they can be charged with a criminal offence²⁴. The manager of Alice Springs Youth Accommodation and Support Service told the Inquiry of a recent incident where young people who had jobs as trolley collectors were issued with loitering notices that prevented them from working.²⁵

18.20 The impact of laws that limit access to public space is to further marginalise homeless young people both from their peers and support networks including services. In Perth, the Inquiry was told how the use of these laws by police disrupted homeless young people trying to meet and connect with each other:

There is one particular inner city area where homeless young people congregate to meet

*each other to support each to socialise. That's their social world, and the police have explicitly and consciously said we're trying to get rid of them from that area...*²⁶

18.21 In a combined submission QPILCH and a number of other key Queensland services told the Inquiry of a research report that highlighted the detrimental effect of the move-on powers:

*They convey a powerful a message of social exclusion and cause homeless young people to feel further disengaged and alienated from society. A move-on direction can also prevent young people from accessing support services or attending appointments. In Brisbane, it is common for homeless support services, which provide food, clothing, information and counselling, to operate in or near public spaces. A good example is the Red Cross Youth Night Café, which is located adjacent to King George Square.*²⁷

18.22 It appears that there are significant unintended consequences to the regulation of public space, including preventing homeless people from accessing services and employment, as well as the criminalisation of homelessness.

Public transport fines

18.23 Young homeless people need public transport to attend school, find work, access services and maintain connections with their community but are prevented from and punished for doing so because of their inability to pay. The Inquiry was told that:

*Accessible and affordable public transport is vital for all young people. This need is even greater for homeless young people, who are unlikely to have other transport options.*²⁸

18.24 The PILCH Homeless Persons' Legal Clinic (Victoria) explained the conundrum facing young homeless people who need to travel on public transport, whether to access services or to maintain community connections, who do not have the resources to pay for that travel:

*We have ... found that for young people, access to local services and connection with the local community is especially important. They tend to feel a greater need to be connected to the community, and in that sense if they can't travel to the people they need to and travel to and from services to access those services, then they are particularly marginalised.*²⁹

However:

*They simply don't have the money and they cannot afford to buy the tickets.*³⁰

18.25 Driving is not an option either. Apart from the cost of purchasing and running a car, homeless young people also face the barrier of gaining and retaining a licence:

*Measures ostensibly introduced to improve road safety have made it increasingly difficult for young people to get and keep their licence. Even a minor speeding offence now results in an automatic suspension for drivers on P1 provisional licences. Outstanding fines (which often have nothing to do with traffic offences) can also result in licence suspension or ineligibility.*³¹

18.26 This problem is exacerbated for young people who live in country areas where available support services are limited to regional centres. These young people need to use public transport to travel to regional centres to access the support they need because:

*They have no other way of getting around. I guess they face the option of not accessing services or running the risk of getting a fine, and either outcome is not really ideal ... We don't want them to avoid services for the sake of avoiding fines.*³²

18.27 The level of surveillance by transport officials means that homeless young people are more than likely to get caught riding public transport without a ticket and the punishment is an on-the-spot fine. However, the issue of fines is no disincentive because there is no alternative and:

*... if they do incur fines, it is almost impossible for these people to pay the fines. They escalate and tend to go through the court system ... [and] people end up with thousands of dollars worth of fines.*³³

18.28 Community legal centres, like the PILCH Homeless Persons' Legal Clinic, can offer only limited help in these circumstances:

*If they make their way to a community legal centre it is possible for us to sometimes get those fines revoked, but it may take years before that happens ...*³⁴

Court diversion options

18.29 In Queensland, some attempt has been made to avoid the negative consequences associated with the criminal justice system. In order to divert homeless people charged with minor offences, especially around public space issues, the Queensland Government established the Homeless Persons Court Diversion Program as part of the Responding to Homelessness Strategy.³⁵ Under the program, a court liaison officer works with legal representatives and the prosecutor to find appropriate services in the community. However, while generally supportive of the program, QPILCH told the Inquiry that:

*There aren't support services to divert people to. So a diversionary initiative that doesn't fit with structural services because of the systemic failure in terms of affordable housing and crisis accommodation services is never going to work.*³⁶

18.30 Other jurisdictions do not have specific court diversion programs for homeless people as in Queensland. However, most jurisdictions have diversion programs for criminal acts related to alcohol and drug abuse and some have programs for people with mental illness.

18.31 In NSW, the Young Offenders Act (1997) permits the use of cautions and warnings by police and youth justice conferencing for young people who have committed non-violent offences.

18.32 Diversion options for homeless people, such as in Queensland, would mitigate the negative consequences of legislation that 'criminalises' homeless people, in particular the public space laws. Diversion is a much better option because the impact of even a minor conviction recorded against a homeless young person can be significant. A con-

viction makes finding a job more difficult and limits access to housing.³⁷ QPILCH and a number of key Queensland services advised the Inquiry that it is:

*... grossly unfair to mark a person's criminal record permanently because they have committed 'crimes' due to their homelessness.*³⁸

Sentencing options

18.33 Once a young person appears before a magistrate and is convicted there are usually a range of sentencing options available. In many instances the magistrate could order a good behaviour bond or probation order. QPILCH told the Inquiry that in their experience:

*... the vast majority of young homeless defendants receive a monetary fine (in the vicinity of \$200 for public nuisance) and usually a conviction for a low level public space charge.*³⁹

18.34 Since homeless young people usually have limited income they are unable to pay these fines, which accumulate. QPILCH told the Inquiry it was not uncommon for their clients to have accumulated fines in excess of \$2,000. In some jurisdictions it is possible for the fine collection agency to waive the fine.

Relationship between homeless young people and police

18.35 Many homeless young people are antagonistic towards the police, particularly those young people who are sleeping rough. One young person told the Inquiry that:

*I hated police and I had no respect for them whatsoever.*⁴⁰

18.36 Homeless young people believe that police treat them unfairly and sometimes accuse them of committing offences without any grounds for doing so. One homeless young person told the Inquiry:

*I'm sleeping out at the moment. Oh, you're looked down on and pinched for whatever happens, because you've got nothing better to do with your time. For example, six or seven weeks ago me and my mates were sitting in the Queen Street Mall. We were just hanging out, bored, watching people walk past, making funny comments and what have you, having fun and that and the police had come over harassed us, telling us that we had stolen a camera from somebody up at Central Station which if you don't know yourself is a twenty minute walk, round figure and we got told we'd done it and we got harassed and it got blamed on us.*⁴¹

18.37 A witness from Youth Drug and Alcohol Service (Sydney West Area Health Services) told the Inquiry that:

*... our young people, by the nature of what they do, they're anti-police because they're breaking the law nine times out of ten. They don't have money. They don't have anywhere to live. They don't have any sense of safety, so every time they get up, they're breaking the law, so naturally they're antagonistic towards the police.*⁴²

18.38 This witness went on to say that while his clients believe police harass them all

the time, the attitude of police towards homeless young people was often negative:

*If I spoke to the police they would tell you my clients are horrible, and are always making trouble.*⁴³

18.39 This was a fairly natural reaction but leads to an ongoing cycle of poor attitudes and relationships because:

*When someone is antagonistic towards you, you get antagonistic back and so it's an ongoing conflict.*⁴⁴

18.40 The Inquiry was told that police target certain groups, particularly Indigenous young people. For example in Townsville the Inquiry was told that where groups of Indigenous young people congregate the police:

*... sit on the corner in the police car, just waiting for a bunch of youths to walk up the streets ... And then they're searching them and asking them questions.*⁴⁵

18.41 Not all police have a negative attitude and many go out of their way to assist homeless young people. A witness spoke highly of one officer:

*We have one particular officer who works within Parramatta who is just amazing. Like he actually brings kids out to us, you know, and he works with the transit police there. He's doing a fabulous job.*⁴⁶

18.42 A young person in Brisbane also told the Inquiry of some police who:

*... understand we're down in the dumps so don't harass us and just do their job, 'what's your name, are you doing all right', and get into court and making sure everything is okay and then leave us alone.*⁴⁷

18.43 The Inquiry was given examples of where actions by police officers had improved the relationship between homeless young people and police by encouraging interaction in non-legal settings. A witness from Open Family Australia (Vic) spoke of an officer from Sunshine Police who operates a:

*... street surfer bus ... in the western suburbs [and who] has a remarkable relationship with young people, by taking his bus to where they hang out, to let them know he is a police officer but he's not acting as a police officer. He's built up a great rapport with a whole range of different groups of young people, a whole range of different cultural groups of young people, and I think he's managed to do that because he's gone out and being himself, and shown the human side of policing.*⁴⁸

18.44 A homeless young person related a story of how an outreach program changed his attitude towards the police:

I was introduced to a program in the Valley, an Information Outreach Service in the Valley they put in place to minimise sniffing in the city. They put a program in the Valley and I've done that for almost 18 months now and it's totally changed my perspective of the police, because the cops there at the drumming showed us so much respect and judgement or anything like that. It was a drumming program. The police drum band ...

To walk into the drumming the first day and the police there and they said what we were going to do and we were going to march in Australia Day and I just laughed out loud and I said you're joking mate, I'm never going to march along with coppers mate, like you're kidding ...

I've now performed like twenty odd times and gone out to their property and rehearsed the music and stuff.⁴⁹

18.45 Homeless young people and police come into contact for a number of reasons and their relationship will depend on a number of factors. Where police frequently use their move-on powers the relationship seems to be more strained than in other places. To improve the relationship police should seek to establish contact in non-legal settings.

Discrimination

18.46 Discrimination against young people is common. Young people suffer discrimination in the private rental accommodation market and in accessing essential services. Indigenous young people, people from culturally and linguistically diverse backgrounds, and young parents suffer additional discrimination. Discrimination against homeless young people also occurs.

18.47 The Inquiry was told that young people generally are discriminated against in the private rental market. The Tasmanian Government submission stated that:

Young people can be subject to significant discrimination in the private rental market, in the form of denial of access, variations of terms and conditions of tenancy, and false assumptions about capacity to pay, lack of references and lack of rental history. Young people and sole parents are the least preferred tenants for real estate agents and landlords.⁵⁰

18.48 The Inquiry also heard that racism and discrimination against Indigenous young people and young people from culturally and linguistically diverse backgrounds by real estate agents and landlords was not uncommon. As a result young people were denied accommodation or were forced to accept unsatisfactory housing. The Refugee Youth Issues Network of South Australia related the story of a young woman from Tanzania who:

... was told by a landlord that "you seem like a nice girl but we don't want trouble here" when applying for a property in Magill so she could be closer to her university.⁵¹

18.49 This young woman felt that the landlord did not understand that she had the financial capacity to pay the rent and that she wanted to be close to her place of study. She felt:

... like she was categorised as a troublemaker or having trouble making friends because she had black skin.⁵²

18.50 Young parents are often assumed to be irresponsible or poor parents by many people and suffer discrimination as a result. A young mother in Brisbane related her experience of negative attitudes towards her when using public transport:

I went to get on a bus and the bus driver stopped and opened the door and he saw my son and he goes, oh, I don't want to put up with a screaming kid, and closed the door and drove off. It's happened to me a few times. I was sitting on the bus and my son has this little elephant and it sings in the jungle and you've got like, you know, your teenagers at the back swearing their heads off loud as, and he's got this little toy that sings a song, and the bus driver says oh, can you shut it off. ... I had a go at him. I was like you know there's people up there swearing their heads off and you're having a little go at my little son because he wants to play with a little toy. You know, it just really makes me angry. It's just really rude and like even trains. At peak hour, you have to like squeeze in through the door to get on there. There was one door and nobody standing in the doorway so I had my son in his pram and I was like there and the dude in the middle of the train that blows his whistle, he saw me run past him to get into the train and just as I ran past him to get into the door, he blew his whistle for the door to close and I had to wait again. It's just really rude.⁵³

18.51 Her housing worker compared this to her own experience:

As my experience of a mother with a two-year-old - and I'm in my thirties - no one would dare question me on the bus of what my child was playing with or would dare close the bus door on me and say no, you can't come in here. If my child was screaming they would quietly look away. However, the expectation is that someone who is parenting early in life is not a responsible parent or isn't looking after the children to a standard. It's just abhorrent.⁵⁴

18.52 The PILCH Homeless Person's Legal Clinic (Victoria) undertook a survey of its clients and found that 70 per cent had suffered from some form of discrimination on the grounds of homelessness or in relation to their accommodation status and told of discrimination against homeless people.⁵⁵ A witness from the clinic gave a typical example of discrimination against a homeless person:

Someone will turn up to a crisis accommodation centre and there won't be a bed for the night ... and they'll get a cheque from the crisis accommodation to go to a backpackers. The backpackers will see the cheque and say sorry, we don't accept cheques from the Salvation Army or from that service, so the person is turned away, or if it's more subtle, will go to places and get the worst room with the worst services. At a caravan park they will get the one down the back with no gas bottle or something like that.⁵⁶

18.53 This survey also found a similar situation in relation to goods and services:

... about 60 per cent experienced discrimination in goods and services. Most often it's basic services like restaurants, cafes, bars but also essential services like banks, shops, health and hospitals. Reports of people being denied stitches because of the way they present and the way they are perceived by the different staff.⁵⁷

18.54 The PILCH Homeless Person's Legal Clinic looked for legal remedies but pointed out that:

In Victoria, the Equal Opportunity Act is the prime instrument that prevents or makes

*discrimination unlawful and the grounds that it protects includes things such as age, sex, race, disability, political belief and applies to areas of activity which include education, accommodation, employment and provision of goods and services. But that Act doesn't protect [on the] grounds of homelessness or social status. So it is lawful to discriminate against somebody because they are homeless, or to discriminate against somebody because they receive social security benefits or [are] from a particular socio-economic background.*⁵⁸

Juvenile justice issues

Bail for homeless young people

18.55 Homeless young people charged with even a minor offence are often refused bail and kept in custody. A witness from Shopfront Youth Legal Centre (NSW) told the Inquiry that young people are refused bail because there is no adequate accommodation available:

*You've got kids who are being refused bail because there is no adequate accommodation available, and eventually they will be granted bail. They are usually granted bail to reside as approved by the Department of Juvenile Justice or the Department of Community Services. Somebody will eventually find them some accommodation, but it could take days or even weeks of them being held on remand pending some appropriate accommodation.*⁵⁹

18.56 The Bridge Youth Service (NSW) told the Inquiry that the service received a number of referrals from young people held in detention:

*I would say most of the referrals that I would get are from Juvenile Justice and young people calling up from lock-up because they're being held and because they don't have any accommodation to go to. Definitely from our service, getting referrals from and on behalf of young people is because they've got no accommodation.*⁶⁰

18.57 Even when granted bail homeless young people can have a lot of difficulty meeting their bail conditions and when caught are remanded into custody.⁶¹ Service to Youth Council (SA) provided an example where young people:

*... have been picked up by the police and had been bailed to a particular address. It may be an accommodation service they are no longer staying at and then try and get taken back there, and they find out they are no longer bailed there, no longer staying there and can get arrested again and will be remanded because they breached their bail.*⁶²

18.58 In some places alternative accommodations arrangements may be found that prevent homeless young people being held in remand. The Inquiry was told of the Remand Intensive Neighbourhood Care Program (Remand INC) in South Australia, which is a community-based accommodation program for young people facing remand into custody and thereby limits their exposure to the justice system,⁶³ although the witness felt the program was not very successful.

18.59 Bail hostels are another model for diverting young people from remand, particularly for Indigenous young people. The Inquiry is aware these exist in NSW funded by the NSW Department of Juvenile Justice. In Adelaide, Metropolitan Aboriginal Youth and Family Services told the Inquiry that a bail hostel was:

*... definitely what we need for young Aboriginal people.*⁶⁴

Post-release support

18.60 Across Australia the Inquiry was told that young people leaving detention, either juvenile detention centres or adult correction centres, at the completion of their sentence or on parole are often released without adequate support. In Queensland, the Inquiry was told that young people leaving adult correctional facilities:

*... are released without any money, without any support, without any sort of community organisation that has had any relationship.*⁶⁵

18.61 Young adults from rural Queensland are not returned home when released from detention. Without any money or support these young people are:

*... wandering around, and then they end up going [back to detention], repeating that cycle again.*⁶⁶

18.62 Leaving detention without any support leads either to re-incarceration or reliance on homelessness services such as SAAP. Post-release support services should be in place to assist people leaving detention to secure accommodation, work and links to community support services to prevent a return to detention or homelessness.

18.63 The Inquiry was told that the Queensland juvenile justice system does have a post-release program but it is detention centre based not community based, which means the program maintains:

*... the connection with the system, with the same prison officers, whatever you want to call them, and so when the young person is released they will go and visit them in the community and they call that post release, which to us is basically a recipe for attracting them back inside the system, maintaining a relationship.*⁶⁷

18.64 In NSW, the juvenile justice system does have a community based post-release support program but the Inquiry was told that funding should be increased and additional services provided.⁶⁸

18.65 In some jurisdictions, the Inquiry heard of plans to develop post-release support programs aimed at preventing young people returning to detention. The Tasmanian Government told the Inquiry that:

*Youth Justice staff are currently designing a step down program to support young people following release from Ashley [youth detention centre]. This program is intended to meet the need for long-term accommodation options supported by coordinated programs to help in establishing young people back into the community.*⁶⁹

18.66 The ACT was developing:

*... a transitional housing program for young people who are coming out of Quamby, our youth detention centre.*⁷⁰

18.67 In South Australia, the lack of post-release support meant that young people leaving detention are reliant on the SAAP system. The Inquiry was told that:

*SAAP [services] do not hold specialist knowledge or models of therapeutic intervention to deliver the case management services to these young people. Some young people may have limited access to accommodation due to service concerns about the nature of their offences.*⁷¹

18.68 Service to Youth Council (SA) told the Inquiry that:

*Specialist stable and affordable accommodation should be made available for young people who are exiting the Juvenile Justice system. This would ensure that there is appropriate accommodation available for young people at the time of release as well as making this accommodation more stable, reducing the need for them to move frequently. This would also allow more young people to be remanded for shorter periods and to complete their sentence in the community.*⁷²

Findings and Recommendations

18.69 The criminalisation of homelessness through public space laws is counter-productive to ameliorating homelessness. There is little point in moving homeless people from one location to another with public space laws. The move-on laws in Western Australia are a poor example of how to deal with young people in public spaces. New solutions are needed to assist homeless people to access services and reduce their need to congregate in public spaces.

Recommendation 18.1:

The NYC Inquiry recommends that state and territory jurisdictions convene a review of the various laws that apply to behaviour in public space and how these laws affect young people, especially homeless young people.

18.70 This inquiry has established that policing as it affects homeless young people has improved since 1989. However, the relationship between police and young people, particularly homeless young people, remains an on-going issue that requires some attention in the training and routine briefings of police officers. Establishing contact and undertaking community policing activities in non-legal community settings could further improve the relationship. This would contribute to crime prevention by not only helping to reduce criminal activity among the homeless youth population, but also it would assist in the reporting and solving of crimes conducted against homeless young people.

Recommendation 18.2

The NYC Inquiry recommends that youth and police community liaison committees be given a role to monitor issues between young people in public spaces and police and how policing

practices impact on young people.

18.71 The criminal justice system should avoid placing young people on remand because they are homeless. The Burdekin Report urged that legislation ‘establish a presumption in favour of bail for children where this is not already the case’. The issue is still present and alternative approaches, such as the use of bail hostels or other non-custodial community settings, need to be developed further.

Recommendation 18.3:

The NYC Inquiry recommends that state and territory jurisdictions extend diversionary practices that prevent homeless young people being placed on remand in custody because they cannot afford bail.

Recommendation 18.4:

The NYC Inquiry recommends that state and territory jurisdictions give particular attention to diversionary practices to prevent Indigenous young people being placed on remand in custody.

18.72 There was recurrent mention of the problems that unemployed and homeless young people have using public transport, where they are apprehended for travelling without a ticket, experience a punitive and often unsympathetic interaction with a transport policeman and then incur mounting fines they can’t pay with subsequent legal action. On-the-spot fines for public transport fare evasion are a counter-productive measure when homeless young people are incapable of paying the fines and need to move from place to place to access services. Avoidance of the authorities because of these unpaid fines further exacerbates the marginalisation of homeless young people. The issuing of a ‘youth card’ similar to a seniors card would have a series of positive benefits for young people but also reduce administrative follow-up and subsequent legal proceedings.

Recommendation 18.5:

The NYC Inquiry recommends that Centrelink issue a means tested ‘youth card’, which would carry certain entitlements such as free or concession fares on public transport, as a way of reducing fines and punitive outcomes.

18.73 Post-release support programs that provide young people with assistance in maintaining their place in the community after completing their sentence are critical to avoid both homelessness and a return to criminal activity and detention.

Recommendation 18.6:

The NYC Inquiry recommends that stronger post-release programs be put in place for young people leaving juvenile justice or adult correctional facilities to prevent an offender becoming homeless after release. Such programs should involve:

- Case management support;
- Brokerage funds;
- Accommodation;
- Follow-up for at least 12 months;
- A client data collection system so that the effectiveness of these measures can be monitored.

ENDNOTES

- 1 Young Person, NYC Youth Survey, 21.
- 2 ABS (2007) Recorded crime – victims 2006, Cat No 4510.0, ABS, Canberra, p.5.
- 3 J. Sanders, Shopfront Youth Legal Centre, Sydney Day 9, 17-04-2007.
- 4 For example A. Buxton, Anglicare NT, Darwin Day 3, 03-04-2007; R. Johnson, Eastern Health Child and Adolescent Mental Health Service, Melbourne Day 14, 24-04-2007.
- 5 For example see Davis, N., Hatty, S. & Burke, S. (1995) 'Rough justice: Social control and resistance among homeless youth' in Simpson, C. & Hil, R. (eds) Ways of resistance: social control and young people in Australia, Hale and Iremonger, Sydney.
- 6 For example, Young Person Melbourne Day 13, 23-04-2007; Young Person Brisbane Day 5, 10-04-2007;
- 7 Young Person, NYC Youth Survey, 11.
- 8 J. Sanders, Shopfront Youth Legal Centre, Sydney Day 9, 17-04-2007.
- 9 Ibid.
- 10 HREOC (1989) Our Homeless Children, AGPS, Canberra, p.49.
- 11 National Crime Prevention (1999) Living rough: preventing crime and victimisation among homeless young people, National Crime Prevention, Attorney-General's Department, Canberra, p.36.
- 12 Ibid.
- 13 J. Sanders, Shopfront Youth Legal Centre, Sydney Day 9, 17-04-2007.
- 14 Ibid.
- 15 M. Tinkler, PILCH Homeless Persons' Legal Clinic, Melbourne Day 14, 24-04-2007.
- 16 Ibid.
- 17 M. Taylor, Queensland Public Interest Law Clearinghouse, Homeless Persons' Legal Clinic, Brisbane Day 5, 10-04-2007.
- 18 Ibid.
- 19 Ibid.
- 20 Ibid.
- 21 Submission 66, Homeless Persons' Legal Clinic, Queensland Public Interest Law Clearing House with Brisbane Youth Service, Salvation Army Youth Outreach Service, Australian Red Cross.
- 22 Submission 35, Anglicare WA.
- 23 S. 47A Summary Offences Act NT.
- 24 Ibid.
- 25 T. McNee, Alice Springs Youth Accommodation and Support Service, Alice Springs Day 21, 25-06-2007
- 26 R. Logie, YES! Housing, Anglicare WA, Perth Day 19, 07-06-2007
- 27 Submission 66, Homeless Persons' Legal Clinic, Queensland Public Interest Law Clearing House with Brisbane Youth Service, Salvation Army Youth Outreach Service, Australian Red Cross.
- 28 Submission 67, Shopfront Youth Legal Centre.
- 29 J. Cashen, PILCH Homeless Persons' Legal Clinic Melbourne Day 14, 24-04-2007.
- 30 Ibid..
- 31 Submission 67, Shopfront Youth Legal Centre.
- 32 J. Cashen, PILCH Homeless Persons' Legal Clinic Melbourne Day 14, 24-04-2007
- 33 Ibid

- 34 Ibid.
- 35 See <<http://www.justice.qld.gov.au/courts/factsht/homelessDiversion.htm>>, accessed 28-09-2007.
- 36 M. Taylor, Queensland Public Interest Law Clearinghouse, Homeless Persons' Legal Clinic, Brisbane Day 5, 10-04-2007.
- 37 Submission 66, Homeless Persons' Legal Clinic, Queensland Public Interest Law Clearing House with Brisbane Youth Service, Salvation Army Youth Outreach Service, Australian Red Cross.
- 38 Ibid.
- 39 Ibid.
- 40 Young person, Brisbane Day 5, 10-04-2007.
- 41 Ibid.
- 42 G. Pringle, Youth Drug and Alcohol Service, Sydney West Area Health Service, Sydney Day 9, 17-04-2007.
- 43 Ibid.
- 44 Ibid.
- 45 J. Solomon, Sisters Inside, Townsville Day 7, 12-04-2007.
- 46 G. Pringle, Youth Drug and Alcohol Service, Sydney West Area Health Service, Sydney Day 9, 17-04-2007.
- 47 Young person, Brisbane Day 5, 10-04-2007.
- 48 M. Young, Open Family Australia, Melbourne Day 13, 23-04-2007.
- 49 Young person, Brisbane Day 5, 10-04-2007.
- 50 Submission 69, Tasmanian Government.
- 51 Submission 43, Refugee Youth Issues Network of South Australia.
- 52 Ibid.
- 53 Young Person, Brisbane Day 6, 11-04-2007.
- 54 J. McKay, Zig Zag Housing Service, Brisbane Day 6, 11-04-2007.
- 55 M. Tinkler PILCH Homeless Persons' Legal Clinic, Melbourne Day 14, 24-04-2007.
- 56 Ibid.
- 57 Ibid
- 58 Ibid
- 59 J. Sanders, Shopfront Youth Legal Centre, Sydney Day 9, 17-04-2007.
- 60 R. Howe, The Bridge Youth Services, Sydney Day 9, 17-04-2007.
- 61 J. Sanders, Shopfront Youth Legal Centre, Sydney Day 9, 17-04-2007.
- 62 G. Anderson, Youth Agency, Service to Youth Council, Adelaide Day 15, 26-04-2007.
- 63 L. March, Service to Youth Council, Adelaide Day 15, 26-04-2007.
- 64 C. Axleby, Metropolitan Aboriginal Youth and Family Services, Adelaide Day 15, 26-04-2007.
- 65 S. Doostkhah, Youth Affairs Network of Queensland, Brisbane Day 5, 10-04-2007.
- 66 J. Solomon, Sisters Inside, Townsville Day 7, 12-04-2007.
- 67 S. Doostkhah, Youth Affairs Network of Queensland, Brisbane Day 5, 10-04-2007.
- 68 K. Crowe, Southern Youth and Family Services, Wollongong, Sydney Day 8, 16-04-2007.
- 69 Submission 69, Tasmanian Government.
- 70 M. Hunter, Youth Coalition of the ACT, Canberra Day 12, 20-04-2007.
- 71 Submission 74, Service to Youth Council.
- 72 Ibid.