Churchill Fellowship Report:

What can be done? Residential therapeutic treatment options for young people suffering substance abuse/mental illness

Introduction

Greg[1] was 17 when he wrote a poem which included the following verses:-

My depression turns to anger from the pain it's brought to me

Is there anyone to blame, or is this how it's meant to be?

I crave for something in the distance, too far for eyes to see

My sense of logic figures that it is a sense of tranquility …

I pray for a Saviour to help me conquer my compulsive behaviour

Which keeps leading me into trouble and life threatening danger

I feel weighed down and burdened with responsibility

Having to work on getting better and back to normality

It seems like it's all too much, after years of such fuss

I'm prepared to give up and declare that I've had enough

If I am to die, please keep in mind that I did try

Tears come to my eyes, at times I've contemplated suicide.

Greg was more articulate than many of the young people who appear before the Children's Court and have substance abuse/mental health issues. However, he was able to encapsulate the struggles and dire circumstances which confront many young people. His mother was also very eloquent and was a constant support for him. One day in Court, she poignantly said to me '*What can you do I am watching my son die before my eyes?'* I felt

[1] Name has been changed.

bereft of options. In 2014 I applied for and was awarded a Churchill Fellowship to explore options to assist young people like Greg.

I have been a magistrate for over 17 years, more than half of which I have sat in the Children's Court, which has both criminal and family (child protection) jurisdictions. Unfortunately, Greg's circumstances are far from unique. The following table provides a snapshot of the characteristics of the children and young people in custody:-

ISSUES	2013 / 2014[2]	2014 / 2015[3]
History of alcohol and/or drug misuse	89%	87%
Alcohol and/or drug use related to offending	78%	82%
Victims of abuse/trauma or neglect	60%	62%
Previous child protection history or current child protection involvement	59%	62%
Mental health issues	27%	33%
History of self-harm or suicidal ideation	26%	23%
Parents	13%	10%
Previously suspended or expelled from school	56%	58%

The statistics are compelling. These young people are aged between 10 and under 18. In addition to the link between criminal offending, substance abuse and mental health issues, regrettably, the cycle is commencing again with 60% having child protection involvement in their lives[4] and 10% to 13% of those in custody already parents themselves.

Current system

Greg was initially before the court for shop thefts of vanilla essence,[5] which he consumed in life threatening quantities, such was his dependence. He also smoked cannabis and experienced a number of psychotic episodes due to schizophrenia. On multiple occasions he

[2] Annual Report of the Youth Parole Board and Youth Residential Board 2013/2014 – (snapshot 9 October 2013) p 13 (134 males and 4 females).

[3] Annual Report of the Youth Parole Board and Youth Residential Board 2014/2015 – (snapshot 3 September 2014) p 13 (157 males and 8 females).

[4] Refer to [4.4} to [4.6] of the Report.

[5] Vanilla essence has a very high alcohol content approximately 35%).

attended a detoxification facility but such was his dependence he could not remain for longer than a couple of hours. At times he was admitted to hospital on leaving the facility due to alcohol toxicity or due to a psychotic episode. However, the only options available to the Court were to require him to attend for detoxification (there are only 35 adolescent residential detoxification beds for the State of Victoria) or residential rehabilitation (assuming there was a bed available) or to remand him in custody. Despite the support of his mother, I watched his life spiralling downwards to the point of him becoming homeless.

Apart from the very limited circumstances detailed in [4.7.1] of the Report, when a young person is abusing substances or has mental health issues, the current treatment model is a voluntary model, that is, in order to access treatment, the young person has to decide that s/he wishes to attend for treatment. If the young person has committed criminal offences, the Children's Court can require the young person to attend for counselling or treatment by including such a condition on a Court Order. Such treatment would generally involve attending counselling or therapy once a week for approximately one hour. It is not the case that I am critical of the current voluntary services which are available. However, I am concerned about the current treatment model and the limited legislative options available to the Court. Given the complex reasons people use substances, the trauma to which many of these young people have been exposed and their chaotic lifestyles, one could rhetorically ask, is this a model which provides the optimal opportunity to assist these young people whilst they are still young? Do we really expect the most vulnerable members of our community to make informed, rational choices about matters which potentially have permanent profound health implications for them?

Churchill Fellowship

I applied for a Churchill Fellowship to evaluate whether a secure (closed) therapeutic residential facility for young people with substance abuse/mental health issues needed to be established in Victoria. The fundamental questions were:-

1. Could mandated treatment make a difference?
2. If so, what legislative changes would be required which would safeguard the rights of the child and also provide for mandated treatment?
3. What would be the features of such a facility to ensure the greatest prospects for success?
4. What, if any, other observations could I make of overseas innovative approaches and initiatives from which we could learn in Victoria?

I travelled to Sweden, England, Scotland and New Zealand. In addition to visiting their courts and gaining an understanding of their legal systems, I visited the following adolescent programs: closed care youth facilities; closed wards in psychiatric hospitals; a youth detention centre; drug and alcohol residential programs; a residential program for sexual offenders; and drug and alcohol outreach services. I also visited some adult facilities

including psychiatric hospitals; a drug and alcohol residential program; and a residence for people who would otherwise be homeless and had substance abuse/mental health issues.

The advice I received from numerous experts and practitioners in all of the countries I visited was that, for some young people, compulsory orders to attend therapeutic residential facilities are necessary in order to ensure these young people are safe and secure, to deal with their addiction and dependency issues, to commence the process of improving their physical and mental health and wellbeing and to reconnect them with education and training. I was so fortunate to be able to converse with and hear the experiences and opinions of some of the young people at all of the adolescent facilities I visited. A number indicated that they had not wished to attend the facility at which they were residing, but having been there, they believed it was essential for them. Quotes from the young people in the Report are most powerful.[6]

The answers to the four questions posed above were:

1. Mandated treatment can work as effectively as voluntary treatment provided certain features exist and that ongoing support is provided. Most importantly, the environment has to be therapeutic and not draconian.[7]

2. The proposed legislative changes are detailed at pages 41 and 42 of my Report. The placement of a young person in a closed facility involves a restraint on a person's liberty. There are fundamental human rights as detailed in the *UN Convention on the Rights of the Child* and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).[8] Of particular relevance is the right of children to live a full life and governments should ensure children survive and develop healthily,[9] governments should protect children from dangerous drugs[10] and activities that could harm their development.[11] In the case of children and young people, the deleterious impact of illicit substances, particularly: the depletion of dopamine when using crystal methamphetamine (ice); alcohol on the developing brain; and the impact of untreated mental health on their development is axiomatic.

   Whilst it is important for voluntary options to remain available, the proposed legislative amendment would provide the Children's Court with the power, when deemed necessary, to make a Youth Therapeutic Order (YTO) for up to 6 months, subject to judicial oversight. The Order could be made in both the Criminal and

[6] Pages 34 and 35 of the Report.

[7] Pages 34 – 37 of the Report.

[8] Refer to Appendices III and IV.

[9] Article 6 UN Convention on the Rights of the Child.

[10] Article 33 UN Convention on the Rights of the Child.

[11] Article 36 UN Convention on the Rights of the Child.

Family Divisions of the Court. It would place the young person in a secure therapeutic residential facility to be assessed and to detoxify. There would be appropriately qualified and committed staff. The young person would remain in the secure facility for the shortest period of time possible. There would be a school on site. There would be a transition to an open therapeutic community residence, ideally on the same site as the closed facility and the clinicians would work with young people at both facilities to ensure continuity of care.

Undoubtedly there is a need for transparency, accountability, scrutiny and oversight. In addition to judicial oversight, there would be a vital role for such organisations as the Commission for Children and Young People. The Youth Therapeutic Order would not be a sentence, but rather a health and welfare approach for young people. The Children's Court would have regard to the progress of the young person on the Youth Therapeutic Order in determining an appropriate sentence or child protection order.

3. The essential features of a facility to ensure the greatest prospects for success are[12] :

    - Committed and high quality staff, including staff who have previously had dependency issues themselves;
    - Quality assessments conducted;
    - Location of the facilities;
    - The nature of the buildings (both secure and open elements);
    - A therapeutic community model;
    - A 'step down' facility as part of the transition;
    - Support for the young person after leaving the residential facilities;
    - Democratic principles at the facilities;
    - Culture – especially to address the over representation of Koori young people;
    - Education – schools/training on site;
    - Professional development and support for staff and
    - External scrutiny.

4. The other lessons which I learnt from overseas and have recommended for Victoria are:-

    - the establishment of a Youth Drug Court within the Children's Court and

[12] Pages 43 to 54 and Appendices III and IV.

- the establishment of a cross-over list in the Children's Court for those young people appearing in both the Criminal and Family Divisions of the Court.

Conclusion

A valuable opportunity to intervene to assist some of the most vulnerable members of our community is currently being lost. This Fellowship Report sets out a blueprint to answer Greg's mother's question – 'What can be done?' The model I have proposed is unique and represents the very best features of the facilities and legal systems I observed overseas. The establishment of therapeutic treatment facilities and effective after-care will require significant resources. However, regard must be had to the opportunity cost, both human and economic, of not intervening. These young people will continue to lead the most damaged lives and will be the most resource intensive, unless their needs are addressed now. Future economic costs impact across a number of different government departments: the health costs associated with psychiatric illness; welfare benefits; and the costs associated with the commission of crime being the police, the courts and the costs of imprisonment. Significantly, there is also the adverse impact on victims of crime and community safety if we do not act.

Her Honour Judge McMeeken, sits in the Youth Court and the Youth Drug Court in Christchurch, New Zealand. She stated '*I can lock kids up but I can't order treatment for them.*' It is vital as a community that we provide the opportunity for effective treatment for our young people.

Jennifer Bowles

Magistrate

Churchill Fellow 2014.

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