



SACOSS

*South Australian Council
of Social Service*

Law and Justice
shift the focus to crime prevention

SACOSS Principles Paper No. 4
July 2009

You can!
help create a better State

**South Australian
State Election 2010**

Law and Justice: shift the focus to crime prevention
SACOSS Principles Paper No. 4 July 2009

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You can! ^{*} help create a better State

In the lead up to the 2010 South Australian State Election, political parties, independent candidates and interest groups are all constructing their policy platforms. This means that effectively, the future of South Australia is under construction and this is the best opportunity to influence the development of public policy as political parties and candidates *respond to public opinion* – it is our strongest weapon to ensure progressive and equitable policies!

The policy development process should not be taken for granted: politicians and senior bureaucrats need to know what issues are of concern to the voting public and what direction we want them to take. This paper is one of five SACOSS principles papers that are intended to assist politicians, bureaucrats, interest groups and the broader public to consider what principles should underpin policy development in the lead up to the State Election 2010.

With the right policies – policies that look to the long term future of our State – we can make people the foundation of policy in South Australia. By focusing on long term, preventative policies, we can ensure the prosperity of our State is shared with all South Australians.

Start reading beyond the headlines, stop taking the party political process for granted, start questioning your local candidates — and help create a brighter future.

*Visit our website for ideas, information and research, tips and tools,
and to add your comments about the State Election and beyond.*

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Preamble

Throughout its State Election 2010 strategy formation, as in all other work, consideration is given by SACOSS to those for whom disadvantage is more common and more entrenched. While the Principles Papers themselves do not specifically mention these groups in detail, the core work of SACOSS, based on its vision of *Justice, Opportunity and Shared Wealth for all South Australians*, leads it to always bear in mind the circumstance of the most vulnerable and disadvantaged in our society.

The question of who is most disadvantaged is often framed in a negative way – that is, who is, and who isn't, most deserving of understanding and assistance. SACOSS does not view these issues in this way, nor does it believe that they should be. There are many groups in society disproportionately represented in statistics on poverty, unemployment, incarceration, low levels of schooling and skills acquisition, and poor access to more of the societal goods many of us take for granted every day. Evidence suggests that the following groups in contemporary South Australian society are the most disadvantaged, and must be kept in mind when reading SACOSS materials:

- Aboriginal and Torres Strait Islander people
- Children from low income families
- The ageing population
- Homeless people
- People with disabilities
- Regional and remote communities
- Women
- Young people
- Culturally and Linguistically Diverse (CALD) communities

Members of these groups are overrepresented on a number of indicators of poverty and disadvantage, including:

- Poor access to safe, secure and affordable housing
- Unemployment and under-employment
- Lack of access to education and training opportunities
- Poor access to health and other support services
- Lack of access to appropriate transport and transport services
- High levels of drug and alcohol abuse
- High levels of incarceration
- High levels of family breakdown
- Lack of social participation

Throughout its Principles Papers and its other State Election 2010 material, the focus of SACOSS is on the specific policy areas they aim to address. By maintaining a broad view of the issues it sees as important, SACOSS hopes that the reader will make use of the facts, figures and findings of these papers to inform their views of the issues and to make their own decisions regarding policy directions for South Australia.

This paper is informed by the following:

Principles

Early intervention — Identifying and applying early intervention strategies which target children and juveniles who are 'at risk' of becoming introduced to the Criminal Justice System (Break the Cycle). This includes the implementation of diversionary and restorative processes to limit exposure to the criminal justice system as much as is practicable.

Prison ineffectiveness — Prisons are costly to run. Punitive sanctions historically have not deterred the commission of crime, and mental health issues are not adequately addressed while incarcerated. Rehabilitation and treatment programs are proven to work so a greater emphasis on these programs in the criminal justice system needs to occur.

Prisoner demographics — Identifying the common characteristics of prisoners /offenders, including mental health issues, the over-representation of Aboriginal and Torres Strait Islander people in offending and prison statistics, CALD communities and juvenile justice issues.

Restorative justice — An emphasis on 'restoring' the offender, the victim and the community. Diversion from incarceration. Victim rights and participation.

Cost of the criminal justice system — Fiscal and social costs of incarceration and punitive responses to crime.

Executive Summary

The continued use of punitive sanctions to control and deter criminal behaviour rests upon a general historical misunderstanding of the effectiveness and appropriateness of this method of punishment. The current criminal justice system and the persistent sensationalist 'get tough' initiatives by governments, both preceding and current, have previously enjoyed widespread support within South Australia as both politicians and the media promulgate populist perceptions of crime. Citizens have previously been confident in the efficacy of our punitive criminal justice system, and there has been support for harsher penalties that are perceived to contribute to a safer society by increasingly incarcerating people who commit criminal offences. Conversely there has been a growing acknowledgement of the failures of this system to address the sociological contributors to criminal behaviour, and subsequently the development of early intervention and prevention measures (Sanson et al, 1995).

The environmental and structural issues and barriers that affect the disadvantaged have been consistently identified as significant contributors to criminality. Moreover, experiences in early childhood, particularly in regards to physical and psychological development as well as familial and social experiences, can have considerable effects in the way that children and youth connect with education and with the community. Statistics regarding social and developmental predictors have shown that the issues related to poverty and disadvantage account for a 56% higher chance of participating in offending behaviour later in life. Child neglect explains 57% of juvenile participation in crime, 58% of property crime and 49% of participation in violent crime (Cashmore et al, 2002).

The current criminal justice system has failed to acknowledge and address the sociological contributors to criminal behaviour, including the well defined issues of the cycle of crime and the effects of disadvantage. In this way, the reticence to embrace notions of ameliorating the sociological contributors to criminal behaviour is implicitly and explicitly perpetuating this cycle.

Major findings

- The overall cost of crime in Australia in 2005 was estimated to be \$36 billion (4.1% of national GDP).
- It costs the South Australian taxpayer \$185 per day to accommodate each prisoner in our prison system. Annually this calculates at \$67,525 per prisoner.
- If the current state government's 'tough on crime' agenda continues, we can expect an influx of prisoners to descend upon our prison system.
- Prison overcrowding is a significant issue, with the situation expected to worsen with the 'Super Prison' complex being scrapped in the 2009/10 State Budget.
- Statistics demonstrate that issues of poverty and disadvantage indicate a 56% higher risk of offending behaviour where these factors are present. 57% of juvenile crime is committed by those exposed to child neglect.
- There is an established link between juvenile offending and offending later on in life, therefore preventing early contact with the criminal justice system is necessary to limit re-engagement with crime.
- Prevention and early intervention strategies are utilised in international jurisdictions to great effect and countries such as Canada have seen significant decreases in reported crime figures.

Purpose

The intention of the five SACOSS Principles Papers is to influence debate and policy development in the lead up to the South Australian state election in March 2010. The purpose of this particular Principles Paper is to explore the current criminal justice system in South Australia and to investigate how reframing the system within a prevention and early intervention paradigm will contribute to less crime within our communities.

This paper has been written in order to provide a starting point for further discussion and debate regarding the current criminal justice system and the effect of that system on vulnerable and disadvantaged populations. The paper argues that changing the focus and processes contained within the system will contribute positively to reducing the incidence and impact of crime in our community.

Introduction

There has been growing concern regarding the 'get tough' approach so popular with Australian legislators in recent years. Neo-conservative ideology has informed an approach in which legislators and some researchers have pondered the effect of a return to old fashioned family values and how that might reduce crime statistics, particularly within juvenile criminality. Unfortunately the foundations of this belief are exclusionary, Western, and Anglo-Saxon and make assumptions regarding the distinction between 'good people' and an invasive criminal element (Cashmore et al, 2002). This approach has historically failed in regards to the prevention of crime or in deterring recidivism.

Conversely, when we embrace the notion that criminality is directly contributed to by sociological factors, we are able to explore developmental issues within the family setting as well as how the family of potential offenders is situated within wider society. Research has shown the risk of crime increases within communities characterised by exclusion and intolerance. This negative social environment is further exacerbated by a disparity in income, appropriate housing, health services, education and welfare services (Cashmore et al, 2002).

Over the last two decades the percentage of South Australian children living below the poverty line has nearly doubled (King, 1998, cited in Cashmore et al, 2002). This creates greater financial and social exclusion which works to deny full participation within social and economic life. Living in poverty has been recognised as a significant social determinant of health and wellbeing. Poor social and economic circumstances affect people throughout their life cycle. This is demonstrated strikingly when we consider that those people further down the social gradient are at least twice as likely to develop serious illnesses and die prematurely than those near the upper end of the social gradient (Marmot & Wilkinson, 1999: Wilkinson & Marmot, 2003).

Studies have supported the notion that the mental and physical health enjoyed during adulthood is greatly determined by the environments in which children are raised. Poor early experience and developmental problems during this period become ingrained within our biological processes and determine our ability to function effectively and in our overall physical and mental health (Health Evidence Network, 2006).

Causes of crime

Unfortunately there is no one quick, convenient and easily identifiable set of conditions that directly lead to criminal behaviour; rather there is a complex set of intersecting circumstances that increase the chances of participation in criminal acts. An abundance of research establishes a clear link between adverse social, economic and familial conditions and criminality. Statistics demonstrate that issues of poverty and disadvantage indicate a 56% higher risk of offending behaviour where these factors are present, and 57% of juvenile crime is committed by those exposed to child neglect. These links between criminal justice issues, poverty and social conditions are highlighted in many publications, including the *Pathways to Prevention* report (Cashmore et al, 2002). Children and young people are extremely vulnerable to the conditions of family and environment around them at a time that has particularly significance to their psychological and personality development. Trauma experienced in early childhood can 'hardwire' the mind and corrupt normal cognitive maturation.

Weatherburn (2001) states that the onset of participation in crime ranges from 12 to 16 years. This is because children are particularly susceptible to the conditions of the familial and social environment at a significantly delicate phase of their psychological development. If the child is subjected to any adverse circumstance or trauma at this point in their development, negative social, behavioural and emotional issues can ensue. These negative behaviours can manifest themselves in attachment issues, problems with mental health, alcohol and drug abuse and an increase in criminal behaviour.

The cost of crime

According to the Australian Institute of Criminology (2008) the overall cost of crime in Australia in 2005 was estimated to be \$36 billion (4.1% of national GDP). To put that estimate into context, the Productivity Commission reported that in 2004–05, Australian governments spent \$47.2 billion (5.0% of GDP) on education and \$83.8 billion on health (8.9% of GDP).

The costs associated with accommodating the influx of prisoners is increasing at an alarming rate. In 1994/1995 the Australian national expenditure on housing prisoners was \$883 million; by 2002–2003 this figure had increased to \$1.7 billion, equating to each prisoner costing \$159 per day to incarcerate (ABS, 2003, cited in Heggie, n.d.). Three years later it cost an average of \$170 per day to house each prisoner in Australia, according to *2006 Australian Crime: Facts and Figures* (AIC, 2006). By 2007 that figure had risen by over 8% to \$185 per day. Annually this calculates at \$67,525 per prisoner.

The financial cost of incarceration is only one facet of the cost to the community. There is also the human cost of denying liberty, disconnection from the family and the community and focusing upon punishment rather than societal change (ABS 2003, cited in Heggie, n.d.). Further, the families of offenders are often forgotten within this process, and so a greater emphasis on supporting these families should take place to decrease the inevitable escalation of disadvantage that occurs when family members are sent to goal.

The families of offenders can also be significantly affected by a loved one taken into custody. Johnston (1995, cited in Tudball, 2000) argues that the normal developmental stages of a child's life can be significantly impacted upon by the influenced by the ordeal associated with the dislocation of a parent. This is particularly significant if it is the primary caregiver who is incarcerated.

Prison overcrowding

The current 'tough on crime' agenda has brought with it an influx of extra prisoners and, not surprisingly, overcrowded South Australian prisons.

It must be stressed that the prison environment is a very different environment to that of a 'normal' life in the wider community. This environment is characterised by more than simply a loss of liberty and corresponding connections to family and the outside world. Prisoners are faced with living in smaller, overcrowded spaces. They are forced to co-habitate with others who exhibit violent and anti-social behaviour, and they are in an environment where boredom, idleness, aggression and despair are often exacerbated by an absence of personal control. Couple this with feelings of loss and disconnection from families and their known environments, and severe psychological disturbance can develop from the utter hopelessness of a prisoner's situation (John Howard Society of Alberta, 1996).

The compounding effects of overcrowding mixed with the individual experience of being in prison can have major impacts on the health and wellbeing of each prisoner. Heidesohn and Farrel (1991 cited in Fox, 1998) have found a causal link between prison overcrowding and increased incidences of violence. There is also a causal link between prison overcrowding and increased incidences of psychological disorders such as anxiety, depression and post traumatic stress disorder (Jones 1976, cited in Fox, 1998).

Prison overcrowding will not be lessened in South Australia, particularly over the longer term, with the announcement in the 2009/10 State Budget that the planned 'super prison' complex in Murray Bridge had been scrapped. This is of great concern as prisoner numbers are increasing each year, in a system that is struggling to accommodate current levels of inmates.

Mental health issues and crime

Historically there has been energetic debate regarding the relationship between mental health and criminality that can be traced back well over a century. In recent years researchers have highlighted the correlation between the social dislocation that often accompanies mental disorders and criminality amongst this group. It is anecdotally and empirically recognised that people with mental illnesses are certainly over-represented within prison populations (Mullen, 2001; Krieg, 2006).

There is an irrefutable link between increased social isolation and negative consequences for mental health. Smaller social networks, fewer close relationships and a reduced perception of social support greatly contribute to the symptoms of depression and other mental illnesses. Increased connectedness and participation within one's community/ies perpetuate a sense of belonging that sociological and psychological theorists argue contributes to positive psychological wellbeing (Kawachi & Berkman, 2001).

Prevention and early intervention

The preceding section has discussed notions of the social environment contributing to the commission of crime and repeat offending. In order to identify the complex set of contributing factors that can influence criminality, policymakers need to shift the focus from crisis (or end result) responses which centre around a retributive and adversarial criminal justice system, to a focus upon the life and social factors of potential offenders and how these elements impact upon the development of young people (Cashmore et al, 2002).

Social exclusion has been consistently identified as a contributor to feelings of alienation, mistrust, and increased criminality. Early childhood physical and psychological development as well as

familial and social experiences can have considerable effects in the way that children and youth connect with education and the community. In addition, this affects the level of engagement or disengagement from education and the community as the child reaches the teenage years. Disconnection from education and community is known to be a significant predictor of experiences and behaviour in adult life. Research has established the link between truancy, exclusion from education and the likelihood of becoming involved in drug use, anti-social behaviour and criminality.

Additionally, there is an established link between juvenile offending and offending later on in life, contact within the justice system and particularly corrections. Overseas studies have shown that between 30 to 60% of juvenile offenders brought before the Children's Court later come into contact with the adult criminal justice system (Blumstein et al, 1986, cited in Chen et al, 2005). A recent Australian study – which studied a cohort of 5,476 juveniles who appeared in the Children's Court in 1995 and followed their activities until 2003 — added to this research by demonstrating that 68% of juvenile offenders who appeared before the Children's Court re-appeared in an adult court on at least one occasion within eight years of the original appearance (Chen et al, 2005).

According to figures recently highlighted by a report by Mission Australia (2009), during the 2006-07 period there were approximately 12,765 young people under juvenile justice supervision across the country. Of this number 10,675 were aged between 10 and 17 years. The majority of the young people affected by orders received non-custodial sentences; however 43% experienced some form of detention. Moreover, rates of recidivism are significantly high for many young people who have come into contact with the juvenile justice system and the recidivism rates are even higher for those who were subject to incarceration.

These factors drive us to advocate for a greater emphasis on breaking the cycle between juvenile offending and adult offending. An increased and significant focus on a developmental perspective calls for a realistic analysis of an individual's life and social contributors in relation to offending or possible offending. This analysis provides the basis for interventions that not only centre upon the criminal behaviour but also address the features of that person's life which has contributed to that criminality. Groups of 'at risk' individuals can then be the subject of meaningfully targeted interventions (Cashmore et al, 2002).

Crime prevention in other jurisdictions

Unlike the experience in Australia, crime prevention and early intervention processes have been readily embraced by many international jurisdictions due to their appropriateness and economic viability. Jurisdictions such as Canada (which previously espoused a similar tough on crime ethos), the United Kingdom, the Czech Republic and Sweden have all adopted crime prevention processes and strategies that look beyond the narrow view of incarceration as the primary crime deterrent method.

In Canada, the National Crime Prevention Centre (NCPC) draws its crime prevention strategies from a sound evidence base. The focus of the strategies is on priorities developed from collaboration with key stakeholders and also by underpinning each strategy on key crime trend analysis. The priorities of the NCPC are to:

- Initiate early intervention and prevention among vulnerable families and children and youth at risk
- Respond effectively to crime issues such as youth gangs and drug-related crime
- Seek to prevent recidivism among high risk groups; and
- Foster prevention in Indigenous communities (Public Safety Canada, 2009).

The NCPC's recognition that there is no single approach to reducing crime is reflected in the adoption of a wide range of crime prevention strategies and programs across the community. The

NCPC is further underpinned by the United Nations Guidelines for the Prevention of Crime, which states that social, situational and recidivism prevention measures, when coupled with effective partnerships at the grass roots level, are an effective and appropriate way to reduce crime in the community (Public Safety Canada, 2009).

In Sweden, the Swedish National Crime Prevention Program also underpins strategies with a sound evidence base of policy knowledge. The crime prevention program recognises that effective crime prevention programs need to be developed and implemented at the local level by the communities that are affected by crime. These strategies require cooperation and involvement at all levels of the community. In Sweden, there are currently some 300 local crime prevention councils in Sweden's municipalities and districts. Within these districts, police, schools, social services and the business sector collaborate and cooperate to prevent crime in their communities (Regeringskansliet, 2009).

Does crime prevention work?

There have been several evaluations of Canadian crime prevention programs and strategies and these programs have been considered to be a success in reducing crime in areas that have been affected by crime problems. For example, programs directed at young people and families have shown significant increases in positive family functioning, and increases in school engagement and school achievement (Public Safety Canada, 2009). Overall figures demonstrate that the crime rate in Canada has been decreasing in recent years. More specifically the data shows that:

- Crime increased during the 1980s and has steadily decreased since.
- The property crime rate in 2007 was 41% lower than in 1983 and 46% lower since peaking in 1991.
- Violent crime peaked in 1992, gradually decreased until 2004. After two years of small increases, the violent crime rate decreased 2.5% last year (Public Safety Canada, 2009).
- The total number of reported crimes in 1991 was 10,342 and this has reduced significantly to 6,984 in 2007 (Public Safety Canada, 2008).

This is a significant reduction in crime over this period and demonstrates that changes to crime and justice policy can have positive effects for crime and community safety.

Alternatives to incarceration

While incarceration is clearly necessary in some instances, there are alternative methods of punishment for all but the most extreme cases. There are an array of methods available to policymakers that can lead to a reduction in contact with the prison system for less serious offences. Many of these alternatives are already in use within South Australia. Alternative methods can include the use of:

- fines
- periodic detention
- community based probationary orders
- home detention; and
- diversionary and restorative justice processes (ACT Prison Project Office, 2002).

While many of these diversionary processes are already at work in South Australia, such as in the Youth Court and the Drug Court, they are not being utilised to their full potential.

Next steps

For the focus of policymakers to shift to prevention and early intervention in regards to the Criminal Justice system, the following must take place:

- The willingness of government and mainstream society to acknowledge that punitive sanctions (in isolation and in every instance) do not contribute to the prevention of crime or recidivism.
- The development and implementation of early intervention strategies that are targeted at 'at risk' groups.
- Community capacity-building and crime prevention through community programs, education, training and programs such as crime prevention through environmental design.
- Appropriate and fully resourced alternative sentencing sanctions that include an emphasis on restorative processes and rehabilitation. In addition, these processes should be rolled out across the entire justice system and include victims' services that respond better to individual needs and offer victims a greater opportunity to participate within the justice system.

When these elements are present, South Australia can forge ahead with the development of criminal justice policy that focuses on inclusion and restoration rather than punishment and retribution.

Conclusion

Unfortunately, Australia has ventured down the path of many nations of the world in developing and maintaining a punitive criminal justice system for the punishment of criminal and deviant behaviour. This reactionary and increasingly expensive policy platform continues despite a dearth of evidence to support its positive contribution to a safer community, rehabilitation of prisoners or on recidivism rates.

Policymakers often cite that punitive forms of punishment is what the community wants and what the community votes them in for. Fortunately, the tide is slowly turning on public opinion to the actual efficacy of traditional law and order processes and of populist 'get tough' campaigns. To illustrate the change in public sentiment regarding law and justice issues, a recent study of 475 participants by Melbourne University showed that (when asked to give appropriate sentences for a series of violent crimes) subsequent to cognition of contextual information, participants tended to give more lenient sentences than those given by judges (Smart Justice, n.d.). Further, Kelly (2006) argues that much of this change in opinion is due to the quite visible human and economic costs of imprisonment; but it is also been influenced by increased voter distrust of political game playing. Within focus group consultations with South Australian voters prior to the last state election a majority of participants perceived law and order issues in negative terms. Voter cynicism is due to years of electioneering and 'get tough' campaigns that have not resulted in them feeling any safer, or showing any demonstrative results in impacting upon crime statistics or recidivism.

The key elements of a preventative focus to criminal justice policy should include:

- Capacity-building in communities, to address the underlying causes of social exclusion and to enable people to fully participate in and contribute to their community.
- Improving public safety through early intervention and crime prevention by focusing on the needs of the most vulnerable and 'at risk'.
- Reacting to crime and its impacts by engaging victims and offenders by addressing the needs of those who are the victims of crime as well as offenders (psychological therapy, training, education, health intervention).
- Ensuring community safety and accountability of offenders for harmful or criminal behaviour through appropriate and relevant sentences.

It is clear that more holistic, thoughtful approaches that focus upon prevention and early intervention have a much better chance at ameliorating the social contributors to criminality than end result responses such as incarceration. As the tide of public opinion and expectations slowly turns, government will need to act in more considered and socially responsible ways when developing criminal justice policy.

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