

BEYOND MERE DETERRENCE: RETHINKING CRIMINAL JUSTICE POLICIES FOR NORTH QUEENSLAND

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ABSTRACT

The role that Townsville plays in the process of developing and implementing criminal justice policies for other regional centres throughout Queensland (and regional Australia generally) cannot be discounted, notwithstanding its relatively small population or even its ‘outer regional Australian’ status. In fact, Townsville has recently become a crucible for some of the most cutting-edge and substantive developments in criminal justice policy-making in the state. What is particularly noteworthy is that despite the ‘popular punitivism’ that seems to have dominated this discourse in the political and media spheres, many, if not all, of the policies have eschewed an exclusively deterrent response to crime. This paper will attempt to explain: (1) why criminal justice policy makers should not limit themselves simply to formulating deterrent measures; (2) why Townsville has, in recent years (2016-18), been such a significant site in relation to developing and implementing municipal and regional criminal justice policies; and (3) what direction the Queensland criminal justice system should take in the foreseeable future.

I INTRODUCTION

Townsville has long been a significant regional city in North Queensland, hosting an array of public and private institutions that have contributed to it becoming a regional leader throughout Northern Australia.¹ In fact, a previous Premier of Queensland, the Honourable Anna Bligh, described Townsville as:

Australia’s largest tropical city and the largest service centre in the nation’s north, extending to PNG and the Western Pacific Islands. It has a broad based economy, a major port, rail links and an international airport, world class tertiary education and research facilities and tropical expertise, major health facilities, permanent defence facilities, strong links to the resource sectors of the North West and North East Mineral Provinces, and is close to the Great Barrier Reef.²

In the context of criminal justice infrastructure, it is also an important site. With an estimated 229,031 residents (2016),³ it has a full complement of courts (Supreme, District and Magistrates); is serviced by 21 police divisions in the Townsville Police District; has a relatively large correctional complex that houses both male and female

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¹ Queensland Treasury, Queensland Government, *Northern Australia Infrastructure Facility* <https://www.treasury.qld.gov.au/growing-queensland/northern-australia-infrastructure-facility/>.

² Anna Bligh and Paul Lucas, ‘Joint Statement: Townsville Taskforce Delivers Plan for State’s Second Capital,’ 8 July 2011,

<<http://statements.cabinet.qld.gov.au/MMS/StatementDisplaySingle.aspx?id=75624>>.

³ Australian Bureau of Statistics, *2016 Census QuickStats*, 2017,

<http://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/318?opendocument>.

inmates;⁴ and is home to a range of probation and parole, victim assist, child safety and youth justice offices. More significantly, it has the only youth detention centre⁵ and police service academy⁶ in the state — apart from those in the state capital, Brisbane.

Unfortunately, despite all its criminal justice infrastructure, it ironically carries the tag of the unofficial ‘Crime Capital’ of Queensland. In May 2015, the *Townsville Bulletin* published a provocative front-page headline, ‘Crimsville’, and highlighted how data in its special report revealed that Townsville was ‘Queensland’s undisputed crime capital’ because it was apparently ranked number 1 in assaults; number 2 in robberies; number 1 in car stealing; and number 3 in drug offences, in the state.⁷ During a May 2016 sitting of the state legislature, the then Shadow Minister for Police and for Corrective Services, the Honourable Tim Mander (Liberal National Party), observed that ‘[a]s good as Townsville is, unfortunately it has a black cloud hanging over its head’.⁸ He went on to explain that ‘[t]his little bit of paradise is being overrun by criminals [many of whom were youth offenders] who have absolutely no respect for the law whatsoever’.⁹ In his opinion, ‘[t]hese people are habitual offenders and the full force of the law needs to come down upon them’.¹⁰ Regrettably, there has been a steady flow of local media reports arguing that crime rates, in particular, for property offences, continued to increase through to November 2017,¹¹ and even until May 2018.¹²

While some caution should be exercised when relying upon the media for an accurate understanding of the nature and extent of crime in the region,¹³ the role that Townsville plays in the process of developing and implementing criminal justice policies for other regional centres throughout Queensland (and regional Australia generally) cannot be

⁴ The daily average number of prisoners for 2017/2018 at the Townsville Correctional Complex was 675 for men (up from 646 in the previous year) and 196 for women (up from 167 in the previous year): see *The State of Queensland, Queensland Corrective Services Annual Report 2017–2018*, p 116, <<https://corrections.qld.gov.au/documents/publications/>>.

⁵ Cleveland Youth Detention Centre located at the Old Common Road, Belgian Gardens, Queensland 4810.

⁶ NQ Police Service Academy located at 26 Heatleys Parade, Belgian Gardens, Queensland 4810.

⁷ *Townsville Bulletin* Editorial Board, ‘Crimsville’, *Townsville Bulletin* (Townsville), 17 May 2015.

⁸ Chris McMahon, ‘Townsville branded ‘crime capital’ of Queensland in parliament’, *Townsville Bulletin* (Townsville, online), 24 May 2016, <<https://www.townsvillebulletin.com.au/news/townsville-branded-crime-capital-of-queensland-in-parliament/news-story/ecde7d56ec593cb10659be044a81d80f>>.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Sam Bidey, ‘Property crime in Townsville is out of control’, *Townsville Bulletin* (Townsville, online), 22 November 2017 <<https://www.townsvillebulletin.com.au/news/townsville/property-crime-in-townsville-is-out-of-control/news-story/77398cf78e5b0ca41f17a24ee6ea5844>>.

¹² Madura McCormack and Andrew Backhouse, ‘Shocking truth about crime in Townsville’, *Townsville Bulletin* (Townsville, online), 10 May 2018 <<https://www.townsvillebulletin.com.au/news/shocking-truth-about-crime-in-townsville/news-story/0c48a0d40d52d8a5b0cd52ae5089cb6d>>.

¹³ There have been contrary analyses of the same or similar data. For example, in November 2017, Stephen Stockwell from the ABC, in an interview with Professor John Scott of the School of Justice at the Queensland University of Technology, noted that: ‘[y]outh crime [was] going up outside Townsville. In fact, Townsville has been outperforming the rest of Queensland. In the 10 to 24 age bracket across Queensland, offences against a person rose 5 per cent from the previous year and offences against property jumped 6 per cent. In Townsville those figures went down. Offences against property dropped 16 per cent while offences against a person fell 2 per cent’: Stephen Stockwell, ‘Does Townsville need a curfew? Stats show youth crime is down’, ABC (TripleJ Hack), 6 November 2017, <<https://www.abc.net.au/triplej/programs/hack/townsville-youth-crime-has-fallen-as-lnp-push-for-teen-curfew/9122788>>.

discounted, notwithstanding its relatively small population, or even its ‘outer regional Australia’ status.¹⁴ In fact, Townsville has recently become a crucible for some of the most cutting-edge and substantive developments in criminal justice policy-making in the state. What is particularly noteworthy is that despite the ‘popular punitivism’ that seems to have dominated this discourse within the political and media spheres, many, if not all, of these policies have eschewed adopting an exclusively deterrent response to crime. ‘Popular punitivism’ here:

... commonly refers to how ‘tough-on-crime’ efforts are the result of an intersection between politics, public sentiment, and the media’s portrayal of crime.... Even though there remains no consensus on its precise nature, popular punitivist elements appear to have had a significant influence in crime control policy and criminology more broadly.¹⁵

With that in mind, this paper attempts to explain, first, why criminal justice policy-makers should not limit themselves simply to formulating deterrent measures; secondly, why Townsville has, in recent years (2016-18), been such a significant site in relation to the development and implementation of municipal and regional criminal justice policies; and thirdly, to offer some thoughts as to the direction the criminal justice system should take in the foreseeable future.

II THE LIMITATIONS OF PURELY DETERRENT CRIMINAL JUSTICE POLICIES

Criminal justice policies are in essence legislation and governmental practice directives that: (1) provide guidance to; and (2) facilitate and regulate the action of, criminal justice practitioners in the execution of their official duties.¹⁶ Such policies are therefore tools employed by governments to ‘deal with the presence of crime and the handling of offenders’¹⁷ in their communities. While this sounds relatively uncontroversial, criminal justice policy-making is actually an arduous task, not least because its objectives or goals are manifold, and potentially contradictory. As Mallicoat points out:

[o]nce ... [a criminal justice] issue is identified, there can be significant debate about the demands of the policy. What is the goal or objective of the policy? Is it to increase punishments? Is it to increase community safety? It is during this stage that the intent of the policy is put forward.¹⁸

Although this pertains more to the legislative parameters guiding judges when they sentence adult offenders, s 9 of the *Penalties and Sentences Act 1992* (Qld) is nevertheless illuminating when considering what sort of aims criminal justice policies should legitimately seek to achieve. To this end, it is arguable that criminal justice policy should accomplish at least one or more of the following goals:

- retribution or just deserts;
- rehabilitation;

¹⁴ The State of Queensland (Queensland Treasury), POLSIS Profiles: Resident Profile: Townsville Police District, 2018, Page 24, <<https://www.police.qld.gov.au/rti/published/about/orgStret/Documents/Townsville%20District%20Resident%20Profile.pdf>>.

¹⁵ Christopher M Campbell, ‘Popular Punitivism: Finding a Balance between the Politics, Presentation, and Fear of Crime’ (2015) 9 *Sociology Compass* 3, 180.

¹⁶ Stacy L Mallicoat, *Crime and Criminal Justice: Concepts and Controversies* (Sage Publications, 2017) 130.

¹⁷ *Ibid* 131.

¹⁸ *Ibid* 132.

- deterrence;
- denunciation; and
- community protection or safety.

It may be feasible for a single policy to achieve more than one, and perhaps all, of these objectives. For example, Erez shows how a policy that introduces a victim impact statement into the sentencing process can: (1) enhance retribution ‘when the extent of the harm caused to the victim is disclosed so that the punishment meted out can be measured against the level of harm caused’; (2) enhance deterrence because victim participation ‘increases prosecutorial efficiency, which in turn increases the certainty of sanction’; (3) advances incapacitation ‘if the victim has a special knowledge about the defendant’s potential for future criminal activity’; and (4) promotes rehabilitation ‘as the offender confronts the reality of the harm caused to the victim’ because of the latter’s direct participation in the sentencing process.¹⁹ This, however, does not occur often and Mallicoat argues that the agenda-formation process of the policy:

... is perhaps one of the most politicized stages in policy development as it involves a variety of different voices — from government officials to special interest groups and individuals who will ultimately be affected by the policy — all of whom want to be heard.²⁰

As Baker explains:

[t]he political importance of criminal justice policies is not new given they can have ‘considerable electoral significance’. The political significance is evident in the terms routinely used in the media and by politicians, such as ‘tough on crime’ and ‘law and order’. As long as politicians and media commentators continue to use criminal justice as an issue in the electorate and among their audiences, the gap between reality and rhetoric will remain.²¹

The ‘reality — rhetoric’ dichotomy that Baker alludes to refers to the ‘... reality gap between declining crime rates and the rhetoric of “tough on crime” media stories and political policies.’²² As a result, ‘a policy contradiction between short-term populism and long-term social benefits ... may be achieved beyond the election cycle’,²³ and, as, Baker points out:

[p]olitical agendas that drive ‘tough on crime’ rhetoric actually make it harder for governments to consider or implement policies that “conflict with this imperative” but may work to reduce the incidence of crime or rehabilitate offenders.²⁴

Consequently, this ‘penal populism’,²⁵ may result in criminal justice policies that privilege ‘tough on crime’ aims, such as general deterrence or incapacitation through the use of increasingly long and punitive prison sentences, over welfare-oriented measures that rehabilitate or reintegrate offenders back into society.²⁶

¹⁹ Erez, E. 1991. Victim impact statements. *Trends & issues in crime and criminal justice* No 33. Canberra: Australian Institute of Criminology, 4. <https://aic.gov.au/publications/tandi/tandi33>

²⁰ Stacy L Mallicoat, *Crime and Criminal Justice: Concepts and Controversies* (n 16) 132.

²¹ David Baker, *Tough on Crime: The Rhetoric and Reality of Property Crime and Feeling Safe in Australia*, Policy Brief No. 56 (Australian Institute, Canberra), August 2013, 1.

²² *Ibid* 5.

²³ *Ibid*.

²⁴ *Ibid*.

²⁵ Julian V Roberts, Loretta J Stalans, David Indermaur and Mike Hough, *Penal Populism and Public Opinion: Lessons from Five Countries* (Oxford University Press, 2003), 4.

²⁶ Tim Newburn, ‘Tough on Crime’: Penal Policy in England and Wales’ (2007) 36 *Crime and Justice* 1, 425-70.

There is, however, some empirical evidence to show that *purely* deterrent measures are not particularly successful in preventing future crime.²⁷ According to the National Institute of Justice, a ‘research, development and evaluation agency of the US Department of Justice’,²⁸ there are five key points that can be gleaned from the relevant literature concerning the use of punishment as a deterrent. They are:

- first, the certainty that a person will be apprehended by the police for a crime committed ‘is a vastly more powerful deterrent than the punishment’ itself;
- secondly, imprisoning someone is not an effective way of deterring future criminality because ‘[i]nmates learn more effective crime strategies from each other, and time spent in prison may desensitise many to the threat of future imprisonment’, thus potentially resulting in increased rather than reduced levels of reoffending — the implication being that prisons are criminogenic in nature;
- thirdly, the police will be able to deter crime more effectively if they can ‘strengthen a criminal’s perception of the certainty of being caught’, for example, through the use of hot spots policing;
- fourthly, merely increasing the severity of the punishment is not an effective deterrent because the reality is that ‘criminals know little about the sanctions for specific crimes’, do not feel chastened or ashamed as a result of being inflicted with more severe punishment and, as previously highlighted, prisons may actually be criminogenic and increase the levels of recidivism; and
- fifthly, ‘[t]here is no proof that the death penalty [generally] deters criminals.’²⁹

In a study conducted in New South Wales, Wan, Moffatt, Jones and Weatherburn found that ‘[t]here was no evidence that increases in the length of imprisonment has any short or long-run impact on crime rates’ and, similar to the conclusions arrived at by the National Institute of Justice outlined earlier, the authors argued that ‘[p]olicy makers should focus more attention on strategies that increase the risk of arrest and less on strategies that increase the severity of punishment.’³⁰

Nevertheless, there continues to be vocal support within Queensland for more punitive criminal justice policies. For example, when Major General Stuart Lyle Smith’s report (concerning how the youth crime problem in Townsville could be solved using a youth development strategy) was released:

- The Liberal National Party’s North Queensland spokesman, the Honourable Dale Last, argued that ‘[t]he community is crying out for tougher laws and better policing right now and this report doesn’t cut it.’³¹

²⁷ Donald Ritchie, ‘Does imprisonment deter? A review of the evidence’ (2011) Sentencing Advisory Council Melbourne, Victoria <<https://www.sentencingcouncil.vic.gov.au/publications/does-imprisonment-deter>>; Rick Sarre, ‘We get the crime we deserve: Exploring the political disconnect in crime policy’ (2011) 18 *James Cook University Law Review* 144, 144-161; Rob White and Santina Perrone, *Crime, criminality and criminal justice* (Oxford University Press, 2nd ed, 2018) 540.

²⁸ National Institute of Justice (no date), About the National Institute of Justice, <<https://nij.gov/about/Pages/welcome.aspx>>.

²⁹ National Institute of Justice (no date), Five Things About Deterrence, <<https://nij.gov/five-things/pages/deterrence.aspx#note1>>.

³⁰ Wai-Yin Wan, Steve Moffatt, Craig Jones and Don Weatherburn, The effect of arrest and imprisonment on crime, *Crime and Justice Bulletin* No 158, February 2012, Sydney, NSW: NSW Bureau of Crime Statistics and Research, Page 1.

³¹ Clare Armstrong, ‘Townsville Youth Crime report sparks fierce debate’, *Townsville Bulletin* (Townsville, online), 11 December 2018, <<https://www.townsvillebulletin.com.au/news/crime-court/townsville-youth-crime-report-sparks-fierce-debate/news-story/52655c986d17ed455a0bbf2b0e3faf7>>.

- Katter's Australian Party's Member of Parliament, the Honourable Nick Dametto, likewise said 'that a great majority of residents I've spoken to indeed want these things [i.e. the relocating or "banishing" of young offenders from the community] to happen because soft, slap-on-the-wrist policies don't work.'³²

Perhaps more significantly, in the recently conducted annual 'State of the North Survey' administered by the Townsville Bulletin, around 89 per cent of those who responded did not believe that enough was 'being done to *deter* [emphasis added] youth crime, and one in three people had been a victim of property crime while living in the North.'³³

Thus, it is arguable that the task of formulating theoretically sound and empirically supported criminal justice policies can be extremely challenging indeed. This is especially so when the issue of crime is politicised, and victims of crime are legitimately afraid for their lives and property. It is within this vortex of conflicting priorities, demands and strains that the next section of this paper will attempt to explain how Townsville has become such an important stakeholder within this sphere of criminal justice policy-making for the state.

III TOWNSVILLE: A CRUCIBLE FOR POLICY FORMULATION AND TESTING (2016-2018)

From 2016 to 2018, Townsville was the site of some of the most significant criminal justice policy developments, as well as the implementation of cutting-edge programs, in the state of Queensland. Five of these policies stand out as potentially having immense impact on the way the criminal justice system operates. They are:

- commissioning of two independent reviews on the parole³⁴ and youth detention systems,³⁵ respectively (2016);
- launching a whole-of-government 'Townsville Stronger Communities Action Group' (TSCAG), to reduce youth crime in the city, in particular, offences committed by hard core reoffenders (2016);³⁶
- augmenting of TSCAG by introducing a Specialist High Risk Youth Court in Townsville (2017);³⁷ and
- the appointment of Major General Stuart Lyle Smith by the Premier of Queensland as Townsville's 'Community Champion', as part of her Labor

³² Ibid.

³³ Madura McCormack, 'State of the North survey reveals one in three people have been a victim of property crime', Townsville Bulletin (Townsville, online), 7 January 2019, <<https://www.townsvillebulletin.com.au/news/state-of-the-north-survey-reveals-one-in-three-people-have-been-a-victim-of-property-crime/news-story/f093caf98ec03a72f9f12663cfbca12b>>.

³⁴ Annastacia Palaszczuk and Bill Byrne (2016, August 9), Media Statements: Cabinet endorses immediate action and wide-ranging review of parole, <<http://statements.qld.gov.au/Statement/2016/8/9/cabinet-endorses-immediate-action-and-wideranging-review-of-parole>>.

³⁵ Yvette D'Ath (2016, August 19), Media Statements: Attorney-General orders independent review of Queensland Youth Detention Centres, <<http://statements.qld.gov.au/Statement/2016/8/19/attorneygeneral-orders-independent-review-of-queensland-youth-detention-centres>>.

³⁶ Coralee O'Rourke (2016, September 13), Media Statements: Stronger Communities initiative to break Townsville youth crime cycle, <<http://statements.qld.gov.au/Statement/2016/9/13/stronger-communities-initiative-to-break-townsville-youth-crime-cycle>>.

³⁷ Annastacia Palaszczuk (2017, January 27), Media Statements: New Court part of Townsville youth crime response, <<http://statements.qld.gov.au/Statement/2017/1/27/new-court-part-of-townsville-youth-crime-response>>.

government's commitment to providing a continuing and comprehensive response to crime in the city (2018).³⁸

Understanding how Townsville, a relatively small regional city in North Queensland, could become a crucible for such vital policy formulation and testing requires some explanation.

A *Independent Review of the Parole System (2016)*

In July 2016, Anthony James O'Keefe, a 32-year-old man who had been released on parole some seven hours earlier, tragically killed an innocent victim, 81-year-old Elizabeth Kippin, in her home in Townsville — in addition to stabbing and seriously injuring two others.³⁹ There was also some evidence to suggest that O'Keefe had been 'released three times on parole in the past two years, only to reoffend and return to jail within days.'⁴⁰ Governmental response was swift and an independent review was convened under the auspices of the former Solicitor-General of Queensland, Walter Sofronoff QC.⁴¹ Premier Palaszczuk explained that:

Not only will ... [Mr Sofronoff] examine this particular case, but he will also examine the best practice in parole systems across Australia and New Zealand and seek input from organisations working with victims and offenders, as well as experts and researchers.⁴²

Described as being '... the *most comprehensive overhaul of Queensland's parole system in a century* [emphasis added] to make the community safer with tougher and stricter supervision of parolees and improved rehabilitation of offenders', the Palaszczuk government subsequently accepted 89 out of the 91 recommendations in the Sofronoff review.⁴³ Legislation would also be introduced to implement the parole reforms, and the Palaszczuk government made a further pledge to commit:

\$265 million over six years and an additional 329 full-time equivalent [FTE] staff to Queensland Corrective Services and another 18 FTE for Queensland Health for rehabilitation, drug, alcohol and mental health services.⁴⁴

B *Independent Review of the Youth Detention System (2016)*

In August 2016, the Labor state government commissioned an independent review of its youth detention centres,⁴⁵ ostensibly as a response to the airing on national television of 'images of alleged mistreatment of young people inside Townsville's Cleveland Youth Detention Centre'⁴⁶ — an exposé that resulted from a joint investigation by the

³⁸ Annastacia Palaszczuk (2018, January 24), Twitter Message, <<https://twitter.com/annastaciamp/status/956391629673279488?lang=en>>.

³⁹ Kim Stephens, 'Suspected Townsville killer paroled seven hours before stabbing death of woman, 81', news.com.au (online), 29 July 2016 <<https://www.news.com.au/national/queensland/suspected-townsville-killer-paroled-seven-hours-before-stabbing-death-of-woman-81/news-story/a2de2bed30056ad311b4c5f228cbb91d>>.

⁴⁰ Ibid.

⁴¹ Annastacia Palaszczuk and Bill Byrne (2016, August 9) (n 34).

⁴² Ibid.

⁴³ Annastacia Palaszczuk, Yvette D'Ath and Mark Ryan (2017, February 16), Media Statements: Major overhaul for parole system to keep Queenslanders safe, <<http://statements.qld.gov.au/Statement/2017/2/16/major-overhaul-for-parole-system-to-keep-queenslanders-safe>>.

⁴⁴ Ibid.

⁴⁵ Yvette D'Ath (2016, August 19) (n 35).

⁴⁶ ABC TV, Full Force', 7:30 with Leigh Sales, 18 August 2016 (Leigh Sales & Michael Atkin), <<https://www.abc.net.au/news/2016-08-18/cctv-shows-alleged-mistreatment-at-townsvilles/7764672>>.

ABC's '7.30 with Leigh Sales' and *Lateline*.⁴⁷ The images of a male detainee being 'handcuffed, ankle-cuffed, stripped naked, then left alone in isolation for more than an hour' as well as of a female detainee 'in a swimming pool being threatened by [private] security guards with an un-muzzled dog' were gleaned from 2013 and 2015 reports drafted by the Queensland Youth Detention Inspectorate.⁴⁸

Although not warranting a Royal Commission,⁴⁹ the Attorney-General and Minister for Justice and Minister for Training and Skills, the Honourable Yvette D'Ath nevertheless agreed that an independent review was an 'appropriate mechanism to address all allegations that have been made and any additional allegations that may come forward'.⁵⁰ Kathryn McMillan QC and Professor Megan Davis from the University of New South Wales were selected to head up the review and, having analysed relevant evidence, found that 'a finding of systemic mistreatment of young people' at the Cleveland Youth Detention Centre could not be supported.⁵¹ Nevertheless, they made 83 recommendations 'to improve practices and services' of the *whole* youth detention system. All were either approved immediately or in principle by the state government.⁵² In fact, \$6.2 million would be earmarked to bring those recommendations to fruition, including the hiring of '53 new staff, to be deployed at Cleveland [as well as], Brisbane Youth Detention Centre, and in various programs within the department.'⁵³

C Townsville Stronger Communities Action Group (TSCAG) (2016)

Shortly after the May 2016 sitting of the state legislature when the Honourable Tim Mander labelled Townsville as 'Queensland's unofficial crime capital',⁵⁴ various members and senior officials of the Palaszczuk government were fortuitously scheduled to attend a community forum in Townsville on 6 June 2016, specifically to discuss the youth crime problems that were plaguing the city.⁵⁵ As result of community feedback from this Youth Justice Forum, the then Minister for Disability Services, Minister for

⁴⁷ Michael Atkin and Sarah Whyte, 'Images emerge of alleged mistreatment at Townsville's Cleveland Youth Detention Centre', *ABC News* (online), 18 August 2016 <<https://www.abc.net.au/news/2016-08-18/images-of-alleged-mistreatment-cleveland-youth-detention-centre/7758204>>.

⁴⁸ *Ibid*.

⁴⁹ A Royal Commission had been previously ordered in Northern Territory as a result of a similar media exposé, this time by the ABC's Four Corners program concerning allegations of mistreatment of child detainees there: Kathryn McMillan & Megan Davis, *Independent Review of Youth Detention Report*, December 2016, page 6, <<http://www.youthdetentionreview.qld.gov.au/review-of-youth-detention-centres-report-updated-28-June-2017.pdf>>.

⁵⁰ Yvette D'Ath (2016, August 19) (n 35).

⁵¹ Yvette D'Ath (2017, April 26), Media Statements: Palaszczuk Government commits \$6.2 million to Youth Justice, <<http://statements.qld.gov.au/Statement/2017/4/26/palaszczuk-government-commits-62-million-to-youth-justice>>. It should be noted though that Ms Debbie Kilroy, the 'founder of prisoner advocacy group Sisters Inside and a member of the QLD sentencing advisory council', has criticised this finding, and argued that this was 'a cover up' because half of the report had been redacted from public view: Ella Archibald-Binge, 'Queensland Government criticised for silencing young prisoners in 'cover up'' report, SBS News (online), 26 Apr 2017, <<https://www.sbs.com.au/nitv/nitv-news/article/2017/04/26/queensland-government-criticised-silencing-young-prisoners-cover-report>>.

⁵² *Ibid*.

⁵³ *Ibid*.

⁵⁴ Sarah Vogler, 'Opposition police spokesman Tim Mander labels Townsville Queensland's unofficial crime capital', *Townsville Bulletin* (Townsville, online), 24 May 2016, <<https://www.couriermail.com.au/news/queensland/opposition-police-spokesman-tim-mander-labels-townsville-queenslands-unofficial-crime-capital/news-story/d4aff341e941f75a4c9447fe20592e56>>.

⁵⁵ Chris McMahon (n 8).

Seniors and Minister Assisting the Premier on North Queensland, the Honourable Coralee O'Rourke, acknowledged that:

[t]he reasons for youth crime are complex. It can be drugs, alcohol, domestic violence, mental, physical and sexual abuse or a combination of these.⁵⁶

Consequently, she was of the opinion that in order, comprehensively:

... to tackle juvenile crime, we must bring all agencies together to break the cycle of crime for these youth and put them on track to a more productive life.⁵⁷

This whole-of-government approach would include:

... representatives from Police, Justice and Attorney-General, Communities, Education, Housing, Aboriginal and Torres Strait Islander Partnerships, and Health ... [all working] together as the Stronger Communities Group.⁵⁸

Although there have not yet been any formal evaluation results for this exclusively-Townsville based initiative, there is anecdotal evidence that TSCAG has achieved some success. For example, Senior Sergeant Jason Brosnan, the Kirwan police station officer-in-charge, believed that the overnight crime reduction of house break-ins and vehicle thefts in his division was testament to 'the collaborative work being undertaken by the Townsville Stronger Communities Action Group and uniformed police.'⁵⁹ The Townsville Domestic and Family Violence Coordinator, Sergeant Elise Feltham, was of the same view and attributed a reduction in repeat calls for service in relation to domestic violence to this integrated approach between her unit and TSCAG.⁶⁰

D *The Specialist High Risk Youth Court (2017)*

The setting up of the only Specialist High Risk Youth Court in Queensland by Premier Anastacia Palaszczuk should not be viewed as a stand-alone initiative but rather as '... part of ... [the Labor government's] broader, comprehensive strategy to address youth crime in Townsville, make young people accountable for their actions, and break the cycle of re-offending.'⁶¹ As such, the court was intended to dispose of cases involving young repeat offenders [many of whom would inevitably be clients of TSCAG] in a way that would increase the involvement and oversight of the bench in the lives of these young criminals. This would be achieved by requiring these hard core recidivists to 'see the same magistrate each time they go before the court.'⁶² According to a representative of the Attorney-General, the child offender:

⁵⁶ Coralee O'Rourke (2016, September 13) (n 36).

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ Scott Sawyer, 'One of Townsville's property crime hot spots has enjoyed a much-welcome night of peace and quiet', *Townsville Bulletin* (Townsville, online), 4 July 2018, <<https://www.townsvillebulletin.com.au/news/crime-court/one-of-townsvilles-property-crime-hot-spots-has-enjoyed-a-muchwelcome-night-of-peace-and-quiet/news-story/75f67ac33c0a8c62277c1f6f9059b26d>>.

⁶⁰ Sam D'Ath, 'Special unit deals with more than 150 extreme DV cases in a year', *Townsville Bulletin* (Townsville, online), 31 August 2018, <<https://www.townsvillebulletin.com.au/news/townsville/special-unit-deals-with-more-than-150-extreme-dv-cases-in-a-year/news-story/947843e81f8c64e222ae40e99b66064c>>.

⁶¹ Anastacia Palaszczuk (2017, January 27), Media Statements: New Court part of Townsville youth crime response, <<http://statements.qld.gov.au/Statement/2017/1/27/new-court-part-of-townsville-youth-crime-response>>.

⁶² *Ibid.*

... will be required to appear back before the magistrate at regular intervals, as often as weekly, to talk to the magistrate about their behaviour and the work they have done with Youth Justice since their last appearance.⁶³

It is interesting to note that even though the Premier made it amply clear that this specialist court ‘will prioritise sentencing options that ensure young people are giving back to the community’, no additional powers were given to the presiding magistrate. Consequently, this specialist bench has the same sentencing powers as any other Magistrates Court. The key difference appears to lie in its ability to avail itself of a new type of rehabilitation measure that will be administered by the Townsville Youth Justice Service Centre at a cost of more than \$500,000 to ‘help break the cycle of crime’⁶⁴ in the city. According to the Honourable Yvette D’Ath:

[a]s part of the Townsville Community Youth Response [which incorporates a 5-point plan to reducing youth crime], we established a Specialist High Risk Youth Court for Townsville, where high risk offenders go back before the same specialist Magistrate, who sentences the young person to an appropriate penalty ... This can include ... *intensive case management* [emphasis added], where case managers work intensively with young people and their families ...⁶⁵

Similar to TSCAG, there are no published evaluations of the work done by this specialist court yet (for example, reoffending rates, etc.). That said, a total of 16 young people were referred to this high risk youth court during 2016-17 period,⁶⁶ and 17 young people during 2017-18.⁶⁷

E *The Appointment of Townsville’s ‘Community Champion’ (2018)*

In a decision that has no precedent in recent Queensland history, Premier Anastacia Palaszczuk officially appointed Major General Stuart Lyle Smith to be the ‘Townsville Community Champion’, an independent consultant, who would ‘directly report to ... [her] on community concerns [in relation to youth offending], how these concerns can be best addressed, what’s working and isn’t working’,⁶⁸ as part of the Labor government’s ‘ongoing, holistic response to crime.’⁶⁹ This would involve Major General Smith regularly consulting ‘with members of the community for the next twelve months.’⁷⁰ Structured within a youth development strategy model, Major

⁶³ Christie Anderson, ‘Townsville youth court sparks fury’, Townsville Bulletin (Townsville, online), 28 January 2017, <<https://www.townsvillebulletin.com.au/news/townsville-youth-court-sparks-fury/news-story/d7f908030759ebb88c346694812eb431>>.

⁶⁴ Yvette D’Ath and Coralee O’Rourke (2017, March 10), Media Statements: New intensive case management to target repeat young offenders, <<http://statements.qld.gov.au/Statement/2017/3/10/new-intensive-case-management-to-target-repeat-young-offenders>>.

⁶⁵ Yvette D’Ath (2017, April 26) (n 51).

⁶⁶ Magistrates Courts of Queensland Annual Report 2016–2017, 26 October 2017, 26 https://www.courts.qld.gov.au/_data/assets/pdf_file/0006/561237/mc-ar-2016-2017.pdf.

⁶⁷ Magistrates Courts of Queensland Annual Report 2017–2018 (25 October 2018) 27

<https://www.courts.qld.gov.au/_data/assets/pdf_file/0009/589545/mc-ar-2017-2018.pdf>.

⁶⁸ Clare Armstrong, ‘Premier Anastasia Palaszczuk’s new weapon to fight Townsville crime is Major General Stuart Smith’, Townsville Bulletin (Townsville, online), 25 January 2018, <<https://www.townsvillebulletin.com.au/news/premier-anastasia-palaszczuks-new-weapon-to-fight-townsville-crime-is-major-general-stuart-smith/news-story/75607bebcc3fe6a5f8a1ff0c8293244a>>.

⁶⁹ Annastacia Palaszczuk (2018, January 24), Twitter Message, <<https://twitter.com/annastaciamp/status/956391629673279488?lang=en>>.

⁷⁰ Clare Armstrong (n 68). This appointment was not welcomed by the Honourable Deborah Frecklington (Liberal National Party), the Leader of the Opposition in the Queensland Parliament, who argued that ‘[r]esidents across Townsville and North Queensland don’t need another three month talkfest, they want real action to deal with local crime issues that are out of control’.

General Smith proposed 20 recommendations in his report that were meant to be implemented in the following stages:

- prevention (before the child exhibits any anti-social behaviour);
- intervention (after the child has exhibited anti-social behaviour but before he/she has come into contact with the youth justice system); and
- rehabilitation (where the rehabilitative program is delivered as a formal response to the child's offending behaviour by the youth justice system).⁷¹

These recommendations sought to:

- support victims of crime;
- support parents;
- provide early education screening;
- support school attendance;
- develop cultural resilience;
- develop cultural understanding;
- improve youth services after hours;
- strengthen mentor programs;
- strengthen diversionary options in the youth justice system;
- strengthen transition between youth justice rehabilitation services; and
- review the terms of reference, membership and approval authorities of the Townsville Stronger Community Executive Committee to support the development and implementation of a community-driven Townsville Youth Development Strategic Plan from 2019 onwards⁷²

Thus far, the government has accepted all of the recommendations 'in principle'.⁷³ They will ultimately dovetail into the *state-wide* Youth Justice Strategy.⁷⁴

As highlighted above, not only has Townsville been a site of significant policy formulation and/or testing, many of these criminal justice policies have also gone beyond the aim of *mere* deterrence, notwithstanding the populist support for such an objective among key segments of the media, political realm, and community. Consistent with this theme the final part of this paper will offer some thoughts on the direction the criminal justice system should take in the foreseeable future.

IV WAY FORWARD

As amply demonstrated, Townsville is a microcosm of numerous exciting and innovative criminal justice policies and initiatives that have been developed and implemented specifically to address the unique circumstances and events in the region. Furthermore, the ramifications of many of these criminal justice developments have been felt across the state, and their significance in relation to how they impact upon the

⁷¹ Stuart Smith, *Townsville's Voice: Local Solutions to Address Youth Crime*, 5 December 2018, 20. <<https://townsvillecommunities.premiers.qld.gov.au/assets/docs/tsv-voice.pdf>>.

⁷² *Ibid* 5-8.

⁷³ Clare Armstrong, 'State Government accepts youth crime report recommendations 'in principle'', *Townsville Bulletin* (Townsville, online), 10 December 2018, <<https://www.townsvillebulletin.com.au/news/crime-court/state-government-accepts-youth-crime-report-recommendations-in-principal/news-story/8d031dfd3f8fc202acf3082c32dc4c39>>.

⁷⁴ Annastacia Palaszczuk (2018, July 19), *Media Statements: Community-led proposals welcomed on youth crime issues*, <<http://statements.qld.gov.au/Statement/2018/7/19/communityled-proposals-welcomed-on-youth-crime-issues>>.

way criminal justice practitioners in Queensland ‘deal with the presence of crime and the handling of offenders’⁷⁵ is profound. Nevertheless, there is one particular policy approach that has not yet been fully utilised in Queensland, and that is ‘Justice Reinvestment’ (JR).⁷⁶ This framework is described as being:

a data-driven approach to reduce corrections and related criminal justice spending and reinvest savings in strategies designed to increase public safety. The purpose of justice reinvestment is to manage and allocate criminal justice populations more cost effectively, generating savings that can be reinvested in evidence-based strategies that increase public safety while holding offenders accountable⁷⁷

Having been around for quite some time in the United States,⁷⁸ JR seeks to direct public funds into community projects and programs to rectify problems inherent within that community. The model followed in the United States (US), operates on the redirection of funds that are typically expended on incarceration⁷⁹ to the community sector. A majority of US states now have some form of JR strategies in place via public and private partnerships that aim to develop projects that address early offending behaviour and target those who reoffend.⁸⁰ A typical JR project is established by various methods developed in conjunction with communities experiencing high levels of crime.⁸¹ For instance, these projects could include the introduction of various treatment programs, and investing in services or programs that are relevant to that particular community.

In Australia, JR has predominantly been a focus for Indigenous-related programs but there is no reason why JR programs would not successfully operate in non-Indigenous communities. JR first came to the fore in Australia in 2009 with the Social Justice Report⁸², and since then it has attracted the attention of others interested in trying to rectify problems at the community level. Tom Calma and Mick Gooda (former Aboriginal and Torres Strait Islander Justice Commissioners) have lent their support for JR in Australia in recent years⁸³ and a number of State and Commonwealth bodies have recommended JR be trialled throughout Australia.⁸⁴ Thus far, the only significant Queensland JR initiative is one that was based on a recommendation made by the

⁷⁵ Stacy L Mallicoat (n 16) 131.

⁷⁶ Matthew Willis and Madeleine Kapira, ‘Justice reinvestment in Australia: a review of the literature’ (Research Report No 09, Australian Institute of Criminology, 2018) 36-37.

⁷⁷ *Ibid* 2.

⁷⁸ James Austin and Garry Coventry, ‘A critical analysis of justice reinvestment in the United States and Australia’ (2014) 9 *Victims & Offenders* 1, 130-132.

⁷⁹ Melanie Schwartz, ‘Building Communities, Not Prisons: Justice Reinvestment and Indigenous Over-Imprisonment’ (2010) 14(1) *Australian Indigenous Law Review* 2, 3.

⁸⁰ For an overview of various US JR projects, see, Justice Centre: Council of State Governments, *Justice Reinvestment* (2018) <<https://csgjusticecenter.org/jr/publications-library/>>.

⁸¹ Matthew Willis and Madeleine Kapira (n 76) vi.

⁸² Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2009* (Report, Australian Human Rights Commission, 2009) 56.

⁸³ *Ibid*. See also Aboriginal and Torres Strait Islander Social Justice, *Social Justice and Native Title Report 2014* (Report, Australian Human Rights Commission, 2014); Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice and Native Title Report 2016* (Report, Australian Human Rights Commission, 2016).

⁸⁴ For example, the Senate Select Committee on Regional and Remote Indigenous Communities, *Final Report 2010*, September 2010, 21; House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous Youth in the Criminal Justice System*, June 2011, 321; Queensland Government, *Draft Indigenous Justice Strategy 2011-2014* (May 2011) 24. For a detailed and thorough discussion of Justice Reinvestment, see, Fiona Allison and Chris Cunneen, ‘Justice Reinvestment in Northern Australia’, *The Cairns Institute Policy Paper Series*, James Cook University (2018).

Independent Review of the Youth Detention System (2016), traversed earlier in this paper.⁸⁵ To that end, the Palaszczuk government has been working with the Cherbourg Aboriginal Shire Council to assess the community's suitability and readiness for justice reinvestment trial funding that will be focussed on crime prevention, early intervention and diversion from the youth justice system. As at September 2018, this JR initiative is at the stage where 'implementation options, project expansion and the governance required for a whole of government initiative'⁸⁶ are being considered by the government. While this approach holds great promise, more research needs to be done to determine its impact on the capacity of the Queensland Corrective Services to achieve its strategic objectives (i.e. maintaining safer correctional environments; humanely managing prisoners and offenders; fostering partnerships and community collaboration; as well as stopping crime),⁸⁷ effectively, efficiently and safely.

It is hoped that this analysis will provide an impetus for further research and greater discussion of the very important topic of criminal justice policy. It is arguable that the range of government initiatives currently underway fly in the face of continued criticism from various corners of the community. Although we must be mindful not to disregard criticism of current criminal justice policies — especially criticism from the victims of crime — one must keep in mind the work that public and private institutions are currently delivering on the ground in North Queensland. Only after we turn our attention from *exclusively* deterrence-based policies, are we able to better address the crime problems that face the community.

⁸⁵ Department of Child Safety, Youth and Women (Queensland Government), *Justice reinvestment recommendations* (2 November 2018) <<https://www.csyw.qld.gov.au/youth-justice/youth-detention-review-implementation/implementing-review-recommendations/justice-reinvestment-recommendations>>.

⁸⁶ *Ibid.*

⁸⁷ Queensland Corrective Services, 'Strategic Plan 2018-2022', 2018, <<https://publications.qld.gov.au/dataset/qcs-strategic-and-other-plans/resource/1c4a7846-49df-416a-a540-d5a434a5bfa2>>.