

FINALLYSUCCESS IN RELATION TO 17 YEAR OLDS!

YAC's Chair, Damien Atkinson, tells the story of how it finally happened.

On Thursday, 3 November 2016, the Queensland Parliament passed an Act re-locating 17 year olds to the Youth Justice system. As both parties acknowledged in the House, that was a reform that has been dear to YAC for many years, and I want to spend some time reflecting on the change and our role in it.

When the Juvenile Justice Act was passed in 1992, the Minister indicated that, whilst 17 year olds would initially be dealt with in the adult system, it was intended that a change would be made soon so that young people only entered the adult system at 18. Indeed, section 6 of the Act specifically empowered the Government to make the transition by regulation.

But the change never came, and YAC lobbied successive governments to make good on the promise. Janet Wight began pressing for the reform about three years after the Act was passed, and the campaign was continued by Anne McMillan, Gwenn Murray, Damian Bartholomew, Cristy Dieckmann, Paul Spooner, Rosslyn Munro and Craig Mackie to name a few. Political inaction meant that 17 year olds were deprived of the benefits of the children's courts (with their strong focus on diversion and rehabilitation) and, if those young people were given a custodial sentence or even just placed on remand, they were housed with adult prisoners. Wonderful opportunities were lost; unspeakable things happened in their place.

Soon after the 2015 State Election, I arranged to meet with the relevant Ministers in the new Government, along with Damian B., our longest serving legal caseworker. We pointed out that this particular reform was ALP policy and we presented letters of support from community leaders. It became very apparent to us, however, that there were no immediate plans to make the change.

When the Don Dale scandal unfolded in the Northern Territory, there was a surge of national interest in youth justice. We saw an opportunity, and we published an article "Do Queensland Children Matter Less?" in the Brisbane Times, questioning why Queensland was the only state to treat 17 year olds as adults. At the same time, Shane Duffy from the National Aboriginal and Islander Legal Service raised the issue on Radio National, and Professor Kerry Carrington, Head of the QUT School of Justice, instigated a petition on Change.org. There was a little momentum in the press but our modest beach head was in danger of falling back into the sea.

For some time, YAC had reached the view that what we really needed was a 17 year old who was prepared to tell the story of how they fared in prison. We had canvassed many potential sources but could not find a young person prepared to endure the public attention that was likely to follow. In early August 2016, however, all that changed. I was riding the "river loop" at 5.30am on my bicycle when I caught up with Terry Fisher (a solicitor in private practice on the Management Committee of the Prisoner's Legal Service), and happened to mention YAC's search. Three weeks later, Peter Lyons, the PLS Director, contacted us to say they had a young person who met all our criteria. The boy had been 17 when he was sent to the Brisbane Correctional Centre. He had no previous history. He was only on remand but, when it emerged that he could be "lippy", he was confined to his cell for 22 hours a day, week after week. Indeed, on the very first night, he was placed in a spit mask, handcuffed and shackled, as some form of punishment for his verbal transgressions. The PLS had made a complaint about his treatment and, whilst the complaint was inexplicably dismissed, it had yielded, amazingly, high-quality hour long footage taken from the Corrective Services camera.

The footage did not permit of argument. It depicted a 17 year old boy wandering aimlessly around a tiny cell, occasionally shouting under the door, and then – whilst he was totally compliant and clearly endangering no-one – being surrounded by six prison officers, and forced into a spit hood, as well as handcuffs and a body brace. It made the point, eloquently, that adult prisons and prison officers didn't seem well-equipped to deal with young people.

The PLS contacted the boy, Jarrod, who was now 20 years old (and residing at a Correctional Centre so that he was not permitted to speak to media) and also his mother. They both agreed to participate in the YAC campaign. We were very mindful not to squander the privilege. It had occurred to us that successive Governments might have steered clear of the reform for fear of the reception they might receive from the media. On the recommendation of a close friend and media advisor, Simon Turner, (who, incidentally, subsequently secured a number of press interviews), I provided the story to a particular journalist at The Courier-Mail, Dave Murray, who had a history of considered and well-written articles.

The PLS had obtained internal reports from Corrective Services regarding the incident with the spit mask. They had also prepared their own summary of Jarrod's treatment, and, of course, they had a DVD with footage. I provided all those documents to Dave. On Sunday, 28 August 2016, we watched the footage together in my kitchen, and he agreed immediately that it was a big story. Peter Lyons spent the Monday confirming with Jarrod and his Mum that they could deal with the exposure. In the meantime, I provided policy background to Dave, and YAC contacted some key players – the Bar Association, NAILS, the Queensland Law Society and Professor Carrington – to say that a story was about to be published, and that we would be grateful if they would weigh in when it appeared. On that day, we also reached agreement with The Courier-Mail that, when the story went to print, they would simultaneously upload the CCTV footage to their website so that it was there for the world to see.

On Tuesday, 30 August 2016, the story – together with stills from the footage – was front page news in the Courier-Mail. There were also interviews inside the paper about the treatment Jarrod had received, and about the 17 year old policy issue generally. From about 7.00 am, the radio stations and the TV channels picked up the issue and the footage. Peter Lyons and I did a series of interviews together or separately, and the story was covered on ABC 612, and on every TV channel that night.

On Wednesday, 31 August 2016, the Bar Association and the Law Society issued press releases, expressing dismay at Jarrod's treatment and urging prompt reform. Amnesty International launched a damning report at Parliament House Annexe, criticising the youth justice system in Queensland, particularly as it affected Indigenous people, and raising the 17 year old issue. The Courier-Mail also ran a second article by YAC, deconstructing various responses to the story that had emerged. On Thursday, 1 September 2016, the story was front page again. The Courier-Mail and A Current Affair published the mother's account, which was particularly moving. She explained that she had three children and that Jarrod was the only one who had succumbed to drugs and been taken into custody. She said that she was well aware that he could misbehave but she had been devastated to discover what he had endured in prison. She was particularly distressed to learn that the treatment had started from his first night on remand, and that it had been the subject of concern amongst prisoners and their visitors.

By this time, it became clear from the letters to the editor, from radio talkback, and from the tone of the media coverage, that now that the public fully understood the proposed reform, there was overwhelming support for it. The Courier-Mail published a cartoon by Sean Leahy on the issue and its editorial adopted, and presented, in strident terms the arguments that YAC had agitated for so many years. There was also a lengthy article from a psychologist explaining the counterproductive nature of the punishment meted out to Jarrod, and Siyavash Doostkhah of the Youth Affairs Network Queensland (which has also been active in this campaign for many years) was quoted separately, threatening to take the Queensland Government to the UN. The story was picked up by Hack at Triple J and - albeit for a brief time - it became the number one topic in a national bulletin maintained by journalists.

On the afternoon of the Thursday, I received a call from the Premier's Office, asking if the PLS and YAC would attend a meeting on the following day. We agreed.

On Friday, 2 September 2016, the Courier-Mail's headline was "Adult's Only", and the article suggested that the Government was about to take steps to remove young people from Queensland prisons. Janet and I attended the Government offices with Matt Woods from the PLS. The Premier was there, as was the Attorney, and there were three senior Government advisors. We have agreed that we would not make public what occurred at the meeting. Suffice to say that, in advance of the meeting, we were clear that YAC was no longer interested in general assurances. There was overwhelming public support for the reform and now we would not be satisfied with anything less than a transition date. Shortly after the meeting, a timeline was announced.

I understand that, on Monday, 5 September 2016, there was a cabinet meeting and I infer that this issue was keenly considered there. Then, on Wednesday, 7 September 2016, the PLS and YAC, as well as other key stakeholder, were invited to the Executive Building for a press conference. The Premier announced that a bill would be introduced the following week to move 17 year olds from the adult system to the youth justice system, with the aim of passing the legislation by the end of the year and coming into effect 12 months after assent. The Premier went so far as to explain that the change was being introduced by bill rather than by regulation to ensure it could not easily be repealed. That bill entered the House on 15 September 2016 (and YAC, amongst others, put in comprehensive submissions when it reached Committee stage). Importantly, the Premier and Attorney committed to ensuring that appropriate interim measures would be made for 17 year olds already in the prison system, and to developing a world class youth justice system that addresses the causes of youth offending with a focus on prevention and early intervention, which in the longer term will be better for the community as well as the children themselves.

When the bill came before the House on the afternoon of 3 November 2016, there were approximately 30 speakers. The Attorney spoke passionately and eloquently in support of the transition, as did Jackie Trad, Shannon Fentiman and Peter Russo, amongst others. MP after MP from the Opposition raised perceived problems with the change but, happily, we had secured the support of four of the five cross-benchers and, when the vote was called, the bill narrowly prevailed, 43 to 41.

There is much still to do. A working party has been set up to oversee the change and YAC has been invited to participate. It will presumably consider the logistics of altering youth justice courts and prisons to accommodate the new cohort. It is hoped that this working party or a wider review will also deal with issues such as why there are so many 10 to 12 year olds in our youth detention centres and why young people in Queensland are spending so much time in custody on remand.

YAC applauds the Government for listening to community sentiment. We also take a moment to be proud of ourselves. If YAC didn't exist, I don't believe this change would have happened. I can't help thinking that, for all these years, there have been many YAC hands, feeling for a way through the brick wall and, as a result, when the portal opened, when the opportunity presented itself, YAC was ready and piled through.

It has always been a core part of YAC's mission to inform public policy on youth justice, in addition to providing front line services. We had a strategic review meeting in August 2016 and the staff made very clear then that one of their key goals was to see that this reform was effected. We are blessed to have staff who think in such disinterested terms, and I could not be happier with the joy that this reform has brought to them, as well as the management committee and members, past and present, and to criminal lawyers generally.

We have learnt, importantly, how effectively a visual image breaks through political prose but we have also been reminded (if we needed reminding) of how critical the YAC voice is to debate about young people.