



A Blueprint for Change

Adapting the lessons of the
Spanish Youth Justice System
to the Northern Territory

APPENDICES



Acknowledgement of Country

During this study, Diagrama visited Darwin/Palmerstone, Katherine, Tennant Creek and Alice Springs. We acknowledge the traditional custodians of the lands we visited and pay our respects to the Elders, past and present.

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Appendix A: Consultation events and participating organisations

Visits and meetings

Don Dale Youth Detention Centre, Darwin

Alice Springs Youth Detention Centre

Saltbush Social Enterprises Bail Accommodation, Darwin

Saltbush Social Enterprises Bail Accommodation, Alice Springs

Territory Families and other NT government agencies - officials and staff involved in the delivery of children's services

Children's Commissioner and Deputy Commissioner

Police Station and Watch House, Tennant Creek

NT Legal Services organisations including NT Legal Aid Commission, North Australian Aboriginal Justice Agency (NAAJA)

Supreme Court, Darwin

Children's Court, Darwin

Juno Centre, Tennant Creek

Patta Group, Central Land Council, Tennant Creek

Combined Aboriginal Organisations, Tennant Creek

Katherine Youth Justice Reinvestment Group

Kalano Community Association

Families of young people in detention, Tennant Creek

Other community members

Public Consultation Attendance

Diagrama wishes to thank the following organisations who attended the public consultations in each location. Many of these organisations provided valuable feedback on their relevant fields of experience and expertise and we are grateful for their input.

Darwin - Tuesday 15th October, 2019

Aboriginal Housing NT

Anglicare

Centre for Disease Control – Sexual Health and Blood Borne Viruses Unit

Council for Aboriginal Alcohol Program Services

Department of Education

Northern Australian Aboriginal Justice Association (NAAJA) Throughcare
Northern Territory Legal Aid Commission (NTLAC)
NT Aids and Hepatitis Council Yarraman Territory
NT Anti-Discrimination Commissioner
NT Council of Social Services
Office of the Children's Commissioner
Red Cross
Saltbush Social Enterprises
Sexual Assault Referral Centre
Territory Families.

Tennant Creek - Wednesday 16th October, 2019

Anyinginyi
Barkly Regional Council
Barkly Regional Deal Backbone
Cultural Authority Group
Department of Chief Minister
Julalikari Council Aboriginal Corporation
Mental Illness Fellowship of Australia Inc
Northern Territory Police
NTLAC
Saltbush Social Enterprises
Youth Development Unit.

Alice Springs - Friday 18th October, 2019

Alice Springs Youth Accommodation and Support Services
Anglicare Northern Territory
Bush Mob
Central Australian Aboriginal Congress
Department of Chief Minister
Department of Health – Prison Health
Gap Youth and Community Centre
NAAJA

NT Council of Social Services

NLAC

Red Cross

Relationships Australia

Saltbush Social Enterprises

Tangentyere Council

Territory Families.

Katherine - Wednesday 23rd October

Kalano Community Association – Venndale Rehabilitation

Katherine High School and Katherine Flexible Learning Centre

Katherine Justice Reinvestment Working Group

Katherine Regional Aboriginal Health and Related Services

NT Friendship and Support

NLAC

Red Cross

Top End Health

Wurli-Wurlinjang Health Service

Appendix B: About the team

David Romero McGuire PhD, Chief Executive – Diagrama (UK)

While studying for a teaching degree at the University of Córdoba, at the age of 18 David set up his own company dedicated to providing health and safety services. He joined Diagrama in Spain more than 18 years ago, working as a social educator in one of our first youth secure establishments. In 2006 David was promoted to lead a €2 million after-care programme, which helped more than 400 children and young people in the justice system, establishing links with all the community agencies and organisations supporting young people to reintegrate into society.

In 2008 David moved from Spain with his family to set up Diagrama Foundation in the UK. He was appointed Chief Executive in 2009 after being selected from more than 450 candidates. Diagrama UK now employs around 150 people and delivers a range of services supporting vulnerable people at risk of social exclusion, including adoption and fostering, supported living for 16 to 24-year-olds, and residential provision for the elderly and for adults with learning disabilities. Diagrama also participates in European Projects to develop and share best practice.

David is a member of Diagrama International's innovation and improvement group and is a frequent participant at international conferences, including for the International Juvenile Justice Observatory (www.oijj.org) and European Council for Juvenile Justice (ECJJ) (www.ejjc.org). He is also a member of the European Society of Criminology (ESC) and the European Prison Education Association (EPEA). He has a PhD in criminology with the University of Bedfordshire, UK.

Daniel Navalón, Director of Socio-educational Intervention – Diagrama (Spain)

Daniel leads the team responsible for design, development, implementation and evaluation of programmes and interventions used in all Diagrama's services in Spain: including centres for children in conflict with the law, children in welfare settings, immigration centres, mental health services, services for people with learning disabilities and elderly care. The team of around 20 staff is responsible for researching and sharing evidence-based good practice, developing or sourcing programmes to address the needs of the vulnerable people Diagrama works with and implementing these across our services.

Daniel joined Diagrama in 1999 as a social educator in the secure re-education centre La Villa, working directly to support young people in conflict with the law (our socio-educational intervention area). He progressed from this role into many other areas of responsibility in the centre including coordinator (with responsibility for managing and supervising staff on shift across all activities and daily life of young people). He was promoted to Centre Director at La Villa in 2002. In 2005 he became Territorial Manager for the Valencia Region with responsibility for the running and performance of around 5 centres, and for the tendering and mobilisation of new services within the region.

Daniel was promoted to National Director with responsibility for all Territorial Operations in

Spain in 2008 – including services for around 1,800 young people in custody and over 5,000 young people in welfare settings and took on his current role in 2017.

Daniel has a degree in Psychology from the University of Valencia and a Postgraduate Degree in Management of Social Services Centres from the Postgraduate School of Health Sciences in Madrid. He is a member of the Official College of Social Educators in the Valencian County Council Area and a member of the Observatory of the Valencian Community of Socio-labour Insertion for Minors and Young People in Welfare and Justice.

Helen Dean, Head of Professional Standards and Business Development - Diagrama (UK)

Helen joined Diagrama Foundation UK in 2017. Helen's early career was with the Metropolitan (Met) Police Service (London) as a project manager working on areas as diverse as development and evaluation of new policing policies, corporate strategy development and roll-out of new IT systems. She then joined the Met's Performance Information Bureau leading projects to implement new data and management information systems.

In 2009 she joined the Youth Justice Board (YJB) for England and Wales, the government-sponsored agency with responsibility for the performance of the youth justice system and for commissioning custody services for young people. She headed up the governance team, leading the YJB's business planning, reporting and risk management processes. In 2012 she joined the YJB's commissioning team, leading the retender of some custodial services for young people.

Helen has experience in programme and project management, group decision-making, business analysis, business case development and strategy development and has a Masters degree in Operational Research.

Appendix C: Comparison of staffing: NT and Diagrama centres

We believe running our model of care in detention in the NT would be both less expensive and more effective than the current approach. Studies have shown our model to reduce recidivism and a return to custody. We were provided with the organisational charts for Don Dale and Alice Springs. We note that although we were told DDYDC has a maximum capacity of 46 beds, published figures show that its maximum average number of young people in 2019-20 was 22.¹. Therefore we have provided two comparison points for DDYDC below. The first, a 46-bed centre, has comparable numbers of staff overall, but far fewer security within this. In the second, a 20-bed centre, we have less than half the staff overall. We also run a centre of comparable size to ASYDC with less than half the staff.

More social educators work with young people to fulfil their needs and keep them engaged. As a result, fewer security staff are needed. It takes time to achieve this - in particular if the young people themselves are used to the current culture in detention. From our experience, these staffing levels are achieved once the model is embedded in a centre.

Notes on tables below:

- Numbers of staff are taken from Territory Families organisation charts for youth justice. This only includes staff directly employed by Territory Families e.g. excludes programme costs, youth workers from other organisations.
- Capacities at DDYDC and ASYDC provided by Territories Families.
- We have excluded management positions that sit above Don Dale and Alice Springs organisational structures.
- We have split the SATS team staff across both sites 50-50.
- Diagrama staff numbers are from three of our centres in Spain.
- We have mapped our staff roles to the closest Territory Families equivalent.
- Diagrama social educators are with young people throughout the day, delivering activities including psycho-social education workshops, sports, arts, leisure activities. Some of this may be delivered through additional programme budget in the NT.

¹. <https://territoryfamilies.nt.gov.au/youth-justice/youth-detention-census> week commencing 28/10/19

Number of Staff			
Don Dale, Darwin NT		Sangonera, Murcia, Spain	
(46 beds max – highest average no. per month in 2019-20: 22.1 young people)		(46 places)	
Management - Superintendent, Deputies	3	3	Director and Deputy
Supervisors - Team Leaders (6), Security Systems Officer (1)	7	4	Coordinators
Senior Youth Workers	5	38	Educators, VET leads
Youth Justice Officers	55	24	Security
SATS Manager Case Coordination and Support (0.5), Principal Psych (0.5), Senior Clinicians (2.5)	3.5	3	Lawyer (0), Psychologist (2), Social worker (1)
Clinicians	2	*	Doctor 1 day per week, Psychiatrist 1 day per week,
Programme Facilitators	1	0	
Reception	1	1	Administration
Total	77.5	73	

Number of Staff			
Don Dale, Darwin NT		Odiel, Huelva Spain (20 places)	
(46 beds max – highest average no. per month in 2019-20: 22.1 young people)			
Management - Superintendent, Deputies	3	2	Director and Deputy
Supervisors - Team Leaders (6), Security Systems Officer (1)	7	2	Coordinators
Senior Youth Workers	5	17	Educators, VET leads
Youth Justice Officers	55	9	Security
SATS Manager Case Coordination and Support (0.5), Principal Psych (0.5), Senior Clinicians (2.5)	3.5	2.3	Lawyer (0.3), Psychologist (1), Social worker (1)
Clinicians	2	*	Doctor 10 hrs per week + on call; Nurses 5 hours per week + on call
Programme Facilitators	1	0	
Reception	1	0.5	Administration
Total	77.5	33	

Number of Staff			
Alice Springs (16 places max)		San Miguel, Granada Spain (14 places)	
Management - Superintendent, Deputies	3	2	Director and Deputy
Team Leaders	5	2	Coordinators
Senior Youth Workers	5	12	Educators, VET leads
Youth Justice Officers	36	6	Security
SATS Manager Case Coordination and Support (0.5), Principal Psych (0.5), Senior Clinicians (2.5)	3.5	2.16	Lawyer (0.16), Psychologist (1), Social worker (1)
Clinicians	2	*	Doctor 0.05 per week + on call; Nurses 0.13 + on call
Programme Facilitators	1	0	
Reception	1	0.4	Administration
Total	56.5	24.56	

Appendix D: Community feedback on the Diagrama model

This Appendix sets out the key themes from feedback from community members and other stakeholders who attended the public consultations held in Darwin, Tennant Creek, Alice Springs and Katherine. So that it can be read as a standalone Appendix, it repeats some areas set out in the main body of the report and includes more detail on other points raised.

The consultations demonstrated that Aboriginal people, organisations and NGOs are eager to be involved in the design and planning of youth facilities for their communities. If we are invited to submit a further proposal for a Diagrama model for the NT, we would want to ensure that these important stakeholders are an essential part of planning and next steps.

Sentence length and time spent by young people in our centres

Many attendees asked how long young people spend in our centres. In Spain our young people are typically with us for an average of 9 months, with 6 months being the minimum time recommended in our centres. Some attendees were understandably concerned about the significant period of time a young person would be deprived of their liberty - we explained the reasons why. Young people are sentenced to detention in Spain for serious offences (typically violent offences and persistent reoffending). Changing behaviour takes time: young people need to build up trust with the people working with them, and have time to build and practice the skills needed to change their behaviour – often failing in a safe environment before making progress. The people we talked with recognised this – likening it to treating an addiction and needing longer than a few weeks to make an impact. They also understood that in our model young people spend much more time studying and working in the community before they are released, and likened the experience more to attending a boarding school during that period of their sentence.

We were told that young people sentenced to detention in the NT for serious crimes already have similar sentence lengths to those of young people in Spain. A key difference, though, is the very high proportion of young people on remand in the NT and greater use of short sentences. We comment on this and other aspects of the youth justice system in section 6 as we believe this sets young people up to fail, wasting time and resource. Even for young people with us for short periods, however, we expect some degree of progression towards developing positive behaviours. For those on remand, we would also complete a full set of assessments to inform courts about the best course of action for that young person.

Can the model work in both secure and open facilities?

Our model aims to support young people to change entrenched behaviours. As part of this we set clear boundaries, which can be very challenging for a young person who has not had limits placed on them before. If there is an easier option, a young person will often first try to take this: through absconding for example, or maybe opting to stay in a detention facility that doesn't set expectations for their behaviour. A period in 'closed' conditions gives the young person time to settle, to understand their plan and begin to work towards this, without

being able to take the easy option of removing themselves from the programme. Having this option of a period of 'closed' detention is therefore important for many young people. Where risk assessment allows, we then make far greater use of time in the community for that young person – a major incentive to engage with their programme.

In Spain, the culture of the youth justice system has changed over time, so now, we also successfully run services for young people on 'open' sentences (for example immediately required to attend school in the community) and for young people on community sentences. We believe that as the culture and practice in detention changes in the NT, it will become easier to run effective facilities for young people on bail or community sentences – services that genuinely help them to address their behaviour.

However, we believe changing the model of care in the NT must first start with detention centres, giving a court-determined option of a period of 'closed' detention when working with young people. There are currently some barriers to NGOs running detention services in the NT but we believe these are resolvable, if there is a willingness to change towards a more effective -and cost effective - approach.

Comprehensive assessment

Many stakeholders asked what sort of assessments we used for young people entering our facilities and whether we used a comprehensive assessment. All our work with young people is informed by an initial assessments carried out by our centre's 'Technical Team', including psychologist, social worker, teacher, health provider. This includes use of some standardised assessments and looks at a range of areas including physical and mental health and disability, family and home background, education, social and offending behaviours. The assessment forms the basis of the young person's individual plan, tracked and updated by a multi-disciplinary team weekly, working with the young person and where appropriate their family.

Also, when a case goes to court in Spain a comprehensive assessment is carried out by a Technical Team working for the judge to inform their decisions about the young person. Although this does not yet happen in the NT, we believe that for young people on remand, a detention centre's technical team could provide that advice to the court in the NT.

A full and purposeful day – time out of rooms

It was raised, and we also had the opportunity to observe, that young people in detention in the NT spend a large part of each day locked in their rooms or spend time in the accommodation blocks without structured activity. This included periods during the day when young people were locked in their rooms during staff breaks. Young people are also locked in their rooms by 6:30pm most evenings. There was a clear desire for more programs to be offered to young people.

Our model is characterised by a full day of education, training, sport, programmes and structured leisure led by educators. There are more normal getting up and bed times (9:30-10:00pm depending on age). As well as providing young people with greater opportunities to

learn, they go to be tired, sleep better and we have fewer problems caused by the frustration of boredom or loneliness.

Education

People at the forums wanted to see increased vocational training opportunities for young people and were interested in how we encourage young people in our centres to take up work placements when they are old enough. They asked how that could be applied in the NT – in particular in remote and regional contexts where industry and job opportunities are limited. In Spain, we initially grew our networks of friendly businesses building on friends and other personal contacts and ensuring we supported each placement carefully.

Our centres also have high expectations for young people's futures so that there is a strong focus on helping young people learn and develop skills that would give them choice and help them to progress. In Katherine we saw great examples of multi-agency working, including with local employers and we know there are NGOs and others already working in many areas. We would look to form partnerships with local resource and training organisations and local businesses to create meaningful opportunities for young people in our centres.

How to keep young people connected to their families

We are particularly grateful for the time family members of young people in the justice system took to speak to us. They wanted young people to be kept closer to home so that they could be more involved in the rehabilitation of their children. There was a clear desire expressed by members of the Aboriginal communities who attended the briefings to have young people remain on country as far as possible. They also expressed their frustrations that young people were often transferred between the ASYDC facility DDYDC with little notice given to the young person, family or others who support and represent them.

We agree that detention should only be used where necessary, and there is a need for facilities in sites other than Darwin and Alice Springs to help connect young people and their families. In our centres, the Technical Team has specific responsibility for keeping families up to date and involved in their child's plan and progress whenever this is appropriate – contacting the family as soon as the young person arrives, and meeting with family members when they visit to explain how the centre operates, for example. Where distance is a barrier, we would work with local organisations to help support video visits, and provide accommodation near our centres to support young people to spend time with families.

We were told how, due to a complex layering of pervasive disadvantage, poverty, overcrowding, parenting challenges, mental health issues, substance misuse and family and community violence, the families of some young people in the criminal justice system are often not in a position to begin to engage. To some extent this is true in other countries too, but we recognise the challenges faced by families in the NT - in Tennant Creek, we were told that the majority of Aboriginal children in the Barkly Region do not reside with their biological parents but with another member of their extended family. We agree with stakeholders who said there needed to be services which can work with these families, to build both the capacity of the family and the young person to bring them together for a more effective and

holistic response. In our centres, where appropriate we will work with families and young people together to develop the skills to support each others, and we would work closely with other organisations who could provide those services in the NT too.

Connection to culture, language

Community members and stakeholders at every consultation raised the need for detention service models to be culturally safe, noting that at any one time almost the entire population of youth detainees are Aboriginal and/or Torres Strait Islander people: how would we ensure that Aboriginal and Torres Strait Islander culture would be respected and incorporated into a model of care for young people in a facility? Attendees provided useful examples of cultural considerations, such as:

- Cultural obligations: funerals and ceremonies;
- Aboriginal kinship and moiety structures such as skin names;
- Certain avoidance relationships.

We were also reminded that for a significant number of young people entering detention English was not their first language and, in some cases, it is their 4th or even 5th language.

Having worked with people from marginalised communities across the world, we know these are serious considerations for every service provider. We recognise that culture needs to be respected as a potential strength in young people's lives. It will be critical for us to respect and work with local ACOs, communities and families who know their young people. It will also be critical for us to have staff who understand the young people –and who recognise the gaps in their own knowledge, listen, ask questions and respect the people answering.

We would want to work with community members and professionals, through an advisory group and informally, to design a programme of formal education, cultural and leisure activities, that is relevant and appropriate for young people and connects them to their communities and culture.

In our centres, we try to recruit members of staff who can relate to the young people they work with, understand their language (and where necessary use translators) and know how to teach young people who have a different first language. When we work with asylum seekers, for example, we also support them to learn the language that will help them be able to get training and work. We also need to recognise the part that language plays in connecting Aboriginal young people to their communities and our programme would need to incorporate positive ways of supporting young people to learn about and speak their language as part of cultural activities.

What we would stress, too, is that the young people we met in detention in the NT had, at heart, the same basic needs as young people all around the world – we saw they wanted affection and positive attention from adults and to feel safe. Their profile of offending is certainly no worse (and in many cases much lower) than young people we work with in other countries, and many have similar needs and issues. We cannot forget that they are teenagers first and offenders last.

Staffing, training and qualifications

Stakeholders expressed the importance of using a local, culturally aware, trauma informed team working with young people in the NT. Bail support accommodation providers noted that having a culturally aware workforce has enhanced the effectiveness of their programme and has allowed for the development of positive relationships between their staff and young people. They gave the example of staff who come from the same communities and speak the same languages as the young people in the facility and how this has had a positive impact on those young people's engagement in programs.

We agree this is critical to creating an environment that understands the young people in our care, is empathetic and that young people can relate to, so we would want to employ Aboriginal staff across every role. It's also important to employ staff who want to develop and stay working in their communities and who can grow with an organisation – we know that parts of the NT can attract professional staff from across the country but they don't always stay for a long time.

We also understand the difficulties around recruiting Aboriginal people for the care sector and the existing detention centres. While a key requirement of staff is emotional intelligence and a desire to support young people to change, we would also design and support staff through a social pedagogy degree programme to develop their skills and knowledge and help them progress in all roles in a centre. (We have designed a similar programme in the UK, working with the University of Canterbury). All staff need to be trained and develop an awareness of Aboriginal culture to ensure they can properly support young people and work cooperatively with their families and communities. We would seek support from the community and ACOs in designing appropriate training. Staff need to feel listened to and supported – as well as understanding that, we believe our approach with regard to team-working, daily staff debriefs and handovers encourages this on a daily basis.

Reintegration and throughcare

A consistent theme raised in the consultations was the importance of throughcare and case management services that were well integrated within and outside of the centres. Improving the quality of engagement with young people and their families after a young person has exited a period in detention was identified as an area of need.

Stakeholders expressed frustration at the very limited use of day release within the current system with the vast majority of young people never allowed outside the facility during their remand/sentence. We heard that 'day release' used to occur more frequently but has reduced in recent times in order to minimise risk following some incidents. Stakeholders were interested in our approach to progression, with planning for life after release built into each young person's plan at the start of their time, and young people earning opportunities for work, study and socialising in the community as their behaviour and engagement progresses. This is always risk assessed.

Stakeholders asked if young people sentenced to our facilities were required to wear electronic monitoring bracelets when out in the community on day or weekend release. We don't use these devices on young people in Spain and have not had many issues with

young people absconding whilst undertaking programs or education in the community. If a young person absconds whilst on day release, or fails to return at curfew, they lose the privilege to leave the facility for a period of time. This is the staged progression approach, built on trusting relationships; young people are encouraged and have significant goals to work towards which incentivise them to the privileges that our model of care provides.

Complex needs, neuro-developmental impairment and FASD

In light of the study conducted in Banksia Hill in Western Australia and increasing public understanding about the prevalence of neuro-developmental impairment, these needs were consistently raised by stakeholders working with and on behalf of young people currently in detention. Many questions in the consultations highlighted the need of the justice system to be able to work with young people with complex needs and serious behavioural problems, including for example, FASD and neuro-developmental impairment. The need for specialised training for staff working with these young people was also expressed.

Our model addresses these issues through a number of approaches. The Technical Team identifies issues through comprehensive assessment on entry, working with health care providers. The assessment then informs the development of a suitable plan for each young person, adapted with goals and interventions (where needed) to take account of their specific needs. It also informs how staff will work with that young person, recognising their communication needs, and how to adapt to the centre's rules in a way that is fair and meaningful according to their understanding and capacity. The Technical Team provides advice and guidance to staff on how to work with and support specific young people with high needs. Staff are qualified and trained to understand issues such as brain development, trauma informed approaches, the effects of neuro-developmental and other impairments. Staff share information during handover sessions about how young people are progressing day by day, and how well support strategies are working. Staff are supported on shift by the active involvement of supervisors (coordinators) and managers. We also run specific units and centres for young people in the justice system who have high mental health needs.

Appendix E: Features of the Spanish Youth Justice System

In Spain, the youth justice system is legislated by the Act 5/2000 and is based on international standards (see tables below). It enshrines a model that is educative and promotes responsibility – with the understanding that responsibility does not mean punishment, but rather the preparation of a young person to take responsibility.

The law seeks the best interests of the child, and a team made up of professionals who are specialised in youth justice and delinquency evaluates each case. Their role is to provide support and advice to the judge during the judicial procedures where important decisions are made about the child. During this whole process, the child has the right (and is given the opportunity) to be heard and is supported by their lawyer and family.

The model adopted by the Spanish youth justice system focuses on the child, not just on their antisocial behaviour. It aims to understand the offending and come to terms with the harms caused to victims. The purpose of the sentence is mostly educational, not simply to punish the young person. Sentences are linked to the young person's delinquent behaviour so that this can help the young person develop and progress cognitively, emotionally, socially, educationally and morally.

The law covers children and young people who were between the ages of 14 and 18, when the offence was committed. All the professionals in the process must have specialised training and/or qualifications: judges, prosecutors, police, lawyers, public servants and employees of non-public organisations involved in the system. Legislators' intention was to make juveniles responsible for their criminal acts, and at the same time, to protect young and adolescent offenders from any arbitrariness throughout the decision-making process.²

In Spain, while the Prosecutor's Office leads the actions taken in the system, the law confers specific roles on all professionals within the system, on an equal level of importance. The roles of the different agents within the system are set out below.

Prosecutor

The Prosecutor is responsible for the preliminary investigation of an offence, and the Juvenile Court Judge is responsible for safeguarding the rights of the person under investigation. At this stage the Prosecutor is also assisted by the police (to investigate the offence) and by a team of professionals (the Technical Team) to determine the most appropriate response given the young person's psycho-social situation. It is the role of prosecutors and judges to make decisions about decriminalising/diverting young people from the court system, not the police.

The Prosecutor's Office oversees the whole case and plays a key role in ensuring its efficiency. Typically a case will be completed in 3-4 months (with a limit placed on all but the most complex/serious cases of 6 months).

² Alberola, C. & Fernandez, E. (2006). Report of the Spanish Juvenile Justice System. Albacete: Spain. University of Castilla-La Mancha

Police

The youth justice law sets the role of specialist juvenile police groups. Their role is to arrest and investigate, respecting the young person's rights. In practice, juvenile police groups may have wider roles in their community, for example dealing with juvenile victims of crime.

Technical Team

A Technical Team made up of professionals who specialise in youth justice and delinquency (psychologists, social workers and educators) evaluates the case and the young person as soon as it gets to the prosecutor's office. The team prepares a report that will help inform the prosecutor's decision on how to proceed. This is an objective statement considering family, social and educational background, previous involvement with private or public agencies. It also assesses the young person's physical and mental health and makes a recommendation on what alternatives for the young person are appropriate to the case. This could include diverting the case from the youth justice system, care, protection and social and psychological assistance required when the young person is detained.

Juvenile Judge

In Spain judges follow the "inquisitive model" and have more oversight of young people's sentences and progress in rehabilitation, at every step of the process. The vision of the judiciary around sentencing is not punishment but re-education, where sentences are individualised, depending on the offence and also on the child's social, psychological and schooling needs. Sentences are flexible and link to the child's progression. For example: children are entitled to be in the community after serving half of their sentence but this will always depend on the child's progress, which the judiciary are informed about monthly.

The judge's involvement does not stop at sentencing – they assume responsibility for overseeing rehabilitation. This is made practically viable by young people being sent to custodial centres within their home county. Both judges and prosecutors have three distinct functions. They pay regular visits to the detention centres, meeting with the young person, families and the centre's Technical Team to monitor progress; they have the power to adjust sentences according to each young person's progress; and they inspect the centres to ensure standards are met.

This helps the system act flexibly according to the young person's progress, holds agencies to account for delivering the services to the young person and provides important learning and feedback into the system.

Defence lawyer

Defence lawyers must have the same specialised training as judges and prosecutors. The defence lawyer's role at each phase is to safeguard the young person's rights.

Local councils - responsibility for young people in custody

County councils in Spain have sole responsibility for children from their area: if detained, this is always within their region, never outside. By keeping services regional, cross-county problems with schooling and health are avoided, and services and information are accessed swiftly. Placing children closer to home enables greater opportunities for successful integration back into the community and the ability for families to provide support.

Sentences

The judge has a range of sentence options available to them, including community sentences and custodial sentences with a range of options for how much time a young person can spend in the community at the outset. In Spain, the perception of the purpose of custody is very much one of education and rehabilitation first. Children are held responsible for their offences but, after their judgement, the focus is on making them understand that they are responsible, finding a way to integrate them into the community, and on avoiding reoffending. With this comes a strong expectation that, wherever appropriate, young people will attend schools etc in the community even when sentenced to detention.

Age of Criminal Responsibility

Although international standards do not provide a specific minimum age, there is general consensus that young children should not be dealt with by the youth justice system, and this is a common trend amongst many countries. NT is not part of this trend currently. As set out in the table below, UNCRC Comment 10, 2007, concluded that a minimum age of criminal responsibility set below 12 is not acceptable. We believe the age of criminal responsibility should be raised.

Criminal Records

Spain does not keep criminal records for any crime committed before the age of 18 (the maximum age for being treated as a child), as this can act as a barrier to reintegration. While there is a downside to this in terms of being able to track reoffending rates after the age of 18, we believe that the NT government should explore this approach in order to promote the best interests of the child throughout the system.

Detention

The primary purpose of detention is one of education and rehabilitation first. By law, centres in Spain are run by public sector or not-for-profit organisations to ensure children and young people receive maximum benefit from the funds allocated to their care and rehabilitation but also to recognise the expertise that non-public organisations can bring to the care of young people. This applies not only to Spain, but to many other countries including France, Germany, Netherlands and Norway. The age of criminal responsibility in Spain is 14, and therefore detention centres for young people do not take anyone below that age.

Area of Law	The UN Convention on the Rights of the Child (1989)	The UN Guidelines for the Prevention of Juvenile Delinquency, 1990 (The Riyadh Guidelines)	The UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (The Beijing Rules)
Purpose of Youth Justice	The Articles 3, 28, 29, 37 (c) and 40 highlight the focus on the welfare and education of the children in the Youth Justice System.	See Section 1: Fundamental Principles. For example, para 5(c) states: "Official intervention to be pursued primarily in the overall interest of the young person and guided by fairness and equity"	
Age of Criminal Responsibility	Comment No. 10, 2007, concluded that a minimum age of criminal responsibility set below the age of 12 is not "internationally acceptable ". https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf (paragraph 32)		Rule 4 recommends that "the beginning of the minimum age of criminal responsibility shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity".
Criminal Records	Comment No.10 recommends the "automatic removal from the criminal records of the name of the child who committed an offence upon reaching the age of 18, or for certain limited, serious offences where removal is possible at the request of the child, if necessary under certain conditions" (e.g. not having committed an offence within two years after the last conviction).		

Area of Practice	The UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (The Beijing Rules)	The UN Rules for the Protection of Juveniles Deprived of their Liberty.
Case Management and Technical Team		<p>Section IV: The Management of Juvenile Facilities (Rules 19 – 80) covers case management issues. For example Rules 27- 28 require: an interview; a psychological and social report regarding the level of care necessary; a medical report to determine the most appropriate placement for the child; an individualised treatment plan that must be prepared by trained personnel for those children who require special rehabilitative treatment. Detention of children must take account of all of their particular needs such as: their age, sex, personality, type of offence, physical and mental health and “ensure their protection from harmful influences and risk situations”.</p> <p>Rule 79 states that: “All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education, or employment after release. Procedures, including early release, and special courses should be devised to this end”. Post- release programmes such as the granting of licence, allows the child to reside with a guardian or parent who is willing to take responsibility for him or her.</p>
Workforce	<p>Para 1.6. states: “Juvenile justice services shall be systematically developed and coordinated with a view to improving and sustaining the competence of personnel involved in the services, including their methods, approaches and attitudes”</p>	<p>Section V (Rules 81 – 87) relates to what is expected of juvenile justice workforce. For example: Rule 81 calls for personnel to be qualified and for a sufficient number of specialists to be employed such as: counsellors, psychiatrists, social workers, psychologists, vocational instructors and educators. Rule 85 stresses the need for personnel to be well trained, especially in the areas of “child psychology, child welfare and international standards and norms of human rights and the rights of the child...” Personnel must be carefully selected and recruited at every grade, and should be adequately paid so as to attract qualified women and men (Rule 83) Rule 83 also encourages personnel to provide children “with a positive role model and perspective”.</p> <p>Rule 87(d) requires all personnel “to ensure the full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation...”</p>