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# Submission to NSW juvenile justice policy review

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## SUBMISSION TO THE REVIEW OF NSW BROADER STRATEGIC JUVENILE JUSTICE POLICY IN NSW

### Terms of reference

- *To identify emerging issues and trends in juvenile justice and offending in NSW that adversely impact State Plan goals and outcomes.*

A central plank of the Strategic Plan of the NSW Department of Juvenile Justice (DJJ) Corporate Plan 2007-2011 is a reduction in the proportion of young people on community-based orders who re-offend. This is in accordance with the priorities of the NSW State Plan.

The NSW State Plan includes Priority R2: Reduced re-offending. The specific target attached to this Priority is: *We will reduce the proportion of offenders who re-offend within 24 months of being convicted by a court or having been dealt with at a conference by 10 percent by 2016.* Although this target is mainly focused on adults, it also applies to juveniles and progress is being reported for juvenile and adult offenders separately.

There are at least two things that would assist DJJ to reduce the rate of recidivism across the state. Firstly, for the current level of recidivism to be determined in order to establish a benchmark against which efforts to reduce recidivism can be measured. Secondly, the key factors and determinants of recidivism to be established in order to develop interventions aimed at reducing recidivism.

Currently the rate of recidivism within two years hovers around 52%, with a slight variation over the last few years of reporting. The challenge presented by these figures is, across the state, about one in three young people who have had a conference or who receive supervised orders re-offend within a year, while one in two re-offend within two years. The encouragement provided by these figures is that if DJJ is to reduce recidivism by 10% by 2016 at least there is much room for improvement.

- *To evaluate the impact of existing government legislation, policy and practice to develop recommendations to Government on appropriate reform to laws, policies & programs to assist achieving the Government's commitment to reducing juvenile re-offending.*

In recent years DJJ has increasingly moved towards a risk-based intervention framework. This is in accord with research that demonstrates efforts to reduce recidivism are most likely to be effective when the risk, needs and responsivity principle is applied (Andrews, Bonta, & Hoge, 1990; Bonta, Rugge, Scott, Bourgon, & Yessine, 2008). The focus of DJJ interventions should therefore be on high-risk clients with large numbers of criminogenic needs and should be delivered in a way that maximises the likelihood of them responding to supervision.

DJJ currently uses the Australian Adaptation of the Youth Level of Service Case Management Inventory (YLS-CMI) to assess supervision needs of young people on court orders and to develop appropriate case plan interventions. This instrument is empirically based and was developed in conjunction with DJJ and Charles Sturt University (Thompson & Pope, 2005). The use of this instrument is part of a broader intervention framework contained in the department's Casework Standards and Procedures chapter of the Juvenile Justice Community Services Procedures Manual. All field staff are trained in these procedures and a comprehensive induction training program has also been developed and implemented within the department in recent years. Other administrative

reforms within the department in recent years have also sought to provide greater levels of supervision and support to front-line Juvenile Justice Officers (JJOs) to ensure that appropriate intervention plans are developed and delivered to the young people under their supervision.

Given the fact that a comprehensive assessment of a young person's needs is the foundation of any effective intervention and DJJ is currently using a valid and reliable measure of risk and need as part of the application of the risk, needs and responsivity principles of intervention, it inevitably begs the question of why, on average, every second young person who is placed on a supervised order with the department currently re-offends within two years.

There are a number of possible explanations. Firstly, it can reasonably be argued that the shift towards a risk, needs and responsivity intervention framework represents a significant departure from previous casework practice within the department and that it may take some time to let go of previous ways of working and embrace new procedures and practices.

For example, prior to the risk-based intervention framework, case management was based on the system of "minimum standards of supervision". These minimum standards, which were reviewed as recently as 2007, specified that a young person's level of supervision was determined by their court order. Low-level orders, such as a Good Behaviour Bond, involved a JJO having one direct contact with a young person per month for three months before suspending supervision. A high-level order, such as a Suspended Sentence, involved the JJO having weekly direct contact with the young person for the first three months and then one direct contact per month thereafter. Inevitably, when a JJO had a large number of clients on their case load, priority was given to supervision of clients with higher level orders. Unfortunately, as will be discussed below, it was often the clients on the lower level orders who were at a higher risk of recidivism. The amount of intervention that could be attempted with a young person who was seen three times at monthly intervals before being "filed down" was also marginal at best.

Although the guiding principles of the current Juvenile Justice Community Services Procedures Manual state "Supervision levels are NOT just based on the young persons court order" (Chapter 1), and elsewhere in the manual it states "The casework requirements of a young person are determined by the young person's risk of re-offending which may vary the level and duration of contact far in excess of the stated schedule of standards" (paragraph 5.2, Chapter 2), the manual still contains the schedule of standards of community supervision referred to above (paragraph 7.1, Chapter 2). Anecdotally it appears that when case loads are very high and time for intervention is necessarily limited, JJOs may still give greater emphasis to the "minimum standards" part of the procedures manual rather than the risk, needs and responsivity sections.

It is also possible that as the role of the JJO has developed from one supervising "minimum standards" to that of delivering "risk, needs and responsivity intervention" the department may also experience the same challenges that other services attempting such a change have also faced. Kemshall, Holt, Bailey and Boswell (2004) made some pertinent observations about the experience of the UK Probation Service in the implementation of the Home Office Effective Practice initiative. In evaluating the implementation of this initiative they noted: "Supervision plans... lacked focus on objectives and outcomes, with staff confusing objectives with descriptions of the routes that would lead to their achievement. This led to activities such as liaison or referral being presented as case objectives" (p. 179).

Although DJJ has also placed greater emphasis in recent years on family intervention, it is not enough for a JJO to refer a family or a young client to the appropriate family support service and

leave them to engage with the agency. In most cases this will not be enough to support effective change. Making a referral to a community-funded program is neither an objective nor an outcome. It is, however, a means by which an objective may be achieved. Such distinctions may not yet have been fully grasped as DJJ continues to move towards a new style of intervention with young people.

Kemshall et. al (2004) provide this description of effective case management:

Holt has suggested that in probation work the key functions of case management will be assessment, planning, linking, monitoring and evaluation; underpinned by a commitment to consistency of service delivery and appropriate management of sequencing; consolidation and reinforcement of learning; and commitment to the offenders change process.

However, the role has been largely cast as minimalist (to some extent due to resource pressures) and has consequently lacked commitment from staff. What staff are actually expected to do has also received little attention, leaving staff uncertain and demotivated (p. 179-180).

While DJJ has made substantial progress in terms of adopting an explicit risk-management focus on intervention and has adopted a valid and reliable method of assessing risk and planning intervention, it may still have some way to go in linking, monitoring and evaluating the quality of interventions and, at the same time, managing the ever-present resource pressures. A possible way to reduce resource pressures may be to take the risk-based intervention approach to its logical conclusion and triage case management. In doing so, cases are prioritised on the basis of risk and low-risk cases are only allocated to JJOs if they have capacity, regardless of the court order. Inevitably this would mean that some young people who receive court mandated supervision would not be allocated to a JJO.

• *To advise on strategies for dealing effectively with offending young persons taking into account relevant national and international research & reports and their application to a NSW context.*

There has been a sharp increase in the amount of Australian recidivism research published in recent times. Much of this literature was reviewed in Payne's (2007) Australian Institute of Criminology report on recidivism in Australia. Although most of the research reviewed in this report focused on adult offenders, other research has confirmed that many of the same phenomena are observed with juveniles. The factors related to recidivism that are consistently reported are age, indigenous status, gender and criminal history.

A consistent finding in the literature is that criminal recidivism is significantly related to age. Specifically: younger offenders recidivate sooner than older offenders. Weatherburn, Cush & Saunders (2007) investigated rates of recidivism among offenders who were placed on community-based supervised orders with Juvenile Justice in NSW for the first time during the financial year of 2000/2001. They found that clients aged less than 14 at the time they were sentenced were significantly more likely to recidivate within four years than those aged 14 or above. A logistic regression model including age as a covariate returned an odds ratio of 2.253 for participants aged less than 14. What this means is that clients aged less than 14 at the time of sentencing were more than twice as likely (2.253 times) to recidivate within four years than those aged 14 or above.

Using a slightly different methodology, Chen, Matruggio, Weatherburn & Hua (2005) investigated recidivism among the cohort of juveniles who appeared in the NSW Children's Court for the first time in 1995. This cohort was followed up for eight years. A negative binomial regression model

with age as a covariate estimated the number of court reappearances to be 44% higher for clients aged between 10 and 14 at their first court appearance compared with those aged 17 or older.

Interestingly, the effect appears to be different among juveniles who were cautioned by the police, rather than sentenced to supervised orders. Vignaendra & Fitzgerald (2006) investigated recidivism among young people who were either cautioned by the police or who participated in a youth justice conference during 1999. This cohort was followed up for five years. Offenders who were aged 16 or over when they were cautioned were more likely to recidivate within five years than those aged between 10 and 13. The effect was quite small, however, with an odds ratio of 1.165. The number of subsequent court appearances by the younger group, however, was significantly higher than for the older group. The likelihood of recidivism after a conference was also greater for the younger group than the older group.

It is worth noting that this Australian research is consistent with overseas research. Cattel, Lee & Heilbrun (2001) conducted a meta-analysis of predictors of recidivism in juveniles (n = 15,265) and found that age at first commitment had the largest effect size of all the predictors examined (cited in Weatherburn et. al, 2007).

This research has significant implications for the “minimum standards” approach to supervision of DJJ clients. For a number of good reasons, young offenders (less than 14) tend to receive low-level orders such as Good Behaviour Bonds. Under the minimum standards approach, these young people receive very little intervention while the risk-based intervention approach identifies them as needing more intervention. Although age is a significant predictor of recidivism, however, it is not the only predictor.

A young person’s indigenous status has also been found to be a significant predictor of recidivism. Chen et al. (2005) found that the rate of recidivism for indigenous males was 187% higher than that for non-indigenous males and that the average number of reappearances within eight years was estimated to be three times higher for indigenous offenders compared to non-indigenous offenders. Similarly, Vignaendra & Fitzgerald (2006) found an odds ratio of 2.969 for Indigenous versus non-Indigenous offenders having a proven court appearance within five years of completing a conference in 1999. Weatherburn et. al (2007), however, found that although indigenous offenders were significantly more likely than non-indigenous offenders to recidivate, indigenous status did not exert an independent effect on risk of re-offending. This means that although a lot of indigenous offenders recidivated, this was probably due more to the fact that they were also young or not at school, rather than simply that they were indigenous. So we are not looking at purely racially-based explanations of recidivism.

Payne (2007) made the observation that the link between gender and recidivism was unclear and that although many studies had found significant differences between rates of recidivism for males and females, other studies had found no difference. Despite this, however, when differences are found they are always in favour of males recidivating at higher levels than females and the majority of studies that have found a difference were studies looking at the recidivism of juveniles.

Chen et. al (2005) found that males in their study were significantly more likely to recidivate than females and that the rate of reappearance in court by males was twice that of females. Vignaendra & Fitzgerald (2006) found that males cautioned by the police were three times more likely than females to have a proven court appearance within five years and almost four times more likely than females to have a proven court appearance within five years of completing a conference.

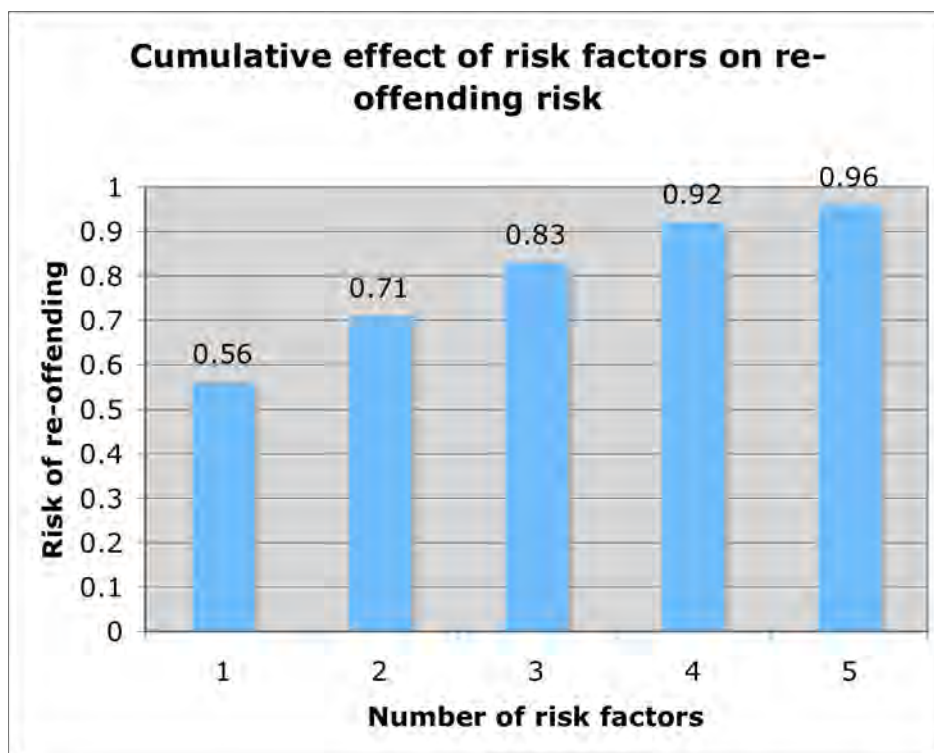
Weatherburn et. al (2007), however, did not find a significant difference between proportions of male and female offenders in their cohort who recidivated within four years.

Weatherburn et. al (2007) also found that offenders with previous contact with the criminal justice system were significantly more likely to recidivate than those without previous contact and the greater the number of contacts, the greater likelihood of re-offending.

Chen et al. (2005) looked at the principal offence at first court appearance but found that it was unrelated to the rate of reappearance at court over the eight year follow-up period. Vignaendra & Fitzgerald (2006) found that although property offenders were more likely to reoffend than offenders overall, the principal offence at conference referral did not significantly impact on the likelihood of a young person having a proven court appearance within five years of their conference.

Weatherburn et. al (2007) also examined the effect of a number of predictor variables on the risk of recidivism among their cohort. From an initial list of 19 variables, they found four that were significant predictors of recidivism; being aged 14 or younger when placed on supervised orders, not being at school at the time of their offence, having been suspended or expelled from school and having had a history of previous contacts with the criminal justice system.

Additionally, they were able to calculate the cumulative effect of these risk factors. The figure below shows a young person with one risk factor would be expected to have a 56% probability of re-offending within four years of their first supervised order. A young person who had previous contact with the criminal justice system, was not in school at the time of the offence, had been expelled or suspended from school, was aged less than 14 at the time of their court appearance and who had two prior contacts with the criminal justice system would be almost certain (96% probability) to re-offend within four years of receiving their supervised order.



Similarly, Chen et al. (2005) calculated the probability that a young person who completed a conference for the first time in 1999 will have a proven court appearance within five years. Compared to a base case, a non-Indigenous male aged 16 or over at the time of the conference and referred to the conference by the police, the probability of a 16 years or older indigenous male who was referred to conferencing by police was 71%.

In summary, recent research has converged on the findings that DJJ clients who are most at risk of re-offending are those who are:

- male
- of indigenous decent
- are aged less than 14
- are out of school and
- who have had two prior contacts with the criminal justice system

Unfortunately under a “minimum standards” approach to supervision, a young indigenous boy who is out of school and has come under supervision on a Good Behaviour Bond may not receive intensive supervision until he is 17 and on a suspended sentence.

*• To advise on effective partnerships and strategies with other government agencies and communities to assist in the continuum of services for young people in the juvenile justice system to achieve a reduction in young offending , particularly Indigenous offenders.*

Many clients of DJJ who are at high risk of recidivism come from families who are also involved with other agencies such as Department of Community Services (DoCS), Department of Housing, Health, Education and a variety of NGOs such as the various Family Support Services. The efficacy of adopting an interagency approach to case planning in complex cases such as these has been recognised for some time, especially with regard to child protection. Interagency processes, known in Queensland as SCAN meetings (suspected child abuse and neglect) have been embedded in the child protection legislation in that state for several years. Additionally, the recent Special Commission of Inquiry into Child Protection Services in NSW made several recommendations regarding enhanced interagency work between the DoCS and DJJ.

There are currently two main approaches to working with DJJ clients. The first is based on the idea that criminogenic needs are best addressed by Juvenile Justice Officers (JJOs) correcting faulty thinking and teaching new skills to clients. This is exemplified by the *Targets* program, which is described as a skills-based cognitive-behavioural approach that assumes young people who offend can change their thinking and decide to stay out of trouble. *Targets* is based on a program delivered to clients of a UK Probation service and has demonstrated its effectiveness with these clients. It is therefore based on the “what works” literature. Other DJJ specialist programs such as the SOP/VOP and AOD programs have a similar rationale.

A second approach focuses less on changing the thinking of clients and more on changing their “social ecologies”. This approach is exemplified by the Intensive Supervision Program (ISP), which aims to intervene intensively in the various systems of which the young person is a part, e.g. family, school and community. This approach is based on Multisystemic Therapy (MST) and has also been shown to be superior to other “services as usual” (SAU) approaches (Borduin, 1999; Henggeler, Cunnigham, Pickrel, Schoenwald, & Brondino, 1996; Swenson, Henggeler,

Schoenwald, Kaufman, & Randall, 1998). Unlike Targets, however, the ISP can't be implemented across the state and the skills and qualifications required to deliver it are not readily attainable or currently possessed by most staff.

Despite this, however, there are good reasons to favour a social ecological approach to intervention with our clients over an approach based mainly on cognitive-behavioural therapy (CBT) or relapse prevention. Among these are the risk, needs and responsivity principle referred to above. It may be argued that a manualised and work-sheet based CBT approach derived from work with adult offenders in England may not optimally match the needs, motivations and learning style of young indigenous offenders in Australia who have exited the mainstream school system before the age of 14.

Other research has also highlighted the effectiveness of systemic interventions specifically with overseas juvenile justice clients (e.g. Gordon, Graves, & Arbuthnot, 1995; Pullmann et al., 2006).

Systemic or social ecological interventions also have what is known as good "face validity", one would expect them to work better with young people than a CBT approach. One may imagine a series of concentric circles with the young person at the centre and sources of influence on the young person situated at different layers of the various rings. It would look like the layers of skin on an onion. In terms of influence on a young person, those closest to them are likely to be their family members. Next is likely to be their peers or school. Next is likely to be the community in which they live. The level of influence of a white middle-class adult who is not related to them and is not part of their community is likely to have very little direct influence on the behaviour of a young indigenous male, especially those from regional communities.

From a strategic point of view, the likelihood of JJOs influencing the behaviour of young indigenous males is likely to be maximised when they concentrate their efforts on positively shaping the social ecologies in which their young clients live. This is referred to as a "Strategic Collaborative Caseplanning". Specifically, JJOs should seek to bring about interventions that:

- Increase levels of supervision and monitoring of young clients by their families
- Increase family cohesion and warmth
- Engage young clients in school or other vocational training
- Disrupt associations of young clients with deviant peers
- Strengthen ties of young clients to their community

Such interventions are obviously easier to describe than to actually bring about in communities with high levels of unemployment, crime, alcohol and substance abuse, mental health needs, domestic violence and intergenerational trauma. These same communities, however, also have a number of other government and non-government agencies that have objectives that overlap to some degree with each other, as well as with DJJ. Rather than training JJOs to become family therapists, it may be possible to train them to develop better collaborative partnerships with existing family support organisations and more thorough case plans.

*• To provide advice on the cost benefits of various strategies to both the Department of Juvenile Justice and the Government, using available research and data.*

A briefing paper for the DJJ senior executive in 2008 focused on the cost effectiveness of programs to reduce re-offending. It reported on the findings from the Washington State Institute for Public Policy and their investigations into the cost-effectiveness of a number of programs delivered to



juvenile justice clients in the United States. The institute found that the two most cost effective programs with observable impacts on re-offending were Functional Family Therapy and MST. Two programs that were found to be the least cost effective were Scared Straight programs and Intensive Parole Supervision.

*• To provide advice on future policy, programs, practices of juvenile justice in NSW (including monitoring and evaluation of these) within available resources & with particular reference to vulnerable groups of young people including Indigenous youth, young women & culturally diverse groups.*

The following proposal illustrates an innovative approach to working with DJJ clients. This approach is framed as a research proposal. The reason for this is that as such it would be possible to access external funding from the Australian Research Council and by partnering with a university it would be able to minimise costs to DJJ and maximise the quality of the monitoring and evaluation of the program.

The question that the proposed research seeks to answer is whether a casework approach that is explicitly focused on interagency collaboration and seeks to impact on the client's social ecology, strategic collaborative caseplanning, is more effective in reducing recidivism than the "services as usual" (SAU) approach that is more focused on the individual client and aims to teach new thinking skills.

### **Research Method**

The research would be conducted in four stages. The first stage would be to select three sites that have large numbers of high-risk clients. Two of these sites could be within the Northern Region and one would be in another region. The first of the two Northern Region sites would be the experimental site and the second would be a control site. The out of region site would also be a control site. After selecting the three sites, levels of recidivism for the previous three years would be determined.

The second stage would be to set up an intake process where clients that meet selection criteria at the experimental site enter the treatment condition and are matched with clients at the control sites.

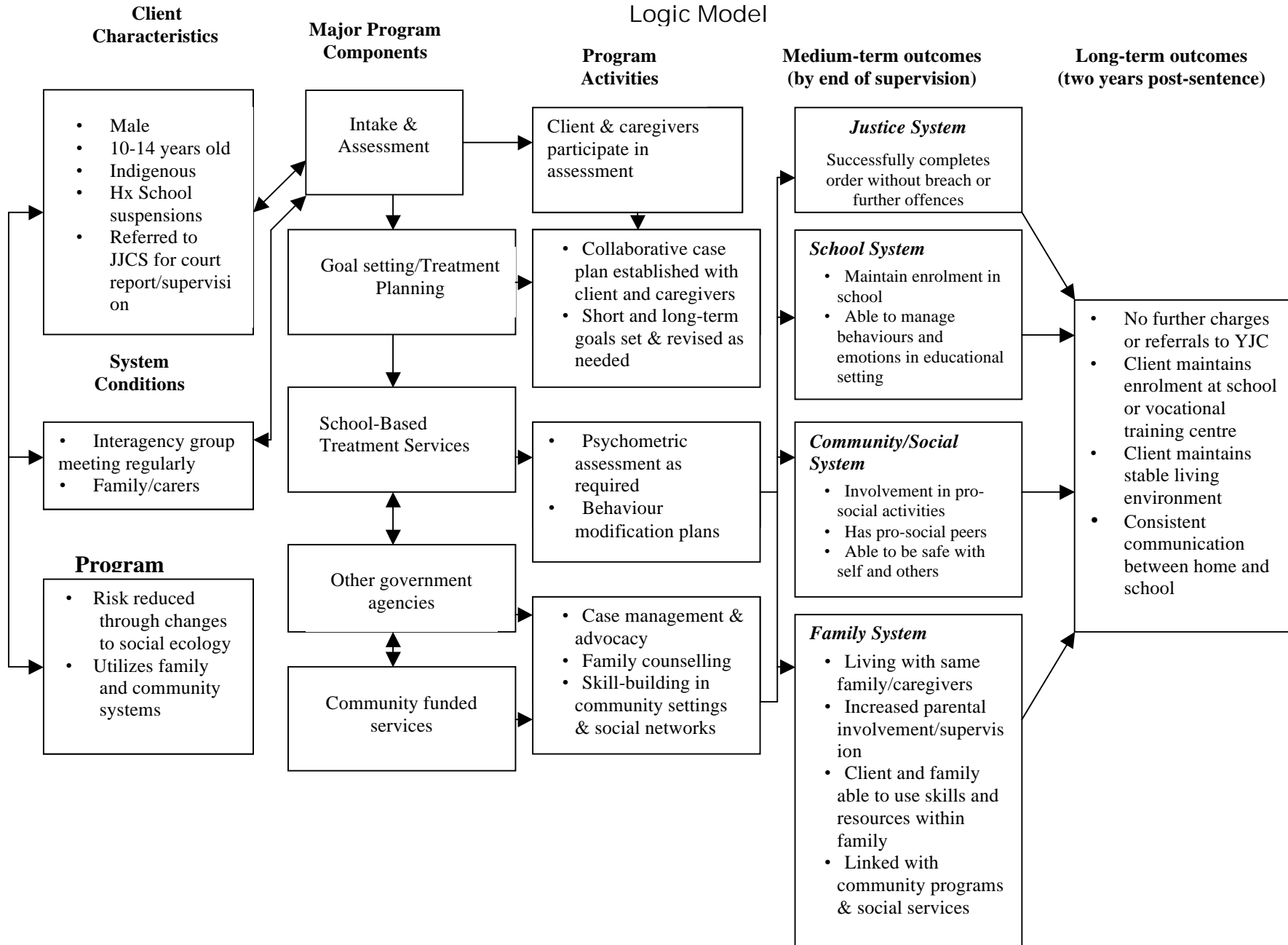
The third stage would be implementing a Strategic Collaborative Caseplan model at the experimental site over two years.

The final stage of the research would be to measure rates of recidivism at all three sites and conduct significance testing on the pre and post measures of recidivism within and between the three sites.

## Method & Results Logic

Government Theme	RESPECT AND RESPONSIBILITY – KEEPING PEOPLE SAFE		
State Plan Priority	PRIORITY R 2: REDUCED RE-OFFENDING		
Planned Result	Reduction in juvenile re-offending		
Measure & Compare	Levels of recidivism in each site since intervention period		
Planned Result	↑ Intermediate Result Young people have reduced risk of reoffending	↑ Intermediate Result Young people have reduced risk of reoffending	↑ Intermediate Result Young people have reduced risk of reoffending
Intervention	↑ Strategic Collaborative Caseplan Model	↑ SAU in other northern regional site	↑ SAU in other external regional site
	↑ <ul style="list-style-type: none"> <li>• Identify collaborative partners</li> <li>• Establish MOUs/referral procedures</li> </ul>		
Identify	Target group for intervention – three groups matched on age, gender, CP history and criminal history		
Measure	Levels of recidivism over previous three years in each site		

# Strategic Collaborative Case-planning Logic Model



## **External Funding Sources**

The question of whether adopting a collaborative and systemic approach to working with high-risk clients is more effective than our services as usual need not remain an exercise in speculation and conjecture. There are both the means to answer the question empirically and the funds and expertise available to provide an answer.

The Australian Research Council (ARC) supports collaborative research and development projects between universities and other organisations, including government departments (and industry), to enable the application of advanced knowledge to problems.

Linkage Projects aim to:

- encourage and develop long-term strategic research alliances between higher education institutions and industry in order to apply advanced knowledge to problems, or to provide opportunities to obtain national economic or social benefits
- support collaborative research on issues of benefit to regional and rural communities
- foster opportunities for postdoctoral researchers to pursue internationally competitive research in collaboration with industry, targeting those who have demonstrated a clear commitment to high quality research
- provide industry-oriented research training to prepare high-calibre postgraduate research students
- produce a national pool of world-class researchers to meet the needs of Australian industry.

The collaborating organisation (in this case DJJ) must make a significant contribution (equal to, or greater than, the ARC funding), in cash and/or in kind, to the project. DJJ has previously entered into such partnerships. Partnering with a university on an ARC Linkage Grant represents a low-cost, high quality method to implement evidence-based interventions with a specific focus on programming for indigenous clients. Applications for funding from the ARC can be made in May and November of each year.

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