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Juvenile Justice in Australia

"Send for Legal Aid"

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Juvenile Justice in Victoria

The *Children & Young Persons Act 1989* represents the most significant recent event shaping juvenile justice in Victoria today. The following excerpts from *Working Together for Children's Future —The Role and Impact of the Children & Young Persons Act 1989* traces some of the historical development of welfare and juvenile justice practice in Victoria until the introduction of that Act.

Child welfare in Victoria was initially provided on a voluntary and charitable basis by the non-government sector.

The first child welfare legislation in Victoria was passed in 1874. It was designed to cater for and reform juvenile offenders. The concept of child protection was almost totally lacking in the legislation. Child neglect, however, became a matter of public interest and concern in the 1880s. During this period, the non-government sector continued to play a key role in child welfare with the government providing a reception, coordinating and administrative support role. While these arrangements were changed and developed in subsequent decades, a number of key features characterised child welfare in Victoria up until the early 1950s.

These included:

- *the behaviour of children rather than their protection was a prime concern;*
- *government reliance on the non-government sector to provide the bulk of child welfare services;*
- *limited government funding for the non-government sector;*
- *disregard for the rights and interests of the child's family;*
- *perception that the parents of children in care were bad parents and that their children needed to be reformed;*
- *a lack of accountability about what happened to children;*
- *and a formula type approach to children's futures with boys going out to farms or into service and girls being placed as housemaids in private residents.*

Gradual change occurred to service provision in post Second World War Victoria with the government adopting more responsibility and increasingly recognising quality of care issues. These changes however were not informed by a coherent philosophy or range of principles guiding child welfare. Concerns identified by committees of inquiry in England and developments in the United States influenced developments in Victoria. These concerns included the quality of care provided to wards of state, minimising intervention into the lives of children and their families, and recognising child maltreatment as a significant social problem.

During the 1950s and 1960s, concerns about the quality of care, standards of practice and the lack of a coherent philosophy characterised reviews of child welfare in England and the United States. These concerns also influenced government and non-government sector considerations about child welfare in Victoria. As a consequence, the Victorian Government established the Norgaard Committee (1976) to inquire into child welfare. The Committee recommended the regionalisation of government child welfare services, improved quality of care provisions, placed an emphasis on wardship being a solution of last resort, and highlighted the need to strengthen support services. These themes were further developed in the White Paper Consultation (1978). Both reports recommended a comprehensive review of child welfare in Victoria.

In November 1982, the government established the Child Welfare Practice and Legislative Review Committee to conduct such a review of child welfare practice and legislation and to develop a framework of principles which would inform changes to practice and child welfare legislation.

The development of the Children and Young Person's Bill represented the culmination of the work of the CWP & LR Committee and put into effect most of its recommendations.

In his speech to Parliament in 1988, introducing the Children & Young Persons Bill, the then Minister for Community Services pointed out that the Children & Young Persons Act consolidated child welfare provisions into one Act and promoted and extended the government's strategy to establish an effective, efficient and responsible child protection system in Victoria.

The Minister promoted the Act as providing the legislative framework for change and development in statutory child protection and juvenile offender services in the areas of practice, service design and programs. A major component of these changes is the state-wide development of services which involves moving children out of large central institutions into community-based facilities and programs. This development has assisted in placing children in regions close to their families and in facilitating arrangements for

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separating child protection services from young offenders' services.

The Victorian Government has preferred to take a minimal intervention approach to juvenile offending relative to the governments with Anglo-Saxon traditions.

Research shows that offending among young people is part of growing-up and that intrusion by external agencies affects the normal corrective or socialisation responses made by families, relatives, friends, schools and other key socialisation agents to young people's deviant behaviour. This intervention by the State can be counter-productive to the development of socially responsible behaviour (cf Shoemaker 1988, p.8).

Research also demonstrates that offending is often associated with poverty, chronic non-attendance from school, poor housing and family breakdown.

These findings suggest that a policy of minimal intervention is a preferred approach to juvenile offenders. In Victoria this means that the sentencing tariff for intervention with young offenders is being raised so that only serious or chronic offenders come within the ambit of formal intervention. It also suggests that programs for young people who are sentenced to custodial placements need to be redesigned to promote their re-integration into the community and to reduce the likelihood of reoffending.

Photographer: Branko Ivanovic, Canberra.

Further attention is also required in Victoria to the development of a crime prevention strategy which responds to the social deficits associated with crime (the development of such a crime prevention strategy also needs to include a response to victims of crime).

The Children & Young Person's Act 1989 (C&YPA)

The C&YPA is being proclaimed in four stages in Victoria. The second stage proclamation on 23 September 1991 included Children and the Criminal Law and forms the principal legislation covering juvenile justice in Victoria.

This legislation has the following features: *It establishes separate decisions of the Children's Court* —the Family Division and the Criminal Division. This clearly separates the basis of the response of the Children's Court to young people, that is on the basis of needs—The Family Division, or deeds—The Criminal Division.

This separation of services, programs and responses involving children and young people with welfare needs from those involving children and young people involved in criminal activity is a key characteristic of the Act. It has not only affected the structure and activity of the Children's Court but the reconfiguration of facilities, services and programs of Community Services Victoria.

It establishes a sentencing hierarchy for Children's Courts and the requirement that a court not impose a sentence at one level unless it is satisfied that a sentence at a lower level of the hierarchy is not appropriate.

Two new sentencing options have been established on the sentencing hierarchy—the Youth Supervision Order and the Youth Residential Centre Order.

The Youth Supervision Order (YSO) is a community based sentencing option for 10-17 year olds more intensive in nature than Probation but less intensive than the Youth Attendance Order (YAO).

Probation, established as a court disposition in 1906 in Victoria, remains an option with an emphasis on supervision and support. Volunteers (Honorary Probation Officers) maintain a substantial role in the Victorian juvenile justice system in supervision of probation orders.

Community service is an optional component of the YSO. This order places an emphasis on an intensive personal development program and would normally require a more structured reporting schedule than Probation.

Community service is a mandatory component of the YAO as is a structured program of personal development. Personal development programs are normally designed to address those

issues which contributed in some way to the offending behaviour. The YAO (established as an option in 1988) is the primary community based sentencing alternative to the Youth Training Centre sentence of detention.

The Youth Residential Centre Order is a sentence of detention (at a Youth Residential Centre) for 10-14 year old (inclusive) young offenders.

Concurrent with its introduction, the Criminal Division of the Children's Court lost the power to admit a young person to the care of the Department (CSV) as a result of offending behaviour.

Related to the introduction of the Youth Residential Centre Order was the establishment of the Youth Residential Board with powers and jurisdiction over such sentences equivalent to those of the Youth Parole Board.

The sentencing hierarchy therefore is as follows (from least to most intrusive or punitive):

- Dismissal;
- Nonaccountable undertaking;
- Accountable undertaking;
- Good behaviour bond;
- Fine;
- Probation (10-17 years);
- Youth Supervision Order (10-17 years);
- Youth Attendance Order (15-17 years);
- Youth Residential Centre Order (10-14 years); and
- Youth Training Centre Order (15-17 years).

CSV runs the last five.

It places clear and increased emphasis on the rights of children and their families, the accountability of those involved in the juvenile justice system and the importance to be given to cultural values, education, employment and the family when dealing with young offenders.

It established the minimum age of criminality in Victoria at 10 years (it was previously eight years).

It provides for a wider range of court responses to fine default including a period off Youth Supervision or Youth Attendance Order or a period of weekend detention.

Alternatives to Court Sanctions

Victoria has for some time now used the Police cautioning system as its primary diversion program for young offenders. Police cautioning accounts for half again the number of young offenders charged and dealt with in Children's Court. In 1991 this ratio was expressed as 10,582 police cautions compared with 7,775 young people appearing in Children's Court.

A further diversionary program is due to be trialled in Victoria in the near future. A victim—offender mediation program will seek to deal with young offenders who have not been offending in a serious manner but who have already been through the cautioning program and would normally be sent to court.

It is hoped that this program will build upon the Police cautioning program and further divert (in appropriate cases) young people from penetrating the juvenile justice system to too great an extent.

Statistical Description of Juvenile Justice

As stated above, in 1991 the number of children and young persons appearing in Children's Court in Victoria (between the ages of eight and 17 years[1]) was 7,775.

These young people were dealt with in the following way:

Dismiss without conviction	245
Dismiss without conviction with undertaking	246
Dismiss without conviction with accountable undertaking	246
Good Behaviour Bond (without conviction)	1,017
Fine (with or without conviction)	2,588
Probation (with or without conviction)	609
Youth Supervision Order (with or without conviction)	62
Youth Attendance Order (conviction)	105
Youth Residential Centre Order (conviction)	7
Youth Training Centre Order (conviction)	127
Good behaviour Adjournment [2]	1,778
Admit to CSV [2]	10
Return to Care of CSV [2]	66
Withdrawn	29
Struck out or dismissed	647

As of 30 April 1992 the number of young people subject to supervision in the community by CSV was as follows:

Probation	576
Youth Supervision Order	66
Youth Attendance Order	63
Parole [3]	118

In Victoria, young people receive sentences of detention in YTC from both Children's Court (age 15-17 years) and from Adult Court (age 17-21 years). As at 6 June 1992 the breakdown of young people subject to orders of detention in Victoria was:

Youth Residential Centre (10-14 years)	1
Youth Training Centre (Children's Court)	23
Youth Training Centre (Adult Court)	103

It is interesting to note the decline of the incidence of sentences of detention in Youth Training Centres in Victoria during the past six years. The number of young people in YTC on sentence of detention as at 30 June steadily fell from 286 in 1983 to 174 in 1990. This is largely due to increasingly effective court advice together with government policy and court sentencing practice aimed at diverting young people where appropriate from detention in institutions.

This diversion practice is noticeable in Probation as well. The number of young people on Probation at any one time has steadily declined from 969 on 30 June 1987 to 576 on 30 April 1992.

Conversely there has been an increase in the lower tariff sentencing options utilised by the courts.

With the separation of "needs" and "deeds" issues in the Children's Court, sentencing responses have increasingly focussed on young people's behaviour rather than on their needs.

Thus Probation has been used less as a means to secure services and support and more as a response within a sentencing hierarchy to criminal behaviour.

Reference

Shoemaker, D.J. 1988, "The Duality of Juvenile Justice in the United States", *Sociology Spectrum*, vol. 8, pp.1-17.

1 In September 1991 the minimum age of criminality was raised from 8 years to 10 years.
2 No longer sentencing options in the Criminal Division of Children's Court.
3 Parole figures include young people given sentences of detention in YTC both by Children's and Adult Courts.

Juvenile Justice in Queensland

The Department of Family Services and Aboriginal and Islander Affairs is responsible for the provision of services to young offenders and their families in Queensland. The *Children's Services Act 1965* is the current statutory base for these services. However, as new legislation, comprising a Juvenile Justice Bill and a Children's Court Bill, is being considered by Parliament this year, this article will examine both present and future juvenile justice systems in Queensland.

History of the Department's Role with Young Offenders

During the first half of this century, there was little apparent change in departmental practice or the philosophical framework upon which it was based. The language of the Department reflected its purpose: children were "received" in "depots" and field officers were "inspectors".

The late fifties and sixties heralded an increase in the community's interest in youth issues and juvenile delinquency. This was the era of "bodgies" and "widgies", who were even referred to in *Annual Reports* of the time.

In 1957, a Parliamentary Inquiry into Youth Problems produced the *Dewar Report*. For the Department there were a number of significant outcomes:

- the promotion of the 'treatment' approach to young offenders;
- the recognition that indeterminate sentencing in the Children's Court often discriminated against children; and
- the recognition of the contribution which trained welfare personnel could make in work with children and families.

A subsequent committee, again headed by Dewar, made a number of recommendations for changes to the child welfare legislation, including:

- appointment of a Magistrate of the Children's Court; and
- differentiation between children in need of protection and those in conflict with the law.

The Children's Services Act 1965 was the first major piece of child welfare legislation to be enacted since 1911. One of the reformist intentions of the Act was to "remove stigma and other discriminatory attitudes in relation to socially deprived children and their families" (*Annual Report* 1967).

In effect, the Children's Services Act was concerned more with the welfare needs of young offenders than with their offending behaviour. Having established guilt, courts could avail themselves of a range of orders that had an essentially rehabilitative intent. The degree of intrusion or loss of liberty that might be associated with the order was of lesser importance.

Since the enactment of the Children's Services Act, departmental practice has evolved and developed to reflect trends in service provision and changing knowledge in the field of juvenile justice. In some areas, practice has diverged markedly from the original intent to the legislation.

In contrast to the predominantly "treatment" approach which had been favoured following the Dewar reports, workers have increasingly adopted a juvenile justice framework with a greater emphasis on due legal process. A separate Court Services section was established in 1978 and negotiation was undertaken with the Law Society to extend the duty lawyer scheme to Children's Courts. Recommendations for shorter orders resulted in more focused work with young offenders.

During the seventies and eighties, the most marked organisational trends in the Department were decentralisation and regionalisation. This has allowed for increased delegation of authority and responsibility to regional offices across the state.

A major restructuring of the Department in 1990 created a new program structure and a renewed emphasis on the importance of juvenile justice service delivery. Juvenile Justice is now one of two sub-programs in the Division of Protective Services and Juvenile Justice.

Current Options for Young Offenders

In the present juvenile justice system, juveniles are young people over 10 years and under 17 years of age.

Police cautioning is firmly established in Queensland as the method for dealing with young offenders as an alternative to prosecuting them before the courts. Police conduct formal interviews with young people guilty of first or minor offences in the presence of their parents or guardians. In any year, the majority of young offenders are dealt with by way of caution. A 1984 published evaluation of this diversionary program indicated that only 15 per cent of young people cautioned were subsequently charged with offences.

In 1990-91, most of the 4048 young people who appeared before the courts were charged with offences. This number

represents less than 1.3 per cent of all young people aged 10 to 16 years in Queensland. The following sentencing options are commonly imposed by Children's Courts or the higher courts:

- Admonish and discharge
- Fine
- Supervision order up to two years
- Care and Control order up to two years - guardianship order
- Restitution/compensation.

Having committed a young person to the care and control of the Director-General of the Department, the court may then recommend a period in a detention centre. Decisions on the custody and release of young people are made by the Department, but generally are consistent with the recommendations of the courts.

Care and control orders in the community and supervision orders, administered by departmental officers, are the only supervised non-custodial sentencing options. The Children's Services Act was amended in 1989 to introduce community service as a sentencing option, but the relevant provisions were never proclaimed.

Supervision orders are similar to probation, and may include special conditions, for example participation in an anger management group program. Non-compliance with any of the conditions of a supervision order may result in a formal breach of the order whereby the young person is brought back before the court.

At the end of March 1992 there were 674 young people in Queensland under supervision orders and 547 young people under care and control orders for offences. Of young offenders under care and control orders, seventy-five were in custody in one of the Department's four detention centres across the State.

The Children's Court

The Children's Services Act creates a Children's Court which may be constituted by a Magistrate of the Children's Court or a Stipendiary Magistrate. While the jurisdiction of the Children's Court resembles that of a Magistrate's Court, a number of its procedures and powers are unique, for example, hearings in the Children's Court are not open to the public.

The Children's Court has sole jurisdiction over matters involving simple offences. For all indictable offences the magistrate in a Children's Court carries out a committal, or preliminary hearing to establish if there is a prima facie case. If so, young people then have the right, except in the case of certain serious offences, to elect to have their case heard either summarily in the Children's Court or by judge and jury in the District Court.

Offences over which a Children's Court has no jurisdiction are those which carry a maximum of life imprisonment for adult offenders. While these offences must be heard in the appropriate superior court, the committal hearings are still conducted in the Children's Court. Young people who plead or are found guilty in the District or Supreme Courts cannot receive penalties greater than those available under the Children's Services Act. However, this Act does have a provision for young people found guilty of very serious offences to be detained "during Her Majesty's Pleasure".

A representative of the Department has a right to be present in court. Departmental officers play a key role in providing information and recommendations to the court on remand and sentencing matters, for example by proposing community orders with specific conditions as an alternative to custody, where appropriate.

New Juvenile Justice Legislation

Following an extensive review of the juvenile justice system in the context of contemporary patterns of juvenile crime, the Queensland Government has approved a Juvenile Crime Strategy, comprising a major crime prevention initiative and legislative reform.

The Juvenile Crime Prevention Initiative aims to reduce the level of juvenile offending in high crime rate areas. A variety of local programs will be offered to disadvantaged young people, aged 10 to 16 years, to direct them towards constructive activities and discourage involvement in criminal activities. The three-year pilot program will involve the combined resources of seven government departments and the participation of community organisations and families.

The Juvenile Justice Bill and Children's Court Bill will soon be considered by Parliament. The Children's Court Bill deals with procedural matters related to the Children's Court. The general principles underlying the Juvenile Justice Bill are that:

- Because a child tends to be vulnerable in dealings with a person in authority, a child should be allowed special protection during an investigation or proceeding in relation to an offence committed, or allegedly committed, by the child.
- If a child commits an offence, the child should be treated in a way that diverts the child from the courts' criminal justice system, unless the nature of the offence and the child's criminal history indicate that a proceeding for the offence should be started.
- If a proceeding is started against a child for an offence the proceeding should be conducted in a fair and just way, and the child should be given the opportunity to participate in and understand the proceeding.
- A child who commits an offence must be held accountable and encouraged to accept responsibility for the offending behaviour, and dealt with in a way that will give the child the opportunity to develop in responsible, beneficial and socially acceptable ways.
- A decision affecting a child should, if practicable, be made and implemented within a time frame appropriate to the child's sense of time.
- The age, maturity and cultural background of a child are relevant considerations in a decision made in relation to the child.

Rehabilitative and supportive services will continue to be provided to young offenders, but the use of these services will not be linked to a young person's compliance with any penalty imposed by the court. It is considered that welfare assistance is more likely to be effective if agreed to voluntarily by a young person, rather than required by law.

Some of the key features of the Juvenile Justice Bill are outlined below.

Pre-court diversion: police cautioning

The successful police system of cautioning first on minor offenders, as an alternative to prosecution before a court, will be provided with a legislative base. Police may request a recognised elder of an Aboriginal or Torres Strait Islander community to administer cautions to young people from those communities.

Alternatives to arrest

The Bill requires police, having decided that a young person should be charged, to proceed by way of an attendance notice (a simplified form of summons) instead of arrest, except in specified circumstances. Attendance notices will provide an alternative which will not involve the custody associated with arrest, nor the delay associated with the issuing of a complaint and summons under the *Justices Act*, and reduce the number of young people being subjected to the stigmatising effects of arrest procedures, for example fingerprinting.

Extended range of sentencing options

A greater range of sentencing options will

be provided to the courts. These emphasise the use of community correctional orders. Detention is to be used as a last resort for serious or recidivist offenders. The latter is one of the fundamental principles underlying the legislation. There is ample evidence that young people who have been detained are more likely to continue offending through gaining criminal skills and networks while in custody.

The Children's Court

The Children's Court will have significantly increased jurisdiction and status. One or more Children's Court Judges, equivalent to District Court Judges, will be appointed under the Children's Court Bill, with one Judge also assuming the position of President of the Children's Court of Queensland. The President will have functions such as the oversight of the jurisdiction and preparation of *Annual Reports*.

The Juvenile Justice Bill will end the making of administrative decisions on detention outside the court process. Decisions regarding the custody of young people in detention centres will be made by the court, rather than the Department.

Sentencing Orders

The Juvenile Justice Bill will establish an exclusive sentencing code for young people. The penalties available under other Acts will not be able to be applied to juveniles under any circumstances, nor will they be able to be sentenced to imprisonment. The Bill enshrines a set of sentencing principles and special considerations which the court must consider when sentencing a young person.

The sentencing orders have been designed to be realistic, and as meaningful as possible to young offenders, while taking into account their immaturity and dependency.

The orders of reprimand, good behaviour and fines will enable the courts to respond appropriately to lesser offences, or to young people appearing in court for the first time.

Community service of up to 120 hours will be able to be ordered for a young person 15 years or older, or up to 60 hours for a young person aged 13 or 14 years. Community service orders will involve young people in giving something back to the community, and provide opportunities for the reinstatement of the property of victims. As well, these orders will be able to be arranged with great flexibility, to suit the individual needs of young people, for example Aboriginal and Torres Strait Islanders and young people in remote areas.

Young people will be able to be placed on probation for up to twelve months, or if sentenced by a judge, for up to two years. Young people on probation must be supervised by departmental officers and fulfil all requirements of their orders, as prescribed by the courts. Officers working with young people on community orders will address their welfare needs by offering support services for their voluntary acceptance or rejection.

Custodial options will include immediate release orders. These are detention orders where the court immediately releases the young person into a supervised community program with strict conditions.

Magistrates will be able to impose detention for up to six months for offences other than serious offences. If this is considered inadequate in a particular case, referral may be made to a Children's Court Judge for consideration of a sentence of up to two years.

Various provisions aim to ensure detention will be a last resort sentencing option. Under the Bill, a court must not make a detention order unless it has received and considered a mandatory presentence report and is satisfied that no other sentence is appropriate. When a detention order is made, the court must state its reasons for doing so in writing.

A statutory period of 70 per cent of any sentence must be served in custody before release. A young person will spend the remaining 30 per cent in the community, under terms and conditions aimed at assisting young people to establish appropriate lifestyles. The Department will conduct Intensive Personal Support programs with young people released who do not have the necessary supports and skills to reintegrate effectively into their communities.

Finally, the Juvenile Justice Bill has provisions for orders for serious offenders. A serious offence under the new legislation is one for which an adult would be liable to imprisonment for 14 years or more, or for life. The maximum sentences for these offences will be probation for up to three years or detention for up to 10 years.

However, if a young person is found guilty of a "life offence" against a person, such as murder or rape, and the court considers that the crime was particularly heinous, a court may order detention for a maximum period of 14 years. There will be no provision for a young person to be detained indefinitely, "during Her Majesty's Pleasure."

In addition to these substantive penalties, the court will be able to impose the ancillary orders of restitution or compensation of property, compensation for personal injury, or driver's licence disqualification.

Jurisdiction and Functions of the Children's Court

A Children's Court may be constituted by two justices of the peace, a Stipendiary Magistrate or a Children's Court Judge. The Children's Court will continue to be a closed court, unless it is hearing serious offences. The court will have a duty to ensure that a young person has been given a reasonable opportunity to obtain legal representation.

The sentences available under the Juvenile Justice Bill significantly extend the powers of magistrates. Magistrates will have the new power of directly sentencing young offenders to detention. The need for "checks and balances" on the powers of magistrates and justices has been accomplished by:

- limiting the periods of probation which may be made by justices and magistrates, and the periods of detention which may be made by magistrates, and
- creating the position of Children's Court Judge to make decisions regarding longer sentences.

The Children's Court Judge will also be able to review sentences made by magistrates and justices. The review function is a mechanism for ensuring that there will be comparative equity in the sentences ordered for similar offences across the state, and mitigating excessively harsh penalties. At court, departmental officers will assume the new function of being able to apply to the Judge for the expeditious review of sentences considered unfair.

Another important function is that the Children's Court Judge, sitting alone, will be able to hear and determine serious offences. However, young people will still have the right to elect to be dealt with by a judge and jury in the District or Supreme Court.

The Children's Court Judge will also hear bail applications on matters which presently must be heard by the Supreme Court, and review bail decisions made by magistrates and justices in Children's Courts.

In conclusion, the central reforms proposed in the new legislation are an enhanced Children's Court through the creation of the position of Children's Court Judge, and an expanded range of sentencing options. In future, the welfare needs of young offenders will be met separately to the sentencing process. The proposals under way for legislative reforms in conjunction with crime prevention programs represent a new approach in Queensland, and one which will result in more effective responses to the problem of juvenile crime.

Juvenile Justice in South Australia

South Australia was the first state to adopt justice-based legislation for young offenders with the proclamation of the *Children's Protection and Young Offenders Act* (CP & YO Act) in 1979, which separated the welfare and justice jurisdictions of the Children's Court and introduced determinate sentences for young offenders. The Act also provided for a major diversionary system in the form of Screening Panels and Children's Aid Panels, with the intention of processing a majority of offenders through an informal mechanism. These major reforms characterise the current system in operation today.

In the 1970s the Department for Family and Community Services (FACS) placed a major emphasis on juvenile justice matters. Apart from the introduction of the CP & YO Act, the department developed a range of innovative community-based services for young offenders which have provided the back-bone of the department's services for young offenders throughout the last decade.

More recently, the State Government's Crime Prevention Strategy (introduced in 1989) and other initiatives in areas such as victim involvement and community participation have triggered the development by FACS of new programs and strategies.

South Australia is currently conducting a parliamentary inquiry into the delivery of juvenile justice services through the Parliamentary Select Committee on Juvenile Justice.

South Australian Juvenile Justice Legislation

The Children's Protection and Young Offenders Act 1979, was the first legislation in Australia to separate justice and welfare matters. Children appearing before the Children's Court for offending matters can no longer be dealt with as in need of care and placed under the care of the Minister of Family and Community Services.

The Act also has the following key characteristics:

- two-tiered level of operation;
- children accorded same rights as adults;
- determinate sentencing (fixed period of detention between two months and two years);
- Section 47 of the Act allows for certain serious matters to be transferred to the adult court.

In particular, Section 7 of the Act sets out a philosophy for the adjudication of juvenile justice matters, where it states that all forms of jurisdiction of the Act will

> seek to secure for the child such care, protection, control, correction or guidance as will best lead to the proper development of the child's personality and to the child's development into a responsible and useful member of the community and, in doing so, must consider the following factors :
>
> (a) the need to preserve and strengthen the relationship between the child and parents and other members of the child's family;
>
> (b) the desirability of leaving the child within the child's own home;
>
> (c) the desirability of allowing the education or employment of the child to continue without interruption;
>
> (d) where appropriate, the need to ensure that the child is aware of his or her responsibility to bear the consequences of any action against the law;
>
> (da) where the child is being dealt with as an adult for an offence, the deterrent effect that any sentence under consideration may have on the child or other persons; and
>
> (e) where appropriate, the need to protect the community, or any other person, from the violent or other wrongful acts of the child.

The Children's Protection and Young Offenders Act was the first juvenile legislation in Australia to provide a philosophical statement to govern the interpretation and operation of the Act.

South Australian Juvenile Justice System

Since 1972, South Australia has employed a two-tier system of juvenile justice, comprising Children's Aid Panels and the Children's Court. By the early 1980s it was recognised that this system was not working effectively, largely because too many offences were still being directed to Aid Panels and even to the Court. An attempt to improve the system was made in 1982, when Screening Panels were given an option of no further action which included the possibility of a police caution. This attempt to increase the range of options

and to add a further tier to the system was largely ineffective because police cautions were still rarely used. The situation improved about twelve months ago, following changes in police policy, and there has subsequently been a dramatic increase in the use of police cautions.

Screening Panels

The first point at which the Department for Family and Community Services becomes involved in the juvenile justice system is at a Screening Panel. Screening Panels have a crucial role in determining the most appropriate forum for dealing with allegations against children. Exceptions are specified in Section 25 of the Children's Protection and Young Offenders Act (for example,. homicide, traffic offenders over 16 years, truancy).

Children's Aid Panels

A Children's Aid Panel usually comprises a police officer and a FACS social worker, and the panel is usually held in a FACS centre. The panel takes the form of discussions with the child and his/her parent(s) or guardian(s) about the social circumstances surrounding the child's offending. The panel may then undertake the following courses of action:

- counsel and warn the child;
- ask for a written undertaking by the child and/or guardian to follow specific directions or programs for up to six month period;
- arrange compensation;
- refer to a work program; or
- refer the matter to court (if the guardian fails to appear at the panel, if the child refuses to enter an undertaking, or if the child breaks an undertaking).

The panel is not able to determine guilt or innocence and, if the child disputes the allegations, the matter is referred direct to court.

The Children's Court

The Children's Court deals with the more serious offences and the matters referred to it by a Children's Aid Panel. The Children's Court system comprises the Adelaide Children's Court, which is served by Children's Court judges and magistrates, and various suburban and country locations where children's matters are presided over by magistrates.

The Minister of Family and Community Services is usually represented in the Children's Court by Court Social Workers from the Department for Family and Community Services.

Photographer; Branko Ivanovic, Canberra

In sentencing a child the judge/magistrate has at their disposal, under Section 51 of the Act, a range of sentencing options, as follows:

- detention;
- community service order;
- bond without conditions;
- bond with conditions;
- fine;
- attend educational or recreational programs; or
- discharge without penalty.

After establishing the guilt of a child, the judge/magistrate may order an adjournment for purposes of requesting either a Social Background Report and/or an Assessment Panel Report from FACS.

Penalties imposed by the Children's Court are administered by the Department for Family and Community Services, as follows.

Programs available to the Courts fall under two categories: detention and alternatives to detention.

South Australia has two juvenile detention centres administered by the Department for Family and Community Services. They are the South Australian Youth Training Centre and the South Australian Youth Remand and Assessment Centre.

Detention rates in South Australia have declined from the high levels of the early 1970s, and have plateaued throughout the late 1980s. However, there has been a 25 per cent increase in detention rates over the past two years.

South Australian Youth Training Centre is a remand and detention centre for boys aged 15 to 18 years. The 1990-91 average residency was forty children.

South Australian Youth Remand and Assessment Centre is a remand and assessment centre for offenders up to 18 years and the detention centre for males up to the age of 15 years and all offending females. The 1990-91 average residency was seventeen children.

Family and Community Services operates the following programs as alternatives to detention:

- Intensive Neighbourhood Care (49 children as at 30 June 1991);
- Intensive Personal Supervision;
- Mandates/Warrants Default Program;
- Community Services Orders (153 children as at 30 April 1992);
- Community Work Options;
- Bonds with supervision; and
- Youth Project Centres.

Other programs for young offenders are offered by both the government and the non-government sector.

In addition to the programs listed above, FACS operates the following programs specifically to assist young offenders:

- Metropolitan Aboriginal Youth Team;
- Country Aboriginal Youth Team;
- Turkondi Work Skills Program;
- Youth Support Group (Bank Street);
- Police Interview Call Out Team;
- Wilderness Programs;
- Street Legal; and
- Hindmarsh Industrial Training Program.

The Department's programs for adolescents at risk are also made available to young offenders, including:

- Community Residential Care (42 children as at 30 June 1991);
- Adolescent and Family Team support; and
- Schools Social and Behavioural Project.

The Department for Family and Community Services provides funding to youth shelters ($4,602,206 for 1990-91) and to youth organisations ($903,540 for 90-91) which provide services to young people in need, including juvenile offenders. Some of these services have developed interesting programs relevant to juvenile offenders, such as Spray Graffix, a legal graffiti program and Hindley Street Youth Project, which offers a safe haven and a diversionary response to young people at risk in Hindley Street.

South Australia's Response to Juvenile Crime

The South Australian government has placed considerable emphasis on, and resources into, the area of crime prevention and the Department for Family and Community Services is a key contributor in this area.

The Department is represented on all local crime prevention committees whose task it is to develop juvenile crime prevention strategies tailored to the special needs and issues of their local area. As well as FACS, other key government departments which provide services to young people have directed resources into programs and services which ensure access for young people to education, training, cultural pursuits and recreation.

The Department has recognised the dramatic over-representation of Aboriginal offenders in the juvenile justice system, and recent initiatives in innovative programs for Aboriginal young offenders have been proving successful in diverting Aboriginal children from the justice system.

Over the past year it has undertaken a range of further initiatives in the areas of services to young offenders and adolescents at risk and service delivery to these groups has been restructured by the creation of adolescent and family teams within District Centres, thereby integrating youth work and social work resources into a multi-functional team. Secure care operations and juvenile justice services are currently undergoing an efficiency restructure which will streamline operations and improve productivity.

The Department has also re-focused its work with juvenile offenders by introducing an emphasis on:

- strengthening families, through programs such as parent support groups;
- victim awareness and victim involvement programs; and
- education, employment and training initiatives for young offenders.

The juvenile justice system in South Australia is now at the crossroads, with the direction it takes to be influenced by the findings of the Select Committee and public debate. Further reforms, it is hoped, will continue to be characterised by common sense, compassion and effectiveness.

Ian Stokes*

Juvenile Justice in Tasmania

There is an old saying, "if it ain't broke, don't fix it" which some would argue should be applied to the current Juvenile Justice legislation in Tasmania. Superficially the legislation, the *Child Welfare Act 1960*, appears to meet the needs of the community and young offenders in that, despite its strong "welfare" philosophy and approach, the juvenile justice system is achieving outcomes which are consistent with the justice model. For example, Tasmania has consistently low juvenile incarceration rates and relatively low offending rates despite high juvenile unemployment and lower than average incomes when compared with other states. Despite these outcomes there is a perceived need by many workers in the field of juvenile corrections, that it is time for a major overhaul of the legislation before the system "breaks" resulting in a community backlash to the "soft" welfare approach in the state.

This paper will attempt to examine the reasons why the current juvenile justice legislation with its somewhat dated and unfashionable "welfare" philosophy appears to work and will also examine the potential for unintended consequences in changing the legislation to reflect a justice model. It will examine the strengths and weaknesses of the Child Welfare Act 1960, the recent history of the provision of juvenile justice services in Tasmania and also take a brief look at practice issues which may indicate why the Tasmanian situation appears to vary from other states.

The Act has as its stated philosophy

> . . . as far as is practicable and expedient, each child suspected of having committed, charged with, or found guilty of an offence shall be treated, not as a criminal, but as a child who is, or may have been, misdirected or misguided, and that the care, custody and discipline of each ward of state shall approximate as nearly as may be to that which should be given to it by its parents (Section 4 Child Welfare Act 1960).

This section has enabled practitioners and courts to examine and act upon the welfare needs of a young person who has offended. It has also led to criticisms that a young person in Tasmania can be "incarcerated or placed in state care for stealing a Mars Bar". This indicates one of the major criticisms of the Act in that it fails to protect the rights of the young offender. A young person, because of their assessed "welfare" needs, may receive a disposition which is far in excess of a disposition received by an adult offender for a similar offence.

Another criticism is that it confuses the issues of neglect and offending. The Act contains, as a court disposition for offending, the declaration of a young person as a ward of state. There is no time limit upon the duration of this order, except that a wardship order can be discharged at any time by ministerial authority or at the age of 18 of age. Once guardianship has been transferred to the Department then the young person can access the same services as the non-offending ward of state.

The legislation also contains enormous administrative powers of decision making and discretion which can be exercised by the Department in the care of young offenders. The dispositions available to magistrates enable them to declare a young offender to be a ward of the state and commit them to an institution. The period of time spent in the institution is determined by the Department based upon the welfare needs of the young person. This has led to accusations that periods of detention are either too excessive or too lenient when compared to the relative severity of the offence, and that the rights of the child are not protected by the Act which promotes the indeterminate sentencing of young offenders.

Following from the above criticisms is that this legislation fails to consider the interests and protection of the community. A young person brought before the court for serious offences can be released after consideration of their welfare needs, with the potential to re-offend, with no form of punishment meted out by the courts to deter the young person from re-offending.

Despite, and perhaps because of, its shortfalls the proponents of the Child Welfare Act 1960 cite the flexibility of the legislation as its major asset. The philosophy of the legislation and the powers it confers upon the Department enable detailed Case Management Plans to be developed for each young offender with an emphasis upon community based rather than custodial care. The full range of Departmental and community based programs can be utilised with institutional care used as a last resort to protect the young person and the community. The small population base and relatively homogenous population promotes this type of approach, which has seen the state relatively devoid of contentious juvenile justice issues evident in some other states.

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There is, though, an increasing recognition that the Act is deficient and only works because of the commitment of workers in this field. The Act can allow for the abuse of the rights of children and the recognition of this potential has seen practice develop which has "drifted" from the stated philosophy to a more consequential response to offending. The gap between the legislation and practice is such that workers and courts are concerned about their continued ability to operate without the necessary or appropriate legal mandate.

This concern about the potential for the abuse of the rights of the child is heightened by calls from the community for tougher penalties for young offenders and the apparent support from sections of the community to recent developments in Western Australia. The Act already allows for indeterminate sentencing which has the potential to permit draconian responses to juvenile offending.

The actual delivery of the juvenile justice service has also undergone considerable change over the past few years. Prior to 1990, young offenders and neglected children were the province of generic field staff in the Department of Community Welfare. The Department had implemented an active policy of de-institutionalisation which resulted in the reduction of correctional institutions in the state from four to one. Programs were developed to offer alternatives to institutional care, including the use of specialised fostering programs (Special Contract Care) and the development of community based activity programs. In 1989, following some criticism that the Department was not giving sufficient priority to young offenders, due to the pressures upon generic field staff of providing case work services to neglected and abused children, the Field Labor Government integrated juvenile and adult corrections in the Corrective Services Division of the Department of Community Services. The new Department, developed as part of a policy of public sector reform encompassed Public Housing, Disability Services, Children's Services, Family Services and Corrective Services which included Adult Custodial Services, Adult Probation and Parole and Juvenile Corrections.

The integration of Adult and Juvenile Corrections was a deliberate attempt to separate juvenile offenders from the welfare approach of Children's Services and to give Juvenile Corrections a specific focus and priority. The benefits of this integration are difficult to assess as within eighteen months of the change being implemented the structure was altered again with a change of government. In February 1992 a Liberal Government was elected, and the decision was made to transfer Corrective Services from Community Services to the Department of Justice. Juvenile Corrections, though, remained with Community Services and is now a sub-program within the Individual Children and Family Services Division. The changes in service delivery that had developed with the integration with Adult Corrections have remained with Juvenile Corrections retaining a separate and distinct profile from Children's Services.

Since the creation of the Department of Community Services an effort has been made to evaluate the effectiveness and efficiency of service delivery. Six-monthly program management reviews are undertaken for each sub-program allowing for the rigorous review of outcomes against resources. Client outcomes for Juvenile Corrections are in part measured by the achievement of Case Management Plan objectives but the measurement of effectiveness is hampered by the limited ability of the information system to provide data about the levels of recidivism and the long-term outcomes for clients.

Photographer: Branko Ivanovic

Tasmania, despite its high youth unemployment rates (33 per cent), has consistently maintained low juvenile detention rates. In the financial year 1989-90, the total admissions to the institution were 77 (60 male, 17 female). The following year 104 young people were admitted to the institution (84 male, 20 female). At present the Child Welfare Act covers young people in the judicial system up to the age of seventeen only. In the two years mentioned above a further ten 17-year-olds each year were sentenced to terms of imprisonment in the Adult Custodial care system.

The average length of stay of all residents admitted to the institution including remands was thirty-three days in 1989-90 and thirty-seven days in 1990-91. For admissions to the institution other than short-term remands the average length of stay would be approximately two months.

On admission a case management plan is developed for each young person which addresses the educational/vocational needs, personal development programs and other specific issues which have been identified by the case worker. Dependant upon the severity of the offences and the associated security issues, the plans can include the utilisation of community based programs or normal school attendance.

The institution is now used as a direct response to proven offending behaviour. It is used when the nature of the offence is considered to warrant the protection of the community or when the young person's behaviour is considered to pose a significant risk to themselves or the community. During the period of institutional care the field worker maintains regular contact with the young person and provides the link between the home environment and the institution.

Community based juvenile corrections workers operate with relatively low case load numbers, which allows the development of individual case management plans for each young offender subject to a court order. Nine field workers operate the state-wide service offering case work support to 146 young people (at April 1992).

These cases comprised twenty-nine young people who were declared to be Wards of State as a result of offending, 106 supervision orders and eleven young people on short-term remand orders. The Child Welfare Act includes the provision for Adult Probation orders to be made for young people at a minimum age of 15 years. These orders are supervised by officers from the Department of Justice.

The Act does not include Community Service Orders as a disposition available to magistrates but orders are made for young persons from the age of 16 years using the provisions of *Probation of Offenders Act*.

Currently the Department is developing, with the Tasmania Police, a process of cautioning young people to divert them from the court system. It is anticipated that when this scheme is fully implemented there could be a reduction of up to 50 per cent in the numbers of young people appearing before the Children's Court. With the development of the new legislation, family group conferencing is being examined as an alternative approach for both offenders and non-offenders.

Due to the small number of cases, Tasmania has not developed specific programs as alternatives to custodial care. Instead individual case plans are developed for each young person which utilise mainstream services. In part this response developed as a result of the welfare focus of the legislation which enabled and legitimised the mixing and blurring of welfare and justice issues, but also this approach resulted from the strong belief that institutional care should be used as a last resort.

The figures outlined above highlight the dilemma for the state. The Act is outmoded and deficient; there is evidence of a backlash from the community to a perceived growing rate of juvenile crime and actual practice has "drifted" from the philosophy of the legislation, but the current system appears to work. In updating the legislation there is a real danger that the very reason why the state enjoys a comparative degree of success in this area may be lost. We may see new legislation which reflects current modes of thinking in juvenile justice and protects the rights of the child and the community, but also causes a significant increase in the incarceration of young offenders and an increase in case load sizes of juvenile corrections officers. The challenge is to identify the strengths of the existing legislation and to learn from the experiences of other states and countries to develop legislation which enables us to develop new initiatives to suit the needs and demands of the Tasmanian community.

Juvenile Justice in Western Australia

The formal justice system alone is unable to deal with juvenile offending, as it does not address the underlying problems. Juvenile offending needs to be addressed through community based development strategies and service provision to young people and their families, while at the same time providing a credible and effective justice system.

Serious repeat offenders are not qualitatively different from other young offenders. They represent the extreme end of a continuum of offending where criminal and other anti-social behaviour has become entrenched. Strategies need to be directed at diverting young people from the criminal justice system earlier in their offending careers. Otherwise, no amount of effort will significantly reduce the overall numbers of serious repeat offenders.

Currently, government and Departmental strategies to reduce juvenile crime cover a broad spectrum. At one end are systems and programs aimed at preventing the occurrence of juvenile offending and diverting those youths who have just begun minor offending away from the formal juvenile justice system. These include community policing, the Police Cautioning Scheme, the Children's Suspended Proceedings Panel and reparation schemes, as well as a very wide range of community and departmentally based support programs focusing on family support, school support, alcohol and drug counselling, parent education, law education, self-esteem building and positive activities.

For those youths whose offending is more serious, court ordered penalties such as probation and community service orders are supplemented by assistance with educational and vocational training and support, family support, alcohol and drug counselling and positive leisure activities. Mentors are also used to provide role models and personal assistance to young people. Extensive use is made of community based services for young people and their families, in addition to greater Departmental supervision.

Youths whose offending is serious enough to warrant detention require intensive involvement because of their alienation from community supports and the difficulty of redirecting entrenched anti-social behaviour. Detention programs are aimed at developing educational, vocational and social skills, addressing personal problems, developing victim empathy and enhancing self-esteem. Alternative to custody programs such as station placement programs (Warramia and Lake Jasper), and conditional release orders are also available to some and provide a more constructive rehabilitative setting than the detention centres. On release, after care support is available from divisional offices on a voluntary basis and mentors are assigned to some youths. The Worksyde employment program has also been established to assist youths find employment or training.

Historical Perspective

The Department's management of juvenile offenders was previously based on the rehabilitation model. Much of the diagnosis and treatment occurred in the custodial institutions. The *Edward's Report* (1982) recommended a change from a child saving philosophy to a system that emphasised due process. The report recommended a clear separation between offenders and non-offenders, and transferring to the Court the power to determine whether a child who has committed an offence should be detained in custody. A number of procedural changes occurred as a result of the *Edward's Report* and a subsequent Departmental *Review of the Juvenile Justice System.* In 1988, the *Children's Court Act of Western Australia* was passed. It separated the Children's Court from the Department for Community Services, and formalised the provision of determinate sentences, remission, conditional release orders etc.

Legislation

The powers of the Children's Court are fundamentally derived from the *Children's Court of Western Australia Act* 1988. However, certain provisions and sentencing powers for the Children's Court are also contained in the *Child Welfare Act*, the *Criminal Code of Western Australia, Traffic Act* and *Offenders Probation and Parole Act.*

The Crime (Serious and Repeat Offenders) Sentencing Act was recently proclaimed to protect the community from serious repeat offenders. This controversial Act allows for youths who are classified as serious repeat offenders to receive a minimum of eighteen months detention, if they are convicted of a prescribed violent offence. A Supreme Court judge will determine when the youths can be released. This act is currently the subject of debate in judicial, community and government organisations.

The Children's Court

In 1990-91, 8,318 young people appeared in Court, on a total of 33,769

charges. Approximately 80 per cent of youths who appear before the Court are male. The percentage of youths from the following age group is as follows:

- 10-13 years 6 per cent
- 14-15 years 16 per cent
- 16-17 years 60 per cent
- 18 years + 18 per cent

Aboriginal youths represent 4 per cent of the state population of 10-17 year olds, however, they are very over-represented in the Court system. They comprise 15.6 per cent of the youth who appeared before the Children's Court in 1990-91 and were responsible for 34.1 per cent of all the charges heard. Moreover, Aboriginal youth comprise 66 per cent of the persons with twenty-one or more Court appearances.

The Children's Court has a range of sanctions that can be used for offending youth. The major dispositions are: secure detention; conditional release orders; probation; community service orders; fines; good behaviour bonds and dismissals.

Custodial Programs

The Department has three secure centres which were built in the 1960s and 1970s. Longmore Remand and Assessment Centre has a capacity of thirty-nine beds, Longmore-Nyandi Training Centre has forty-eight beds and Riverbank has thirty-four beds. Owing to the design, the age, the very basic accommodation and the limited facilities, these centres have become outdated. The lack of facilities severely limits the type of programs that can be provided.

A new remand centre at Murdoch is being constructed and is due for completion in 1993 and it is proposed that a new forty-eight bed facility will be constructed by 1993-94 to replace the Longmore-Nyandi complex. A capital works program at Riverbank in 1992-93 will overcome the lack of outdoor areas and workshops at the centre.

Despite the limited facilities in the centres, there has been a concerted effort to address the skills deficits of the residents. Recent initiatives include:

- more intensive remedial education and vocational skills programs;
- linking programs to TAFE and alternative upper school programs;
- individual programs for residents with special needs;
- the provision of activities that develop sporting and other recreational interests and skills, with links to appropriate community organisations;

Photographer: Branko Ivanovic

- the employment of more Aboriginal group workers and the provision of culturally relevant programs for Aborigines.

In 1989, the Department began placing youths on isolated country stations as part of their detention orders. This program has proved to be extremely successful both in terms of completion rates and reduced recidivism. It has recently been extended from the Murchison to the Goldfields and Pilbara.

Admissions to the Secure Centre

During 1990-91, a total of 461 youths were sentenced to a period of detention in the secure centres. The average bed occupancy was seventy-nine persons, with an average length of stay sixty-eight days. During the first four months of 1992, the number of admissions to the detention centres was similar to the same period last year. However, the average length of stay has increased from sixty-eight to ninety days.

Community Based Orders and Programs

Conditional Release Orders (CROs): These orders involve youths being given a detention order but being conditionally released to undertake a program. The contract may require the youth to: attend an educational program; remain in his employment; receive training on a country station or with an Aboriginal community; or attend a work program which involves unpaid community work. The contract can also involve a curfew or other conditions. A total of 558 youths received a CRO in 1990-91.

Probation: The recent changes to the legislation placed tighter control on the setting of probation. This may account for the increased use of this disposition. In 1990-91, 857 probation orders were made.

Community Service Orders (CSOs): This is the most widely used order that involves departmental staff. In 1990-91, 1893 CSOs were made. Youths on CSO undertake work on behalf of a range of government departments, local government authorities and community organisations. This work makes a valuable contribution to many organisations and private citizens. Much of this work involves assisting victims of crime, for example painting over graffiti on walls, fences and bus shelters; repairing damaged structures; collecting litter.

Dismissals: The Court may require a youth to participate in a law education, substance abuse or reparation program. When the youth has completed the program, the Court may dismiss the charge, deeming that sufficient penalty has been imposed.

Support Services

Departmental staff based in the metropolitan divisions provide a range of support and welfare services to juvenile offenders. These services are provided to youths who are on community based orders, are in secure detention or who have been released from detention. In most instances, these services are provided to the youths on a voluntary basis.

The Department's field services are complemented by the Killara Youth Support Program which provides an after hours service. This unit provides

counselling and support to young people whose behaviour or circumstances come to the attention of the police.

Initiatives to Reduce Juvenile Crime

The general success of directions embraced and programs initiated can be observed by decreases in young offenders being presented to the Children's Court both in the metropolitan area and country localities.

Community based preventative programs initially piloted under the "Kids and Crime" package (1988) in seven targeted localities were expanded in December 1991 to give coverage to twelve areas. These operate with the involvement of local community groups and organisations, local government, and government services such as Community Services; Police; Education and Employment; Vocational Education and Training. Local input determines the type of programs best suited to reducing juvenile crime in the area, and programs include various forms of recreation, education and employment skills development. An extremely broad range of programs can be initiated when local people develop local responses to youth offending. Reduced rates of offending have occurred in the target areas. These rates, with the exception of one locality, evidence a decrease in individuals appearing in local courts between 15 per cent to 54 per cent for the period assessed. These courts have also witnessed a reduction in charges dealt with by 15 per cent to 79 per cent. These programs range in initiative from targeting youth who repeatedly offend to being preventative and diversionary in nature.

Western Australia still processes too many children through the formal court system. New Zealand, for example, is able to divert about 80 per cent of youths. Although not the complete answer, police cautioning is one way of diverting youths from the formal justice system.

The Police Formal Cautioning system was introduced on 1 August 1991 to deal with minor offenders outside the Children's Court system. It allow police to perform a diversionary role and to alert parents to their children's behaviour. It is also an opportunity for the Police to notify the Department for Community Services of any welfare concerns they may have regarding specific young people. Cautioning is seen as an opportunity to re-establish the family at the point of intervention in juvenile offending and, where appropriate, allow the family and/or the community to deal with the issues of the young person offending.

The effects of the cautioning program to date has contributed to a 40 per cent decrease in the number of individuals appearing before the Children's Panel and a decline in the number of risk offenders appearing in the Children's Court for the first time by 30 per cent since its inception.

When the number of individuals appearing before the Children's Court throughout the state is compared for the six-month period July to December 1990 with the same period for 1991, a 12 per cent decrease is evident for the Children's Court and a 32 per cent decrease for the Children's Panel.

The Community Prevention Program and Cautioning Program have been complemented by a multi-faceted approach which has seen a range of initiatives which together has resulted in a downward (although fluctuating) trend in juvenile offending over the past fifteen months and an 8 per cent reduction in new charges being listed for hearing in the Perth Children's Court for January-December 1991 compared to January-December 1990.

The range of initiatives includes the following programs:

Worksyde: This program aims at diverting recidivists away from offending by assisting them into employment and training programs. It is a departmentally funded program that is administered by the YMCA.

Country Station Program: Youths are placed on country stations as part of a detention or conditional release order. The program provides the young person with meaningful work and training in such areas as mustering, riding and fencing. The recidivism rates to date for youths are approximately half those for matched youths in secure detention.

Steering Clear: This parent education program assists parents to cope with their adolescent children. The program is funded by the Department and provided by the Marriage Guidance Council. During 1991, the program assisted 657 parents.

Law Education: The Children's Court can direct offenders to attend sessions dealing with the law, its purpose in society and the impact of offending on victims. This Departmentally funded program is provided by the Youth Legal Service. The program assisted 222 young people and 125 parents during 1990-91.

Alcohol and Drug Abuse Prevention Program: The Children's Court may direct offenders to attend a substance abuse information program provided by the Holyoake organisation (a non-government organisation). During 1990-91, 354 young people attended sessions together with 216 parents.

The Mentor Scheme: Under the scheme, local people are recruited to act as positive role models for young offenders.

Educational Programs: The Department provides a range of educational programs in the community. These include: an early educational program for families of young children; a home support program for children aged 6 to 16 years; a community based educational program for children not attending school; a transitional program to prepare youth for training and employment; an alternative program for disruptive youth; and programs for Aboriginal youth.

Local Offender Programs: These departmentally funded programs have developed community based strategies to reduce offending. After the success of the initial five programs, the Local Offender Program is being expanded to include other locations across the state.

The Lake Jasper Program: Metropolitan Aboriginal offenders are being placed at Lake Jasper in the south-west of the state to engage in activities such as establishing walk trails, rehabilitation and heritage work on Aboriginal sites. The program was initiated and developed by Gnuraren, an Aboriginal Association.

Recognising and assisting Victims of Crime: The Government has developed a Charter of Victims Rights and is examining the introduction of victim impact statements. The Department is assisting victims of crime by having youths on community work orders undertake work on behalf of victims of crime. This may involve painting over graffiti, collecting litter and repairing signs, fences and other structures.

Victim Awareness Training: Educational talks by St John Ambulance and the Fire Brigade on the impact of offending on victims and the community occur on a regular basis for youths on CSOs and CROs. This scheme will be extended to include youths in secure detention.

The introduction of Police Cautioning.

Current Issues and Strategies

No particular agency "owns" the problem of juvenile offending. The underlying causes of offending require responses from a range of government departments. The most significant challenge in the area of youth crime for the future relates to Aboriginal young offenders. Some 46 per cent of Western Australian Aboriginals are under the age of 18 years. The percentage of Aboriginal children in the overall population between the ages of 10 and 17 years has increased from 3.1 per cent to 4.8 per cent in the past five years. Currently, over 60 per cent of youth incarcerated are Aboriginal. Some 86 per cent of these youth were neither employed nor attending school prior to

their incarceration. These areas will be an important focus of future programs.

Geographic locations with high recidivist rates and where offenders represent a disproportionate percentage of the youth population have been identified and targeted for programs. The current situation in the metropolitan area is a concern.

The key role to reducing offending lies in preventative community based strategies, not in the formal justice system alone. As high levels of offending can generally be traced to those sections of the community suffering the greatest disadvantage and powerlessness, our strategies must aim to address these factors. In relation to the former, unemployment, education, alienation and failure, family disintegration and lack of access to legitimate recreational opportunities are major recurring themes which all need to be addressed. In relation to the second factor, powerlessness, many past approaches have had limited effect, as they were designed and imposed by external agencies. This reinforced the lack of power which the target population had over their lives. This has been particularly true of Aboriginal people. There is a growing demand by Aboriginal people that they be allowed to play a far greater role in responding to the problems besetting their young people.

The Department has developed an Aboriginal Services Strategy Plan. This involves the Department and Aboriginal communities working in partnership. It is aimed at empowering Aboriginal people and ensuring that programs are culturally relevant.

The "Social Advantage" package recently announced by the Government contains some major initiatives. This includes the establishment of a Youth Justice Bureau to coordinate preventative measures across governments and agencies, and implement rehabilitative services and Children's Court orders. It also provides for the establishment of four community based justice teams. They will provide a coordinated approach to crime prevention at a local level.

In summary, the general strategy adopted by the Department in relation to broad prevention is that areas of high offending be targeted for a community development approach, geared towards empowering the local population to address the underlying problems, backed by the coordinated support of the various government agencies. There are a number of examples where this is proving to be very successful.

The multi-faceted approach which has been adopted has included a range of measures:

- the young offenders being made accountable for their actions;
- the development of constructive programs to back up the courts;
- increased parental responsibility;
- provision of assistance for parents in order that they fulfil their responsibilities;
- addressing the social causes of juvenile offending; and
- encouraging Government, local government and community groups to coordinate resources and work together.

Whilst many inroads have been made, there is a need for consolidation and expansion of initiatives introduced. There are main issues of concern which remain.

- The Government and community is concerned about juvenile offending and especially the activities of recidivist offenders.
- Juvenile offending can only be addressed by a concerted and cooperative effort involving Government, the business community, local government and the general community.
- Secure custody continues to be used more widely as a sentencing option in Western Australia than in most parts of Australia.
- Aboriginal youth are grossly over-represented in custody. Joint initiatives with Aboriginal community groups to prevent offending by Aboriginal youth are required.
- Early intervention, preventative and alternative non-custodial programs need to be adequately resourced and available in all parts of the state.
- More youths need to be diverted from the criminal justice system.

Juvenile Justice in the Northern Territory

Historical and philosophical base

Juvenile justice functions in the Northern Territory were transferred to the Department of Correctional Services in early 1986. This initiative was taken by Government in order to separate clearly the delivery of welfare and juvenile justice services which tended to overlap.

Although the *Juvenile Justice Act* which came into operation in April 1984 effectively excluded 'status' offenders (for example in-need-of-care, uncontrollable, truant) from the sanction of detention. Unlike most jurisdictions who enacted similar legislation there was no decline in the juvenile custody population in the Territory during the first two years of the Act's administration.

Government recognised that the intent of the legislation was not being met in practice. Government also acknowledged that, if its juvenile institutions were going to house offenders who formerly were sent to prison and the institutions would no longer function as quasi welfare homes, the security and administration of institutions had to change accordingly. Government therefore turned to the department with the most experience in the area of secure custody, Correctional Services.

This dramatic move was, not surprisingly, vehemently opposed by many staff then working in the juvenile justice field. Many felt the move would result in a "lockem-up" attitude towards young offenders, with an increase in juveniles in custody and a reduction in community-based programs.

Fortunately, the critics were proven wrong. They had failed to acknowledge that Correctional Services, for obvious reasons, appreciated more than anyone the need to divert young people from a custodial sanction. Experience had shown that the deeper a young person penetrated the justice system, the more likely he/she was to remain in the system.

The key to diversion from custody is the provision of credible community based sentencing options.

In 1985-86, the Northern Territory Government significantly expanded correctional programs into remote areas. Subsequently, a wide range of community based sentencing options became available to the courts. As an example, in 1985 community service orders and probation supervision were available to juveniles in only six remote communities outside the major urban centres. By mid-1987, these schemes were available to young offenders in over thirty-five remote communities

Other programs previously unavailable to circuit courts included bail supervision, attendance orders, and intensive supervision probation orders (curfews and other stringent conditions). Additionally, circuit courts were able to obtain local reports and assessments prior to sentencing juveniles. Previously such reports and assessments required remanding offenders to Darwin or Alice Springs for compilation. By no means was the decline in juveniles in custody an immediate result of juvenile justice transferring to corrections. Nor was the transition altogether a smooth one. In fact, in the first eighteen months of the new regime, detention centre populations actually increased.Over time, as magistrates became more familiar with the scale of escalation of penalties prior to detention, and as corrections officers became more aware of the differences in casework supervision of juveniles compared to adults, the numbers of juveniles in custody began a declining trend in late 1987 that has continued to the present.

To put it in perspective, for the year 1985 (pre-correctional services), there was a total of forty-six juveniles held in prison, serving an average of forty-four days each, and a daily average detention centre population of thirty-one juveniles. For the 1991 calendar year there was a total of four juveniles in prison and a daily average detention centre population of thirty-three

With the Territory having the youngest population in Australia (17. 4 per cent aged 10-19 years of age), the highest percentage of Aboriginal population (23. 5 per cent) of any state or territory, and considering the geographic dispersion of its population, the Northern Territory Government is proud of its record in providing credible community based sentencing alternatives to the courts which have virtually eliminated juvenile imprisonment and maintained a static detention centre population despite a significant increase in overall offending over the past five years in the Northern Territory and the resultant increase in the number of clients of this service.

Nature of juvenile offending in the Northern Territory

Offences

- 92 per cent of all juvenile offences are property related
- 8 per cent are offences of assault/ violence

Photographer: Branko Ivanovic

Age/sex

- 83 per cent of juvenile offenders are aged 15 to 18 years of age
- 17 per cent are 10 to 14 years of age
- 86 per cent of juvenile offenders are male

Aboriginality

- Aboriginals comprise 54 per cent of all conditional release juvenile clients (48 per cent for the adult Aboriginal population)
- Aboriginals comprise 75 per cent of all juvenile detainees (79 per cent of sentenced adult Aboriginal population)

Interstate comparison (1990)

Although 75 per cent of detained juveniles and 79 per cent of sentenced adult prisoners were Aboriginal, Aboriginal people comprise less than 25 per cent of the Territory population. An Aboriginal is less likely to be imprisoned/detained in the Northern Territory than other Australian jurisdictions, except for Tasmania (Semple 1989, p.115).

Statistics Northern Territory Juvenile Justice 1991

detained:	28	
remand:	5	
total:	33	daily average

Monthly average community based orders

probation:	210
community service order:	125

Legislation

Juvenile Justice Act (1983)
Juvenile Justice Amendment Act (1987)
Criminal Law (Conditional Release of Offenders) Act (1980, 1986, 1987, 1989)
Police Administration Act (1984)
Community Welfare Act

Sentencing options available through the Courts

Under Section 53 of the NT Juvenile Justice Act (1983) and Juvenile Justice Amendment Act (1987) the following penalties are available to the juvenile court upon a finding of guilt.

- Discharge without penalty (section 53(1)(b).
- Adjourn the charges for a period not exceeding six months. If no further offending occurs, charges may be dismissed (section 53(1)(a).

NOTE: in both the above options, where further offending does occur, the charges will be dealt with afresh, in addition to the new charges.

- Adjourn for a period not exceeding six months and call for a progress report. This requires visits to a Juvenile Justice Office, usually monthly, and some family involvement. If report is favourable and no further offending has occurred, charges may be dismissed.
- Fine not exceeding $500 per offence.
- Good behaviour recognisance (bond) not exceeding 2 years.
- Perform unpaid community service work (CSOs) at the rate of $100 per 8 hours worked. Maximum hours per offender is 440.
- Probation for a period not exceeding 2 years. This involves supervision by a probation officer and may provide directions as to residence, associates, reporting, persons to obey, participation in juvenile justice program, or any other condition the court thinks fit, for example will attend school; will repay money etc.
- Suspended detention upon entering either good behaviour bond, with or without conditions, or probation.
- Detention not exceeding 12 months per offence. Juvenile may be 10-17 years of age.
- For 15-17 year olds: suspended term of imprisonment on same conditions as for suspended detention.
- For 15-17 year olds: imprisonment, not exceeding the maximum period provided for under whichever act the charges have been laid.

NOTE: there is provision under the Juvenile Justice Act for periods of detention/imprisonment to be served periodically. An alternative may be that, as a condition of probation, the court may specify that a juvenile perform periodic detention each weekend for three months from the date of the order (section 53(1)(f)(i).

Driving offences

Automatic license disqualifications occur for:

- driving in manner dangerous, minimum three months
- driving at speed dangerous, minimum three months
- exceeding a blood alcohol content of .08
  - for a reading of less than .150 (first offence), a minimum of six months
  - a reading of .150 or more (first offence), a minimum of twelve months
  - (second offences are doubled)

Alternatives to detention

Juvenile Offender Placement Program (JOPP)

The Juvenile Offender Placement Program provides community placements for juvenile offenders under court orders for a period no longer than twenty-eight days, as a specific alternative to detention.

The high remand rates in juvenile detention centres, often not leading to a

sentence of detention, warranted correctional services investigating and developing its own care program, based on the successful welfare division "community care program".

JOPP families and individuals are recruited from the community to provide care and a supportive home environment for juvenile offenders who have been bailed or released to probation. Those juveniles targeted for JOPP have experienced some form of family dislocation or trauma.

Placements, with a specific and individualised program of in-care treatment, will be provided for the juvenile. Such a placement will be made available where, in the opinion of an assessment panel, the juvenile will benefit from care in a supportive family environment as opposed to being detained in custody, and where the juvenile

- is prepared to sign a contract specifying responsibility and commitment to developed objectives of the in-care treatment program;
- will commit to working with the program family, and developing reasonable rapport with the family.

Home Detention

Home detention is an alternative to imprisonment. At the time of sentencing, offenders assessed as suitable have their prison term suspended in favour of home detention upon conditions imposed by the court, or the Director of Correctional Services. These conditions may include a full or partial abstinence of alcohol, counselling, or treatment for substance abuse or indeed, any reasonable condition the authorities see fit.

The maximum length of a home detention order is twelve months. All offenders placed on such an order are subject to strict and random face-to-face surveillance at any time, twenty four-hours a day, seven days a week. Offenders with conditional clauses in the order (for example, to abstain from alcohol) will be tested to ensure those conditions are met.

The target group for home detention are driving and property offenders with no history of violence, sex offences or drug trafficking.

Home detention is a punitive sanction which enables the offender to continue his/her education or employment and allows (under strict supervision) the reasons for the crime to be addressed in a manner not possible in prison.

Home detention is a sentencing option intended primarily for adult offenders, but there is nothing in existing legislation that would exclude juveniles from being placed on such an order. One practical difficulty in sentencing juveniles to such an order however, is that relationship difficulties within the home is usually one of the presenting problems for juvenile offenders.

Reference

Semple, Des 1989, "Juvenile Justice in Western Australia" in *Current Australian Trends in Corrections*, edited by David Biles, The Federation Press, Sydney.

1991 Northern Territory Juvenile Justice Orders active by month

Order	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	1991 Av.	1990 Av.	Difference
Probation	212	219	203	207	182	211	192	218	201	196	221	217	206.6	192	+14.6
Community Service Orders	77	82	89	106	125	134	110	102	100	111	137	110	107	82.5	+24.5
Pre-sentence Report	2	1	1	0	0	2	0	0	0	5	4	1	1.3	1.2	+.1
Other	7	1	1	4	1	3	0	1	0	0	1	1	1.6	0.0	+1.6
Juvenile Prisoners Remand	0	0	0	0	0	0	0	0	0	1	0	0	0.08	0.04	+0.04
Juvenile Prisoners Sentenced	0	0	0	0	0	0	0	0	1	0	1	0	0.17	0.0	+.17
Juvenile Detention Sentenced	17	16	16	20	26	26	27	23	25	22	24	26	22.3	22.5	-0.2
Juvenile Detention Remand	7	4	5	9	14	17	5	6	12	25	14	10	10.7	8.6	+2.1
TOTAL	322	323	315	346	348	393	334	350	339	360	402	365	349.75	306.84	+42.91

Ian Graham LLB.*

Juvenile Justice In New South Wales

New South Wales is the first state to establish an autonomous body to deliver juvenile justice services and the change in direction is beginning to make a real impact on the community.

Emphasis has now clearly shifted from incarceration to family focused rehabilitation services and diversion. Where possible an offender's behaviour is addressed in the community with detention now used only as a last resort.

Community based services (six in city areas and thirty in contry areas) have been increased.

Community Youth Centres at various locations (Newcastle, Wollongong and four major country centres) provide a specialist community based attendance program for appropriately assessed juvenile offenders.

The imminent release of the Green and White Papers of the Juvenile Justice Advisory Council will have a great impact on the provision of all services, particularly in the areas of pre-court diversion, reparation and post release support.

Juvenile justice centres have undergone a restructure, resulting in further significance now being placed on individual casework management. Each centre will now have a case manager, a drug and alcohol worker and a psychologist. Importance is being placed on educational and vocational training.

All these changes are aimed at achieving the successful reintegration of the juvenile into the community at the earliest possible instance.

A total of 450 juveniles can be detained on a daily basis in nine juvenile justice centres located across the state—120 remandees and 330 under control orders. At present, figures have stabilised around the 400 mark.

It is anticipated that, with the continued move to precourt diversion and enhanced police cautioning, a larger number of children will be diverted from the system. This will have two profound effects:

- a reduction in the contact of juveniles with the system, ensuring they are more appropriately dealt with at a local level; and
- a freeing up of funds for transfer to community based programs and crime prevention strategies.

Some centres cater for juveniles on remand, other specifically for those under control orders, and some cater for both sets of circumstances. The centres provide a secure, stable environment with an accent on reintegration into the community. Importance is placed on upholding the rights and dignity of young offenders, maintaining family links and recognising individual identities and culture of origin.

Emphasis is also placed on encouraging young offenders to take personal responsibility for their actions and have a greater respect for other people.

Well planned and structured educational and vocational programs in centre schools provide juvenile offenders with a wide range of training opportunities aimed at raising levels of social competence.

Drug and alcohol counselling is available at all centres and a special program for adolescent sex offenders is also available. Juvenile offenders who have been victims of sexual or physical abuse can also obtain special counselling.

Specific attempts are being made to reduce the over representation of Aboriginal juveniles in the system. Although it is early days yet, initial statistics suggest a fall in the number of Aboriginal young people being placed in juvenile justice centres.

In February this year (1992), the number of Aboriginal juveniles in detention was still unacceptably high at 21 per cent but this is a substantial drop from 28 per cent in February 1988.

Community Services

The following community based programs are conducted across the state and provide the Courts with alternatives to placing juveniles in custody, and at the same time allow reparation to the community.

Juvenile Justice Community Services provide assessment of juveniles remanded in custody to addess problems relating to bail issues; assessment and court reports for juveniles charged with offences; provide individual case plans for juveniles on supervision orders in an attempt to address relevant issues and provide court ordered supervision for juveniles on recognisances, probation, community service orders, fine default and parole.

Community Service Order Scheme provides the courts with an alternative to detention where juveniles perform up to 100 hours of work as restitution to the community. This scheme also provides adolescent offenders with the opportunity to gain acceptable work habits.

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Photographer: Branko Ivanovic

Railway Reparation Scheme is another option available to the courts where juvenile offenders who are found guilty of vandalism or graffiti offences to State Rail property can be ordered to complete hours of work at railway stations.

Fine Default Orders whereby juveniles are able to convert the non-payment of fines to hours of community work, as restitution to the community.

Parole Supervision: juveniles are supervised and supported, as ordered by the court, following a period of control in a juvenile juctice centre, to assist in their reintegration into the community.

Community Youth Centre Programs: such community based attendance programs provide an alternative to detention for assessed juvenile offenders who require intensive counselling.

Personal Development Programs: adolescent sexual offenders in NSW now receive a specialised assessment and individual treatment program following the establishment of the Personal Development Unit, the first of its kind in Australia. Juvenile offenders found guilty of sexual offences are provided with ongoing counselling in juvenile justice centres and community youth centres when they re-enter the community. The Unit is also involved in research into adolescent sexual offending, the provision of consultancy services and the establishment of networks of professional services for sexual offenders.

Traffic Offender Programs: courses specifically designed for juvenile offenders who have committed traffic offences are conducted at Mt Penang and Worimi, and deal with traffic matters that place emphasis on prevention, education and awareness of the law and individual responsibilities.

Juvenile Justice Centres

There are a range of general programs available in juvenile justice centres.

Education

In conjunction with the Department of School Education, specialist programs are available at each juvenile juctice centre to meet all standards of education starting with basic literacy and numeracy skills and advancing to school certificate, higher school certificate and tertiary courses. All juveniles under the age of 15 years are required to attend school while those over 15 years can apply to participate in school programs.

The majority of young people who come into the care of the Office of Juvenile Justice have had little prior education and possess poor literacy and numeracy skills and are targeted with specialist programs geared to troubled teenagers. Nevertheless, in recent times the number of young peole seeking to increase their educational standard has grown. Nine young people (the highest number for many years) were successful in 1991 in achieving the school certificate and another received an excellent pass in the higher school certificate

In 1992, thirty-six students are studying for the school certificate, six will sit for the higher school certificate and three are undergoing tertiary studies by correspondence. Two centres, Cobham and Keelong, have recently had their school facilities updated to ensure that an appropriate environment, modern equipment and professional resources are available. Plans to update some other centres are in the pipeline.

TAFE courses and Vocational Training

Vocational activities are conducted at juvenile justice centres that provide the young people with the opportunity to develop competency in a variety of trade areas. Activities include fibreglass, carpentry, metalwork, small motors, panel beating and spray painting, farm skills, fencing, printing, plumbing and outdoor maintenance. Many of the programs are TAFE affiliated with the Office of Juvenile Justice allocating vocational instructors to all centres. The most sophisticated centre is at Mt Penang which provides opportunity for up to 70 juveniles to be involved in obtaining work skills. The number of young people finding work because of the skills developed by this training is increasing at an encouraging rate.

Living Skills Program

The majority of juvenile offenders display distinct deficiencies in social and living skills and appropriate programs are available in all centres to increase their capacity to cope in the normal stream of community life.

Topics include cooking, sewing, health (issues such as self-care and HIV/AIDS and the lasting effect of drugs and alcohol), nutrition, sexuality, parenting, banking and budgeting, employment

interview techniques and coping with reintegration into the community.

Maintenance/Groundwork

Juveniles are encouraged to participate in a variety of maintenance tasks designed to develop basic skills in tasks such as gardening, lawn mowing, painting and general repairs that will not only assist in increasing employment options when they leave the centre but will also help them in the future to cope with household chores when they establish their own home.

Counselling Services

In addition to general psychological counselling, a wide range of counselling services are available at juvenile justice centres.

Specialised support and counselling are also made available from community agencies as required.

Drug and alcohol counselling: a drug and alcohol counsellor is attached to each juvenile justice centre to provide a counselling and assessment service for those juveniles who have alcohol and/or substance problems. Education and awareness sessions are held regularly in the centres and follow-up support is available when they re-enter the community, through our own juvenile justice community services or by referral to community based programs.

Personal services counselling: juvenile offenders found guilty of sexual offences are provided with ongoing counselling in juvenile justice centres and, on leaving custody, at community youth centres.

Specialist counselling for females: the majority of young women offenders are located at Reiby Juvenile Justice Centre and specific counselling is available for female victims of sexual or physical abuse at the centre and in the community. Male victims of the same offences are also provided with access to these services.

Religious Support

Chaplains are provided at each centre to provide for the religious needs of the juveniles, including an Aboriginal chaplain. Various church groups regularly visit the centres and representatives of other religious orders will be approached on the juvenile's request.

Special Cultural Support

Children who come into the care of the Office from Aboriginal or non-English speaking backgrounds are no longer alientated from their own cultures. Aboriginal and ethnic community organisations have been invited to assist in developing programs that provide the young people with an insight into their cultural heritage. Specific religious instruction is available to all denominations and beliefs.

Aboriginal Services

A number of significant changes to services for Aboriginal youth have been implemented since the creation of the Office of Juvenile Justice in 1991. The Office is committed to reducing the number of Aboriginal children in custody and ensuring that culturally appropriate community based services are available.

Initiatives have been taken to ensure that Aboriginal juveniles who come into the care of the Office of Juvenile Justice do not suffer complete alienation from their families and communities. Already 115 recommendations made in the *National Report* (Royal Commission into Aboriginal Deaths in Custody 1991) have been implemented and a further thirteen are under consideration.

There are identified specialist Aboriginal Juvenile Justice officer positions across the state and identified Aboriginal positions in Juvenile Justice Centres.

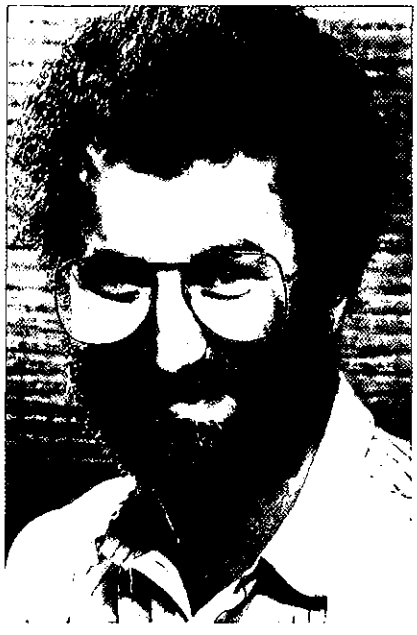
There are a number of new Aboriginal programs which are either running or about to start:

- Aboriginal justice panels are to be established in Griffith and the Eurobodalla Shire. Panels are already operating in Taree, Wellington and Dubbo.
- A Community Bail Hostel has been established in Redfern to provide offenders and the courts with a safe alternative to custody, and to maintain community links. This hostel is managed by Aboriginal people and is utilised for those offenders whose bail status would previously have resulted in custody in a juvenile justice centre.
- Aboriginal foster homes have been established in local communities for Aboriginal youths who have committed less serious offences. Aboriginal foster carers, especially in rural areas, are utilised to provide care and support to offenders who may otherwise have been incarcerated through lack of accommodation.
- Funding the Urimbirra Aboriginal community worker who is to be located at Bonnyrigg to develop community initiatives for Aboriginal juvenile offenders from Sydney's southwest. A similar position has also been established in Taree, in the Hunter.
- A rural training project at Bourke is an alternative to detention and will be managed by the community. The program will incorporate a day attendance component for young persons from Bourke, as well as a small residential component with supervised accommodation for participants living some distance from Bourke or those who have volunteered to live in as an alternative to institutionalisation. Emphasis will be placed on experimental learning with the participants being taught basic rural skills through their work on the property under the guidance and supervision of regular staff members and visiting practitioners, and basic living skills will also be incorporated as a regular feature of the learning centre program.
- Similar projects are under consideration at East Bootingee, near Menindee, for offenders from Broken Hill and Wilcannia and at Penryn Farm near Peak Hill.
- An Aboriginal Cultural Awareness Programs at Griffith has been conducted in conjunction with Skillshare, to provide local Aboriginal young people with a mixture of educational and vocational skills, coupled with a strong component of cultural awareness.
- Young Aboriginal offenders in the Cootamundra district have been placed at Bimbadeeen, the college of the Aboriginal Evangelical Fellowship, as a diversionary placement. The college helps young offenders continue their education, find TAFE placements and learn farm skills on the property.

Jon Faine*

"Send for Legal Aid"

This is an edited extract taken from ABC Radio National's **Law Report**, a series on the history of the Central Australia Aboriginal Legal Service. It is the story of the birth of one of Australia's first free legal centres, but equally it is the story of how access to law can help a people in the struggle for a better life. The story as told here is the assembled recollections of many of the early participants in the legal service. It is not a complete history, but a series of stories being told.



Jon Faine, presenter, *The Law Report*. Photo courtesy Radio National.

In many ways, the law kept Aboriginal people down, but access to lawyers helped turn round the situation. What happened in Alice Springs in the days before legal aid? The local lawyer was briefed to look after Aboriginals in the court retained by the Official Protector of Natives. Neil Hargreave went to Alice Springs in 1949 and was the only lawyer in town. He left in 1963.

Hargreaves: Aboriginals got into trouble and the Native Affairs Branch would brief us to act for them. I appeared for many Aboriginals on all sorts of crimes from criminal to petty misdemeanours. Aboriginal people just didn't get involved in anything that would give rise to civil claims. They were very simple people living a very simple life.

It was only when they were prosecuted, if it was serious, we were briefed to appear for them. Particularly in sentencing, Aboriginals were dealt with entirely differently from whites. They were difficult to handle and I learnt that you just couldn't afford to put them in the box as they would manage to "hang themselves". I remember a witness in a case where an Aboriginal was charged with causing grievous bodily harm. He'd had an argument with another Aboriginal and had thrown a boomerang which had gone through a fence, hit a child and broken her arm. I was questioning a witness and said "What sort of fence that fence?" "Oh you know, government fence." I tried again, "Well what sort of government fence was that?" "Well you know, part been stand up part been fall down." Well that has been my criticism of most things government ever since "part been stand up and part been fall down".

Faine: Neil Hargreave gave the renowned Sydney Q.C. Ian Barker his start in the Territory when he employed him as his assistant in 1961. Ian Barker was in Alice Springs for nine years and then in Darwin for ten.

Barker: There were lots of restrictions on the liberties and lives of Aborigines. It was not until 1964 that they were permitted to drink liquor. The *Government Gazette* was known as the *Register of Wards* or more irreverently "the stud book". It was part of a dictatorial benevolence whereby the Commonwealth did its best to rule the lives of Aborigines. It was decided that Aboriginals shouldn't drink. This was difficult to achieve by legislation which didn't look discriminatory. Therefore, under the old Social Welfare Ordinance of the Northern Territory, is was decreed that there be a Register of Wards. A ward was neither black nor white according to the legislation, just a person who needed assistance. However, the Register of Wards was composed entirely of full blood Aborigines. If a person named in the register was caught drinking alcohol he was committing a criminal offence. If anyone supplied liquor to such a person and was convicted, he got six months without the option. It was under that scheme that Albert Namijara was arrested and convicted for leaving a bottle of Treasure rum on the Glen Hallan Road for his mates. It was also illegal to cohabit with an Aborigine or part-Aborigine, a white man was liable to be put in the "slammer" for associating with a part-Aboriginal woman.

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One of the by-products of the ban on drinking was that a lot of Aborigines were arrested simply for drinking, not for being drunk. The police were fairly enthusiastic and there was a constant parade, - a very unhappy parade - thirty or forty or more people every Tuesday morning, bail day, from the police station to the court. They were usually unrepresented.

Occasionally I'd appear on Welfare's request in a serious case where the defendant stood to go to gaol for a substantial term. I don't think money was ever provided for less serious cases so Aborigines were certainly at a disadvantage.

We had no trial by jury until late 1961. For many years in Central Australia all trials on indictment were by judge alone and, expect for capital cases, it wasn't until 1961 I think, when Barwick was Attorney-General, that we caught up with the Magna Carta.

As most of these Aboriginal cases were homicides we did have juries. The interesting thing was that very few were ever convicted. This was not due to any great skill on my part. Alice Springs juries were just reluctant to convict Aborigines charged with serious crimes, particularly those which derived from tribal affairs. People were uninterested in what happened and there was a certain resentment that they were dragged along to adjudicate because someone happened to die 300 miles north-west of Alice Springs in a tribal fight.

However, I remember one where a man was sentenced to death by the tribal elders for wilfully showing women circumcisional blood. These old men sat down and talked about this and decided he had to go, and the best time to despatch him would be after church. They all went to church and then invited him to a corroboree and broke his neck and put his body on the verandah of the administration building and spread the story around he had died because of some spirit. They didn't realise doctors could recognise a broken neck even in 1960.

It was difficult to get interpreters even for more populous people. It was almost impossible to adequately communicate with any Aborigine who had not been born and bred in a town, without an interpreter. It's not just a question of finding the words, it's a question of getting on the same wave length. A question of determining how the person you are talking to was conceptualising what you were saying. It's a great mistake to conclude that one can adequately converse without properly understanding both mind and the other speaker's dialect. It was just an added difficulty in those days.

An interesting memory I have is when the Commonwealth did decide to amend the *Northern Territory Supreme Court Act* to provide that we should have trials on indictment—it was a sort of catching up with Section 80 of the Constitution—but, true to form, the Commonwealth Attorney-General's Department—who in those days would have difficulty successfully raffling more than one fowl at a time in a pub—had forgotten to revise the jury roll. At the first sittings after the Act was changed we had to have a jury for each case: we had a jury panel of twenty with about fifteen cases. Almost precisely the same jury sat on, I think, nine of the cases that I was in, the same smiling faces. In capital cases the jury was locked up over night at the Riverview Hotel. A lot of the jurors used to think they were in some sort of heaven being incarcerated compulsorily in licensed premises and they'd come in in the morning with eyes like beagles.

Faine: In Alice Springs the local Aboriginal community was going through a political awakening. Pat Miller has been involved with the Legal Service for years, as was her father. He is dead now so his name can't be mentioned because of Aboriginal custom. He was instrumental in establishing the Legal Service.

Miller: When the Whitlam government came into power in 1972 there were going to be a whole lot of sweeping changes in Aboriginal affairs—we changed from the Native Affairs Branch to the Department of Aboriginal Affairs. What Aboriginals wanted was a separate legal service because of past injustices. There was almost no legal representation in the courts for Aboriginal people then and what Aboriginal people wanted was people who were well known in the community. My father was one. He was a man from Central Australia, he spoke several Aboriginal languages, and could converse quite well in English.

Coe: Whitlam (when he was leader of the Opposition) met with a number of us at the Aboriginal embassy on the front lawns of Parliament House. We discussed a number of problems affecting Aboriginal people, particularly the levels of oppression and racism, the problems of land rights and also the civil and political rights for Aboriginal people. We got an undertaking from Whitlam that if and when his government came to power he would fund the legal aid office we had developed in Redfern if we could prove there was a need. In November 1972 he was elected and shortly after that we could prove that there was a need for Aboriginal legal services.

Faine: Paul Coe appears in the history of the Alice Springs service because of the assistance rendered from the, then very young, Redfern-based legal service to its friends in the Territory. Much respected community leaders Wenton Rubuntra and Charles Perkins were involved in establishing the Aboriginal Congress—a black community organisation that provided a centre for community activism in Alice Springs. Paul Coe and some of his Sydney colleagues went to visit in either 1972 or 1973.

Coe: There was a sort of division between us, the communities up there being the traditional communities, and we were urban people. At the time we were stereotyped by the press as black power radicals, shit stirrers so no one wanted to talk with us. When we went to places like Alice, people would be frightened of being associated with us. But people who did talk to us, were made aware that all we were on about was the rights of our people. The police had the view that the laws of the land were for the benefit of the white middle-class majority whereas Aboriginal people as such had no right to protection before the law. We were always regarded as having no right to be on the streets. And that attitude hasn't changed today despite the assistance of the Aboriginal legal services.

Miller: I recall people being told there was going to be a big meeting in town for Aboriginal people to have their own legal service. This was stunning news to a lot of people, both traditional and urban, because nobody had ever had free legal advice or assistance. People just weren't represented in the courts prior to setting up the legal service so many were really hesitant about getting involved. And at that stage there was a lot of national and international news about black power and even the black people were frightened about getting involved. But once they saw that my Dad was involved they thought "it can't be all that bad, let's go along to see what he's got to say".

It was pretty frightening to people being involved: with the first NAIDOC marches most of the Aboriginal people stood on the footpaths and watched. Aboriginal people are very placid people by and large, everybody took for granted that we were always going to be second-class citizens and the less you said the better off you'd be. But when the time came for change everybody was quite excited.

I know people say lawyers were stirrers but they expressed what the black people wanted. They had education and the knowledge to express what the black people wanted. But it was the idea of the black people. We wanted justice and this was one way of getting it.

It always gets me when some white says "oh they had their white stirrers with them" but whites go to court with their lawyers, why can't black people? We need to have experts in that field too.

I think some of the white people in town thought "oh my God if you start educating Aboriginal people what are we going to be up for?" I think they were afraid of the legal service because it was a totally unknown part of Centralian life.

Faine: Once the black community got organised they employed a very inexperienced Melbourne barrister James Montgomery who arrived in 1972 and stayed for an action-packed five months.

Montgomery: I flew to Alice Springs. was met by a committee who explained that they had been looking for someone, were desperate for anyone. They had an office and a committee all set up ready to go and I said I would stay until someone came from Darwin to relieve me or tell me what to do, something which never happened.

I think I got admitted as a lawyer by someone, I can't recall who. I went around to the Alice Springs Magistrates' Court and there must have been a list of say 200, 199 of whom were Aboriginals and they said "Go to it." So we then clogged up the court for a couple of weeks while I stood people down and advised them what to do, mainly people who had been picked up for street offences, drunk, fights, things like that. It was quite intimidating and I didn't have much idea about what to do except advise them of their rights and stand up, make a plea for them. We fought a couple and this went on for weeks. Because there were so many people who had been arrested each night on street offences we then had to make a decision about how we would approach it because if I was going to appear for all these people every day all day I'd be doing nothing else. The police were very upset although the fellow prosecuting was a bit more professional. But once they realised how much more work it would create for them they weren't too happy. The police were very anti-Aboriginal. Often at night I watched them arrest people and they didn't give a damn if I was there or not. They seemed to be very random to me. You'd always get instructions from different clients about being hosed down in the cells with cold water. I vividly remember going to the settlement just outside Alice Springs, and going down a long drive and there were all these nice houses on each side of the drive and I thought "well gee things are pretty good here" and you get to the back and you realise that that's where the teachers or administrators live. All those little shanties and huts that the people lived in. I'd been in New Guinea and I'd never seen anyone who'd lived in those sort of conditions before, I just couldn't believe it.

Miller: It was probably very hard for the first lawyers who were employed by Legal Service and very hard for the Aboriginal clients to have to sit across the table from a professional lawyer, someone they never ever had access to before, and try and bridge that gap and win over trust.

Faine: For James Montgomery the hostility of Alice Springs got to be too much and some people went out of their way to make him unwelcome.

Montgomery:
There was a fellow who was continually being arrested up the track somewhere and he said "what can I do about it, can you give me a letter telling me what my rights are and I can show it to them?" So we typed out something and gave it to him. The next thing I know the police come around and said "Right, we want you around the police station". I very stupidly went and three or four of the ranking police officers interviewed me about why I had given this fellow this document. I felt I was about to be charged with some crime. In the end I felt so intimidated by it all I got up and said "well are you going to charge me or I'm going?" And of course they let me go.

I was in a difficult position, I was very young, inexperienced, I didn't have any friends in the white community, I had a car that had Aboriginal Legal Service written on the side with the result that I was refused service in petrol stations and hotels and people generally abused me. Then, on the other hand, the work was enormous, the volume of work never ending including going to the different settlements—which meant there was no one left in Alice Springs. I was very naive about the politics of the Aboriginal community and the politics of the administration in the Aboriginal Department which at that time was run by the Northern Territory government.

Faine: Montgomery left within six months. He was replaced by Peter Faris, a young, radical Melbourne barrister, and David Parsons. Inspired by the student activism of the time, they wanted to look for a way of using a law degree for some social good. Faris later became head of the NCA but declined to be interviwed for this series. David Parsons arrived soon after Faris and takes up the story.

Parsons: I remember the first case, or cases, about a week after I arrived in Alice Springs. Faris said it was my turn to do the morning list. At that stage drunkenness was still an offence in the Territory and it had been Show weekend which meant that most of the Aboriginal people from the surrounding settlements and missions had come to Alice Spring, some of whom would get hopelessly pissed.

The morning list following the long weekend meant that there were people stretching out from the court house. I walked past this line of Aboriginal people as I was on my way to court, having been there once before, assuming everyone was lining up for an injection and it was something like the Health Department. I looked at the next building assuming I'd got the wrong one and, no, it must have been the court house so I walked back and sure enough, that was the mornings list. There were a 127 people, most of whom were charged with drunkenness.

And so I appeared before his Worship, Scrubby Hall SM, late of New Guinea and I commenced the list. There was one fellow who was charged with being drunk who was an epileptic and it was clear that the cause of his being locked up was epilepsy so I pleaded him not guilty. And to see Scrubby Hall's false teeth hitting the judicial bench when he said, "Of course I know this bloke and I know that he's a regular drinker" and at that stage I became familiar with the "linga franca" of the Alice Springs Court of Summary Jurisdiction. I said then, and I still feel, that most of the feelings about Aboriginal people were a product of ignorance, a product of being an Alice Springs resident who saw (pretty much as people see now if they go up and down Todd Street or up and down the river) people sitting around in camps drinking. If that's all they ever see then they have a totally ill-informed view. I think the bottom line was many people weren't prepared to see anything else. Of course we were fortunate because we went out and actually met people on their own ground, spoke to them in their own homes about issues that concerned them and we were very quickly persuaded to a view that people in Alice Springs literally never saw or heard about.

Faine: James Montgomery told of some intimidation applied by the local police. David Parsons has some stories about that too.

Parsons: After court one morning I found a chicken's head on my car seat; the office window was broken regularly and there were abusive phone calls to the Legal Service. I was followed home from the pub by the coppers. It got very nasty, there was a particular period when we were thinking about arming ourselves simply because there were vigilante squads being interviewed on the talkback radio about how they were arming themselves for the black invasion of Alice Springs.

Whites were being challenged by Aboriginal people who, for the first time, had spokespeople prepared to go to court and say "this isn't right" and "no it can be done in a different way". When people actually walked out of court free and they'd heard a policeman taken to task for his behaviour in a community, Aboriginal people took great heart and confidence from that.

Faine: Another lawyer who joined the office in the early 70s was Philip Toyne (later Executive Director of the Australian Conservation Foundation). He'd gone to the Territory not as a lawyer but as a teacher at an Aboriginal community one-person school.

Toyne: I became aware of how profoundly ignorant Europeans were about Aboriginal community affairs and

attitudes. It was the time of Whitlam when everything was going to be transformed overnight, no Aboriginal person would be unhoused by the end of the 70s, there would be community self-determination, Aboriginal society would be offered justice, equity, land rights and anything else that was required to end the inequities and injustices that had previously existed. And of course it didn't happen.

The first time I became conscious of reactivating my legal skills was when Justice Woodwood came around on his Land Rights Inquiries and the community council asked me to explain what this Land Rights Inquiry was. They'd been asked to go to this big meeting with the judge from Canberra and there was not the most fundamental understanding of legislation, the political process; land rights didn't have a meaning for Aboriginal people in the sense we'd take. They had no concept that they needed any other title but their traditional title to land. So there was a very long and painstaking process of trying to explain what the exercise was about.

I can remember a lovely illustration of customary law when Justice Kirby's Law Reform Commission came to explain to people that they were trying to reflect customary law in some European Act, or before the courts, or in some other appropriate way. This conversation went on between these extremely bright lawyers and this Aboriginal council and they were "ships in the night passing". At the end of this exchange, a ruckus broke out behind us and a man with spears was calling out and challenging one of the people in the meeting, saying "You've accused me of adultery, if you don't take it back I'm going to spear you, I'm going to spear you right now because you've effectively slandered me in front of this whole community". The man in the meeting was the husband of the woman who was implicated in this event. He simply sat there and said, "Well it's true and I'm not taking it back". And the man with the spears became more and more agitated, he brandished them as if he was just about to jab this wicked looking spear through the guy's thigh and he finally threw the spear down in frustration and walked off. And everybody said "he did it, he did it, he did it" and the adultery was effectively proved. I patted one of the customary law enquirers on the shoulder and said, "look this is customary law, this is a manifestation of it and you've seen something that you probably wouldn't have understood in other circumstances if someone had tried to explain it to you in a more academic way".

One of things that simplified the role of the defence lawyer was the fact that if people had a clear recollection of the offence they were involved in they simply said "I did it". There was no guile, no rat

Phillip Toyne in 1991. Reproduced with permission National Library of Australia.

cunning involved in trying to wriggle away from events and of course there were whole different realities applied to crime. You could have a burden of proof attached to the police in terms of "did this juvenile offender break into the store?" and you could satisfy a court on European burdens of proof that the police hadn't proved that beyond reasonable doubt, and the entire community knew the kid did it because they'd tracked and recognised his footprints. And therefore, for a defence lawyer to come up with a smart defence which resulted in the dismissal of the charge against somebody that the entire community knew was guilty simply threw the law and the Legal Service into discredit.

Faine: The language difficulties were often dealt with by using field officers. Indeed the field officers who work in Aboriginal Legal Services even today attend to much of the "nuts and bolts" work in classic paralegal style. Pat Miller, who is still involved with the Legal Service explains their role.

Miller: The field officers speak several languages between them, they interpret to people whose first language isn't English and they also tell them what their rights are.

They've got a wealth of knowledge and information through close contact with the professionals who work here, and the professional people also get an education learning about the cultural aspects of Aboriginal people. For most of our people English isn't a first language and just finding out the family system and the kinship system and who's allowed to talk to who and who can't look at who and who can be a witness or a character witness assists a lawyer greatly.

Faine: Peter Rottimah was one of the first field officers to work at Alice and, as he points out, he was not only involved in the criminal courts.

Rottimah: The manipulation of store owners, shopkeepers, and galleries in relation to extracting goods or money from Aboriginal people was pretty well rife. Aboriginal people paid more than they should for certain goods. A person from the art gallery would go out to one of the camps and say "I'll give $5.00 and a flagon for this painting" or "I'll buy you a car worth $600 for 10 paintings" (and in three days it'd break down) and the person would say "No worries" and the dealer would make about $4000 or $5000. Those sort of things, they're very hard to explain but they're there and this racist mentality of people was really up front with some people.

We went up to Tennant Creek, which was just once step further down the ladder than Alice Springs as far as the 1973 white community perception of the Aboriginal community was concerned. I was completely shocked by the treatment they got there and attitudes displayed towards us when we went—dreadful place.

If you claimed your Aboriginality in those days all you got from it was nothing —and worse than that you were brought to book, you were in gaol, you had no status at all. It was important acting as a catalyst for people who were able to say "Hang on, I'm an Aboriginal person and what I am is important."

Faine: After the legal service had been opened less than half a year Peter Faris, then the pricipal lawyer, became ill and was replaced by Geoff Eames who went to help out for a few months but ended up staying seven years.

Eames: For decades it had just been a desparately hopeless situation but in Alice Springs you could actually see, in a matter of months, dramatic legislative change take place: change in terms of jury results; magistrates' behaviour; police behaviour.

Faine: Geoff Eames, now a Victorian Supreme Court Judge, recently spent a few years as senior counsel assisting at the Royal Commission on Blacks Deaths in Custody. From white city-bred lawyers the culture leap required to survive working in and around Alice Springs was enormous. Geoff Eames tells this story to illustrate what he regards as one of the hardest things about the job.

Eames: The fellow concerned was a young, extraordinarily striking individual, incredibly handsome and amazingly fit and tough. He was described as being the number one man. There'd been a fight between him and some people, one of whom had struck him with a nulla nulla.

He'd seized the nulla nulla from him, struck him once, and the fellow fell down and died. There was absolutely no doubt that this was self-defence. He was charged and subsequently acquitted. He was staying at my house and I got the message from various tribal people that he was due for a pay back. He'd expected that but he kept asking "when can I go home?" I said I'd make enquiries and he left my home and he was living in the creek nearby. He'd come up each day, and each day I'd say "look you still can't go back, they say it's too dangerous". This went on for weeks with him getting incredibly desperate. On one occassion he came through the back door and, unbeknownst to him, sitting in the lounge-room, were a group of his people. As he walked in both groups saw each other and pandamonium broke: one chap rushed to the kitchen and grabbed a carving knife and this fellow sprinted off down the passage, there was just chaos. He bolted out one door and the other mob bolted out another but he got away. The people came back to me and said, "look you're doing the wrong thing by having him here, you're protecting him, you're interfering in Aboriginal business." So the next time he came I had to tell him that and he said "yes, that's ok, I understand". On one occasion he said "I'm sorry I'm not going to wait any longer, I'm going back today" and I said "look please don't". Then he stopped visiting. A couple of months later I saw the people concerned and asked had they seen him, and asked for him by name. They all sort of turned away and got all shy and said "oh we don't know that fella". And I've never seen him again and I would be very very confident that he was killed.

Faine: Ross Howie, another Melbourne-based barrister who has spent years going between the Bar and various Aboriginal organisations explains that cultural differences extend to the very concepts of justice and punishment.

Howie:
One of the difficult dimensions was trying to understand the community position, the criminal process within the context of this community and what the community expected in respect of any particular defendent. So that if the community had been the victim, they may want to express a view both to the Legal Aid lawyer and to the court as to what they thought should happen. That raised peculiar problems for lawyers because, although the defendant was your client, there was a sense of obligation by the organisation, which is an Aboriginal organisation, to the Aboriginal communities that they were servicing. And it didn't always assist the community for someone to be dealt with leniently.

Faine: A feature of lawyering in Alice Springs in the early 70s was the experience of appearing regularly before His Worship, Mr Hall, the resident magistrate. Stories about "Scrubby" Hall are legend. Sadly Mr Hall passed away in 1991. But he is fondly remembered.

Eames: A day at the magistrates court with Scrubby was definitely an experience not taught in law schools. When dealing with people charged with drunkeness, he'd have the prosecutor call them out five at a time. So five people would go up, and five names would be read out he'd say "you're all, guilty" and there'd be a muted chorus of what might have been "yes"es and all would receive convictions and discharges. One of the first occassions I saw Scrubby do that was fairly spectacular. He managed to convict a witness who was there for a case I was in, he simply went up when his mates went up.

Scrubby once had an international judge from America--I'm not sure if it was Amnesty, some international legal organisation—sitting in the back of the court. It was pretty rare to have too many in the audience, and a distinguished grey-haired man in a suit under the tin roof in Alice Springs tended to stand out. Scrubby was getting increasingly agitated as he looked down at this man whose eyebrows were raised over the back of his head at what he was observing until Scrubby could contain himself no longer. "Excuse me sir," he said, "who are you?" "I'm Professor so and so, judge of whatever court it was" and Scrubby said "how wonderful to see you, what a terrible pity we're about to go into closed evidence because, under our local legislation, all the following evidence has to be taken in camera". As he went out the door Scrubby looked down at me, smiled and said, "well, that got rid of him".

Scrubby did the bush courts as well, and if he was bad in the city he was unbelievable out bush. I recall doing a submission to Scrubby in a little tin, stinky hot, shed. We were sitting at a table that was only about three foot wide, it was the bar table, plus the Magistrates', but we still went through the formalities. I would stand up to address him although he was right under my nose. I'd been defending a fellow charged with assault on a policeman's wife. As it happened I thought he'd had a bit of a defence and we'd given it a run, not terribly successfully, and Scrubby had found the fellow guilty and so I'd started a plea. I'd barely started and I looked down and saw Scrubby writing the sentence on his book. I stopped and said "this is a complete waste of time, this is a farce". He said "what do you mean?" I said "you've written the sentence down". As a reflex action he promptly thrust his arm over his book and covered up the line and said "no I haven't". I said "what's under your arm, why don't you move your arm away and we'll both have a look" and he went beserk. He accused me of all sorts of things, he was going to deal with me for contempt and I said "there's no problem, just show me what you've written and I'll apologise profusely if I'm wrong" and he stormed off the bench, closing his book, saying he'd never been so insulted in all his life and he'd have to

Tennant Creek in the late 1950s or early 1960s. Australian News and Information Bureau Photo by J. Tanner. Reproduced with permission National Library of Australia.

go away and calm down before he'd have me dealt with. He went away and perhaps thought that there was just the possibility this could be an appeal. He came back in and said he'd calmed down and he hoped I was sorry for such a terrible thing, and in fact he was about to give the man "a suspended sentence and release him forthwith, and you wouldn't complain about that?". I certainly wouldn't, having seen three months been written down.

Falne: And that chaos flowed into the community because the decisions those courts were making had direct impact on peoples' lives. As Ross Howie points out, "the Legal Aid" not only made an impact in Aboriginal communities but forever changed the way the whole town functioned.

Howie: There was a very significant shift of power within the community. It was perceived to be so by Aboriginals who, both in the town and the bush communities, were very supportative of Legal Aid, identified strongly with Legal Aid as being their organisation and something that protected them. In one of their fundamental relationships, with the police, they had no power and Legal Aid was able to assert their rights. The appalling living conditions amazed me: people lived in camps all around Alice Springs without water, without toilets, without shelter. It wasn't really until the Aboriginal organisations came that it was said "this is intolerable, people need title to land on which they live, they need to have shelter, they need to have washing facilities".

Falne: Pat O'Shane was one of Australia's first Aboriginal lawyers and the first black woman lawyer. Now a magistrate in New South Wales, she was admitted to the Bar in February 1976, shortly after which she started work on the New South Wales Royal Commission into Prisons and then was recruited for Alice Springs. She had problems when she arrived even though she was an Aboriginal woman lawyer working for a black organisation.

O'Shane: I was exceedingly niave. I suppose I went out of a sense of adventure, it was an opportunity to do something really worth while. Since these people were asking me to go they were genuine in wanting me to work with them. The very first day's experience is one I'm never going to forget. To walk down and see a queue about half a mile a long down the street was something I would never have believed had I not seen it for myself. For years afterwards I used to relate that incident in terms of cattle dipping. The way in which people were processed through the court in such a hurry was something which was outside my limited experience and outside my imagination.

There was another incident that stands out in my mind. I still have the list somewhere, but I can't remember how many charges, I think it was something like 310 against eighty-five defendants on one occassion at Yuendemu. When I received the list from the police prior to our going out to Yuendemu—it used to be like a couple of hours in a four wheel drive vehicle and all I'd have was an assistant with me—I just went beserk. As a consequence of my going beserk the Department of Aboriginal Affairs was contacted, the then Minister, Ian Viner was contacted, Charles Perkins who was then in the Department of Aboriginal Affairs hot footed it up to Alice, we had a number of politicians fly out there, drop in because I raised hell over what was going on.

Falne: Pat O'Shane was not the only one to make a fuss in higher places when things weren't being done properly. And as Geoff Eames tells it it was quite handy to have important friends.

Eames: It was a huge advantage that the Territory didn't have self-government but was controlled from Canberra. Canberra of course was Labor. The local police and prosecutors were controlled by Canberra and it quickly became apparent to them that we had extremely good contacts in Canberra and they didn't. Lionel Murphy was just magnificent, in a very dramatic way, as Attorney General .

I had a case which involved Pine Gap. A group of Aboriginal people were going for ceremonies and they stopped at Roe Creek, near the Pine Gap base. Pine Gap, deciding it was under seige from blacks, contacted the local police who stormed out and proceeded to arrest all and sundry. Unfortunately for them there was a white family, whose vehicle had broken down, camped with the people when this all occurred. They came back to town and reported it. It became a major case known as the Roe Creek Riots. When I got to Alice Springs the Roe Creek Riots were yet to come on. The local prosecutor was a very supercilious sort of fellow in those days and was basically the king of the town. I said to him that I understood there'd been statements made by a number of witnesses who supported the Aborigines and he said that if there were it had nothing to do with me. I said I wanted to see the statements and he said "I'm not going to give them to you, I'm here to prosecute not defend". I insisted that he do so and he said he wouldn't. I'd actually had a number of dealings with Lionel Murphy so I rang him up and said "look you made an offer to me that if there was anything you could do on a practical level to give you a call, this is the call." It was the sort of offer Lionel just loved and I explained the problem to him and he said "stand by your phone it will ring within ten minutes". So I hung up and

Pat O'Shane in 1982. Reproduced with permission National Library of Australia.

within about five minutes the phone rang and it was the prosecutor saying "I've been instructed to advise you of the following things, the following witness statements are being brought to your house now, they are (and he listed them all), the following witnesses will be available to give evidence (and listed all of those), we are making further enquiries about additional witnesses and they will all be available to you." He went through this little speech then said "you might have told me you knew him, you bastard". That sort of direct contact made an astonishing difference in Alice Springs, the fact of that phone call went the rounds of Alice Springs in the space of a few hours. Suddenly these people were saying their boss, Lionel Murphy, was taking a direct interest in what they saw as a local case, it had a fantastic impact.

Falne: And immediately half the charges in that case disappeared and in the end no one was convicted over the Roe Creek Riots. But things didn't always go so well for the clients and there was the risk that the sequence of arrest, court and then gaol all became just a bit too routine.

O'Shane: It's sometimes easy to lose sight of the fact that we were dealing with very serious charges against our clients. I tried never to lose sight of that. And I was determined to keep my clients out of gaol. I wasn't always successful and when I wasn't I was heartbroken. It's kind of easy to lapse into feeling we're all in this together and yeah this is just a process, but your client was just as likely to be put into the back of a caged truck and taken off a hundred plus miles and put into a cell in Alice Springs gaol. People used to say a lot of the people liked to go to gaol because they had television and they had the meals and all

that kind of stuff. I didn't ever get that impression, not ever. The impression I got was that there was a lot of unstated hostility, anger, resentment about what was going on and they sure did not like going to gaol.

Eames: Some of the best times I had were when, as a lawyer, I was probably quite ineffective. You'd have a court list where you think every case had been a disaster but the community would say "it was terrific, we really enjoyed the way you had a fight" not so fussed about the results but pleased about the impact of taking it on. People put things into a perspective for you when you'd be hard pressed to think of yourself as the noble white person making a huge difference in law and order in the Northern Territory. Lawyers were important to it but they were no more important than the structures that were being created: the organisations, the bush meetings of councils and so forth, that's really where dramatic change was taking place. I realised very early on that the micro change of doing the court cases day after day really didn't matter over much. I turned a lot of attention, and the organisation was very keen for me to do so, onto the broader scheme of things: the question of commercial imbalance.

Faine: Frank Vincent, now a Supreme Court judge, fifteen years ago was a leading QC and the most senior of the criminal barristers to regularly go to Alice Springs for the trials.

Vincent: It would be nice to say I started off with some particularly high-minded attitudes about these things but it wouldn't be true. When I arrived in Alice Springs the situation was so dramatically different from anything I'd expected that it took a great deal of coping with.

Eames: There were a tremendous number of people at the Bar who were very interested in coming up and they'd come for free. Frank did it constantly. We had some particularly bad circuits—some very rough police and very bad violence—by violence I mean policeman going around with baseball bats breaking people's legs—that sort of violence, really vicious stuff. We were trying for years to get a Royal Commission into some of the violence I saw. Frank was then a very senior criminal barrister and it absolutely freaked the local constabulary to have this bloke arrive to defend people on disorderly behaviour charges. I think that made a dramatic difference: Magistrates and everyone concerned suddenly got extremely nervous. Just the sense of there being national attention to what was going on; the sense that they had a heavyweight from interstate who was involved made a big difference.

Vincent: When I arrived at Yuendemu the place was not like anything that I'd previously seen. We'd driven out from Alice Springs, we did not go out in the magistrates' plane because we were endeavouring to point out that we were separate and not simply part of a charade. We camped in the bush overnight so that we could get a start in morning. We went into the settlement, met with the council before we went to the court, tried to interview as many of our clients as we possibly could and then the court started. The magistrate was a man called Godfrey Hall, a figure of some notoriety and fame in the Northern Territory. I stood up in the court room, announced that I appeared on behalf of all of the accused and today everybody was pleading Not Guilty. I've never seen a more obvious look of horror on the face of any individual in my life as I observed on the Magistrate's that day. I cross examined the first policeman for a substantial period of time, I was fascinated by this exercise. My client was charged with disorderly behaviour—he had been seen at the counter in the Yuendemu store in an extremely agitated state, raising his voice to the person who was serving him who was, I believe, the wife of one of the policemen in Yuendemu, and he was arrested and charged with disorderly behaviour. My enquiries had lead me to believe that he was indeed raising his voice and indeed could well have been disorderly, but he was very annoyed because he hadn't got his correct change and resented not only that but the fact that he was arrested for it.

Faine: The barristers found that if they fought the first case in a list, and fought it hard, the police would withdraw most of the remaining cases. The police did not like being tested on their evidence. The crime rate fell dramatically.

Vincent: You gained the impression that it had not been the practice for the Aboriginal people to dispute the evidence of the policeman given against them, or to contest their responsibility for the crimes with which they were charged. Accordingly the whole procedure went on with individuals being sentenced and dealt with in an apparently legitimate way but really in a fashion which was quite unfair to a great many people. When the Legal Aid Services started to contest these matters we encountered policemen who had never been cross-examined in their careers and I actually found myself not knowing quite what to do with a policeman to whom I put the allegation that he'd taken the accused back to the police station and given him a hiding and then have the policeman tell me that that was right and indeed be quite satisfied that that was not only appropriate but couldn't understand what on earth I was carrying on about. It simply was a different culture.

Faine: John Coldrey, formerly the Director of Public Prosecutions in Victoria and now a Supreme Court judge, made many tours of duty to the Centre while a barrister.

Coldrey: We certainly cross-examined police in a way they had never been used to before. There is one story that the Territory police wanted a pay rise and as part of their submission they brought a psychiatrist up and they talked about the stress that had been occasioned to them by Vincent and Coldrey in cross-examining in these cases. Perhaps it was just that they weren't used to cross-examination.

Faine: Bruce Donald had spent fifteen years as a commercial lawyer in Sydney's top law firms but was disillusioned with high rise law and when he heard that the Central Lands Council needed a new head of legal services he had little hesitation. Despite the fact that he had nothing to do with Aboriginal people until then his skills in finance and commercial law would be useful.

Donald: I was totally ignorant about Aboriginal people, I'd made all the false assumptions that are made by coastal Australians, things about language not any longer existing, culture being possessed only by the ageing elders who are about to die out, all of those myths I exploded very quickly. I crossed the barrier from white Australia to black Australia, and I found a vital Aboriginal culture, I also found a grossly depleted people in terms of their personnel resources—people ravaged by alcohol and lacking in education which I found very difficult to handle at first.

I was thrown into the negotiations in relation to the oil and gas developments in Central Australia. All of the major oil and gas developments, the Palm Valley gas field and the Mereenie Oil and Gas Field are on Aboriginal land (parts of the Hermannsberg and Land Trusts which were handed back under the *Land Rights Act*). These major fields had been discovered before the grants of the land and so the agreements under which they were able to be developed were not subject to the veto provision that we've heard so much about since. Nevertheless the mining companies were required to negotiate a sound agreement with the traditional owners for the development of those fields and it did include certain monetary returns and it did include the need from time to time to negotiate further arrangements. I encouraged people and helped them set up an investment banking structure, gave it a flash corporate name, Centre Corp Investment Corporation, so that it would have credibility in the commercial world. That was a clear case—the work surrounding Mereenie and Palm Valley and the pipeline project. But there were of course many others.

Faine: The lawyers job with Aboriginal clients involves a blurring of the traditional rules of ethics and professional procedure as Bruce Donald explains. The clients aren't in a position to formally

give instructions, instead, you have to go out and get instructions.

Donald: Let's take the royalty management structure for example. One of the great tragedies of the Mereenie Oil Field was that the initial amounts of money were simply handed out to people and they disappeared within about three weeks. It seemed to me that this was dreadful, that we couldn't stand by and let this happen again. So we spent a long time consulting with the traditional owners exhorting them to set up a royalty management company. I had instructions and I did act as a traditional lawyer but the method whereby those instructions were developed was quite different to the way in which I would have worked in the city.

Vincent: The first conference I had in Alice Springs I conducted in the street, sitting out under a tree. I wasn't accustomed to that. The other thing I discovered was that the people to whom I were speaking didn't understand a single word that I was saying and all of those little games lawyers play that emphasise their status in relation to the clients' were not only inappropriate but were grossly counter-productive to any kind of actual communication with people. Another element that I began quickly to appreciate was that, whilst I knew nothing about these people, they knew a lot about me. I don't mean in terms of my personal history, but they'd been dealing with white people and indeed white do-gooders for quite a long time and they had a fairly keen perception of what was real and what wasn't. I rapidly discovered that the only way of actually communicating with them was to forget all the rubbish, throw aside all of the barristerial jargon and simply sit down and attempt to speak directly to people. That actually, took quite a deal of effort, it was the direct antithesis to the sorts of approaches that barristers and lawyers, tend to adopt as their self-protective mechanism in the course of their practices.

Coldrey: There was always a moral thought that, because the court system was a European system that we were trying to adapt to Aboriginal people, but our very presence within it was legitimising it. At some times we felt the disadvantage of clients, so there was a dilemma there. On the whole I think the balance required for people to be represented and for us to do our best to ameliorate the effects of the criminal justice system on people.

Just before the end of '81 I was involved in an inquest in relation to the Ti-Tree Shooting which was a rather remarkable case in which police had intercepted a car full of Aboriginal people at Ti-Tree, north of Alice Springs, and one of the police officers had shot one Aboriginal dead and seriously injured another. As a result a number of Aboriginals were charges with offences and Frank Vincent and myself and others were involved in the trial that was held in Darwin. We got a change of venue for that and they were acquitted of the charges involving this police officer although convicted of some in relation to another police officer who was at the scene. I was appearing for the next of kin at the inquest, and I can recall announcing on the first day that whenever it finished I would be asking the magistrate to commit this police officer for murder—of course he hadn't been charged with anything. And the inquest lasted for six weeks. On the final day—an enormously tense time—the police officer was called forward and the magistrate committed him for trial for murder. I felt at that time that the system could be seen to be working for Aboriginal people as well as for whites. It seemed to me to be a turning point, here was a police officer in full uniform, he'd never been charged with anything. Now lawyers appearing for Aboriginal people were in the system and all of a sudden justice might have appeared at last to be a bit even handed in its approach. The aftermath was that he was tried in front of an all-white jury at Alice Springs, there was no application for change of venue, and he was ultimately acquitted. But the jury, nonetheless, were out for quite a while. I still think it was a turning point.

Faine: One of the greatest joys that most of the Legal Aid lawyers speak of is getting to know Aboriginal people in their own land by going bush. Pam Ditton, the second woman lawyer to go to Alice Springs, tells of her experiences.

Ditton: I've vivid memories of going out bush in the Legal Aid Toyota to bush courts and I'd always go with one or two Aboriginal people—never alone—and I remember the same old man [Pat Miller's now deceased father] driving the Toyota and always with great courtesy to me trying to explain the meaning of the land and the Dreamtime implications, the stories that went with the land. And also the pastoral history of the era. Once he pointed out this tree and said "that's where these two young fellows (and he named them), were tied up and whipped by the local pastoralist". But he said this to me, a white person, without anger and I couldn't believe this. I couldn't understand why, when I heard the oral history first-hand from Aboriginal people of the horrors that occurred with their lifetime or that of their parents, they weren't expressing anger to me. They were prepared to look at me and assess what they thought of me as an individual and treat me as an individual and not blame me as a member of the white race for what had occurred so recently.

Faine: The opening of the Legal Aid Office was a turning point in the story of the black community in Central Australia. This series has been called "Send for Legal Aid" and this is the story from which we got the title : John Coldrey tells it well.

Coldrey:
At the drive-in in Alice Springs they were showing what's often facetiously called an adult western and there were a whole lot of whites systematically massacring a whole lot of Indians and the black patrons were getting increasingly irritated as they see this going on and suddenly one of the Aboriginal fellows jumps on the bonnet of an old car and yells "Send for Legal Aid". A great roar goes up and the tension dissipates, they've got a great sense of humour Aboriginal people. We would drive around in the Legal Aid car in the 70s in Alice Springs and people would wave, they'd recognise it. I think Legal Aid was a rallying point.

Faine: And you may have noticed that so many of the supposedly ratbag lawyers who worked in the Territory some fifteen years ago are now judges, magistrates, QCs or, in Bruce Donald's case, the chief lawyer for the ABC.

Funding for "Send for Legal Aid" was secured from the Law Foundations of New South Wales, Victoria and South Australia and the Public Purpose Trust of the Queensland Law Society.

New publications

Australian Institute of Criminology

GPO Box 2944
Canberra ACT 2601
Tel: (06) 274 0256
Fax: (06) 274 0260

Deaths in Custody: Australia 1980-1989

Edited by David Biles & David McDonald
1992. ISBN 0 642 18077 6. 644 pp.
A$45.00.
Now available in one volume, the set of papers, *Deaths in Custody: Australia, 1980-1989*, breaks new ground in criminological research, and provides a sensitive, comprehensive analysis of this complex issue. This volume comprises a valuable record of the work of the Criminology Unit of the Royal Commission into Aboriginal Deaths in Custody.

Walker, J.
Australian Prisoners 1991
ISBN 0 642 18213 2. 132 pp. A$15.00.
The tenth annual volume of Australian Prisoners contains results of the National Prison Census held on 30 June 1991. This is a vital tool for all working in the fields of criminology, corrections, probation and parole, and indeed the social sciences generally.

Trends and Issues in Crime and Criminal Justice
General Editor, Peter Grabosky
ISSN 0817-8542
Subscription A$30.00 per annum (minimum of six issues per annum)

No. 38, Biles, David
The International Transfer of Prisoners
1992. ISBN 0 642 18071 7.

No. 39, Walker, John
Estimates of the Cost of Crime in Australia
1992. ISBN 0 642 18287 6.

No. 40, Weatherburn, Don
Economic Adversity and Crime
1992. ISBN 0 642 18288 4.

Facts and Figures in Crime and Criminal Justice
General Editor, John Walker
(Subscription A$30.00 per annum)

Australian Prison Trends
ISSN 1037-6925
January 1992
February 1992
March 1992

Persons in Juvenile Corrective Institutions
ISSN 0811-6652
September 1991

Australian Criminology Information Bulletin
ISSN 1034-6627
Vol 3. No. 3, June 1992
Subscription A$20.00 p.a. (6 issues per annum)

Distributed by the AIC on behalf of the Crime Research Centre, The University of Western Australia:

Broadhurst, R.G., Ferrante, A.M. & Susilo, N.P.
Crime and Justice Statistics for Western Australia: Interim Report January-June 1991
1992. ISSN 1037-6941. A$20.00

Wells, Marianne
Sentencing for Multiple Offences in Western Australia
1992. ISBN 0 86422 193 2. A$20.00.

The Federation Press

PO Box 45
Annandale NSW 2038

The Australian Federation of AIDS Organisations
The Australian HIV/AIDS Legal Guide
1991. ISBN 1 86287 058 6. 267 pp. A$35.00.
Cheque with order: A$32.50.
This book is essential reading for professionals dealing with people affected by HIV. It covers the law Australia-wide on Transmission Offences; Privacy and Confidentiality; Discrimination; Prisoners and the Criminal Justice System; and many other topics.

Routledge

c/o The Law Book Company Ltd
44-50 Waterloo Road
North Ryde NSW 2113

Brake, Michael & Hale, Chris
Public Order and Private Lives
1992. ISBN 0 415-02567 2 (paperback). 208 pp. A$32.95.
The political forces which shape the law and order debate in Great Britain are examined in Public Order and Private Lives. The authors provide an analysis of policies which have created social conditions in which crime has flourished.

Dorn, Nicholas, Murji, Karim, & South, Nigel
Traffickers: Drug Markets and Law Enforcement
ISBN 0 415 03536 8 (hardback) A$122.50
ISBN 0 415 03537 6 (paperback) A$32.95.
This book exposes the diversity of drug trafficking today, and provides an account of how police operations work in Britain. It includes: accounts of the development of drug markets from the 1960s to the 1990s; insider views on the development of a national detective agency for Britain; and extended extracts from a hitherto unpublished and confidential report from the Association of Chief Police Officers.

Independent Commission Against Corruption

GPO Box 500
Sydney NSW 2001

In Whose Interest? Corruption: 18 issues to consider
March 1992. ISBN 0 7305 9705 9. 28 pp.

This booklet identifies 18 key issues arising from ICAC Reports and work done during the past year. Each has a wider application than just the particular organisation or individuals involved.

This booklet and Commission Reports are available free of charge.

Conferences

Australian Institute of Criminology

(Please note that Conference information is subject to change. Check conference details with the Conference Program at the address below)

1992

27-29 October

Without Consent: Confronting Sexual Violence, Melbourne

Nov 30 - Dec 2

Privatisation in the Criminal Justice System, Wellington, New Zealand

1993

23-25 February

Crime and the Elderly, Adelaide

23-25 March

Criminal Justice Planning and Coordination, Canberra

The Conference Program of the Institute is always keen to hear from people interested in participating in, or speaking at, Institute Conferences. If you would like to be involved in any of the above events, kept informed of planning for them, or have any suggestions for Institute Conferences that would address issues of national importance in the criminal justice or related areas, please contact the:
Conference Program
The Australian Institute of Criminology
GPO Box 2944
Canberra ACT 2601
Tel: (06) 274 0226/0223
Fax: (06) 274 0225

Australian Association for Social Work and Welfare Education
National Conference
2-4 October 1992
The University of Sydney and the University of New South Wales

Topics for workshops include: Welfare and the Law; The Rights of Children and Young People; Work, Employment and Unemployment.

For further information contact:
Marie Wilkinson
Tel: (02) 692 2652/50
Fax: (03) 692 3783
or
Louise Studdy
Tel: (02) 697 4745
Fax: (02) 662 8991

Australian Insurance Law Association
6th Annual Conference
13-15 October 1992,
Canberra

For further information contact:
AILA NSW Branch
PO Box 76
Five Dock NSW 2046
Tel: (02) 713 7357
Fax: (02) 712 3606

Law Council of Australia
Criminal Law Seminar on Royal Commissions
14 November 1992
Sydney

For further information contact:
R. Johnson
Criminal Law Section
Law Council of Australia
GPO Box 1989
Canberra ACT 2601
Tel: (06) 247 3788
Fax: (06) 248 0639

The National Centre for Socio-Legal Studies and the Department of Legal Studies, La Trobe University
Australian Law and Society Conference 1992
4-6 December 1992
La Trobe University, Bundoora

It is anticipated that this year's Law and Society Conference will attract papers in the following areas: Theorising Law and Society under Conservative Rule; New Strategies in Crime Prevention/New Directions in Criminology; Australian Legal Education: The Pearce Report Five Years On.

For further information contact:
The Convenors
Australian Law and Society Conference
National Centre of Socio-legal Research
La Trobe University
Bundoora Vic. 3083
Fax: (03) 47 10894

Australasian Society of Victimology
Biennial Conference of the International Association of Crime Victim Compensation Boards
17-19 August 1994
Adelaide, Australia

World Society of Victimology in association with the Australasian Society of Victimology
8th International Symposium on Victimology
21-26 August 1994
Adelaide, Australia

For further information about presenting a paper at, or attending either conference, please contact:
Director
Conference Secretariat
GPO Box 2296
Adelaide SA 5001

Overseas

LAWASIA
Energy Law Conference
18-22 October 1992
Kuala Lumpur

For further information contact:
Nizar Idris
Chairman
LAWASIA Energy Section
Sub-Committee for Malaysia
c/o Legal Dept
Bangunan Shell Malaysia
off Jalan Semantan Damansara Heights
50490
Kuala Lumpur, Malaysia
Tel: (03) 352 1477
Fax: (03) 251 2732

The Boumanhuis Foundation (Rotterdam, The Netherlands) in conjunction with the Mersey Drug Training and Information Centre (Liverpool, England)
4th International Conference on the Reduction of Drug Related Harm
14-18 March 1993
Rotterdam, The Netherlands

Conference themes will include HIV/AIDS, ethnic minorities, international law and criminal justice and legal drugs. This

conference is expected to attract delegates representing all sectors of those interested in reducing the harm caused by the use of all types of legal and illegal drugs.

The Alcohol and Drug Foundation has negotiated a 25% discount on the registration fee for each delegate registering their name with the Foundation.

For more information contact:

Ms Caroline Thompson
Alcohol and Drug Foundation
PO Box 529
South Melbourne Vic 3205
Tel: (03) 690 6000

International Association for Community Development 'IACD'
Management of Natural and Human Resources through Community Development
22-April 1993
Banglamung, Thailand

For further information contact:

IACD
179, rue du Débarcadère
6001 Marcinelle, Belgium

National Injury Prevention
2nd World Conference on Injury Control
Injury Control - What Works?
May 1993
Atlanta, USA

Within the framework of the theme 'Injury Control - What Works?' five areas of injury control will be highlighted: Transport, Occupational, Home and Leisure, Intentional Injuries and Acute Care/ Emergency Medical Services/ Rehabilitation.

Calls for Abstracts for the 2nd World Conference are available through the National Injury Surveillance Unit, Adelaide - tel: (08) 374 0970.

Law Society, New Zealand
1993 New Zealand Law Conference
2-6 March 1993
Wellington, New Zealand

For further information, contact:

Colleen Singleton
Wellington District Law Society
PO Box 494
Wellington, New Zealand
Tel: (04) 728 978
Fax: (04) 710 375

News

UN Posting for AIC Chairman

Herman Woltring, Chairman of the Board of the Australian Institute of Criminology, 1991-1992, has taken up a position with the United Nations office in Vienna as Head of the Crime Prevention and Criminal Justice Branch, Centre for Social Development and Humanitarian Affairs for a period of six months. This is a senior policy position within the United Nations Secretariat.

First Woman for the AIC Board of Management

Ms Sally Brown, Chief Magistrate of Victoria, has been appointed Chair of the Board of the Management of the Australian Institute of Criminology. Prior to becoming a magistrate in 1985, Ms Brown was in private legal practice and academia.

Victims of Crime Project

A new six-month pilot research and training program has been established involving the Monash Centre for Continuing Education, the Frankston CIB, the Citizens Advice Bureau and the Victorian Police victim liaison officer. The project was launched by Mr Mal Sandon, Police and Emergency Services Minister. It will aim to assist people suffering the effects of being a crime victim.

Developments in Justice Studies, University of Newcastle

The amalgamation of the Newcastle University with the Hunter Institute of Technology has opened up some new opportunities for the Justice Studies Program. A key new strength for the program lies in the availability of an established infrastructure for developing a focused research program as well as a broad-based education for practitioners. The University is planning to develop, from within the same unit, both justice studies and criminology. For further information, contact Professor Lois Bryson, Professor of Social Science, Newcastle University.

Charles Sturt University - Police Training

An affiliation agreement between the Charles Sturt University (CSU) and the Australian Staff Police College (APSC) has established the Australian Graduate School of Police Management. The new agreement enables a number of the APSC's existing short courses for executive level police to be incorporated into postgraduate awards of CSU. The Australian Graduate School of Police Management will operate as another faculty of the University.

Legal Ethics under Review

The National Institute for Law, Ethics and Public Affairs of the Griffith University has won grants totalling $100,000 to research concerns over modern legal practices. Chief investigators for the project will be Professor Charles Sampford, Dean of the Faculty of Law at Griffith University, Dr David Wood of the University of Melbourne, Visiting Professor Richard Tur of the University of Oxford, and Dr Stephen Parker of the Australian National University. The review will look at a number of questionable practices, and will also look at the general conflict between the lawyer's duty to the client and duty to the legal system as a whole.

Visiting Graduate Scholars and Visiting Criminal Justice Practitioners

Ms Kate Sainsbury, PhD student, has commenced a Graduate Scholarship at the Institute. Ms Sainsbury will be studying the treatment of Aboriginal and non-Aboriginal offenders in juvenile detention centres.
Ms Anne Edwards, PhD student, has commenced a Graduate Scholarship at the Institute. Ms Edwards will be studying domestic violence in the Australian Capital Territory.
Ms Andrea Becker from Germany will undertake exchange study at the Institute for a period of 3 months commencing on 14 September and will study criminological information retrieval systems.
Chief Inspector Kevin Scott from the Victoria Police Force will take up a Visiting Scholarship for 3 months in September 1992. He will be studying Aboriginal/police relations.
Senior Sergeant Errol Mason from the Victoria Police Force successfully completed a four-month Visiting Scholarship in June 1992. He completed a report on firearms control.

Occasional Seminars

On 27 July 1992, the fourth 1992 Occasional Seminar at the Australian Institute of Criminology was given by **Professor Leigh Bienen**, Lecturer and Administrative Director at Woodrow Wilson School of Public and International Affairs Princeton University, NJ, USA. Professor Bienen spoke on 'Recent Developments in Capital Punishment in the United States'.

On 10 August 1992, **Professor Wesley Skogan** gave a seminar on Evaluating Community Policing. Professor Skogan is Professor Political Science and Urban Affairs at Northwestern University, USA.

On 20 August 1992, **James Voute**, a practising artist and part-time tutor at Risdon Prison in Hobart, gave a seminar on his perspective on the prison system and its effect on inmates. This seminar was given as part of the exhibition of Voute's works held at the Institute from 20 August to 4 September.

On 24 August 1992, **Dr Gabriele Bammer** (Research Fellow at the National Centre for Epidemiology and Population Health at the Australian National University) gave the seminar "Overseas Experience with Heroin Treatment—Implications for the ACT 'Heroin Trial'".

As *Criminology Australia* readers may be aware, under the Federal Opposition's "Fightback" package, it is proposed that the Australian Institute of Criminology be abolished because it "duplicates a role performed by many specialists and police agencies around Australia".

That this view is mistaken, and that the Institute is more relevant than ever, will be evident from the next issue of *Criminology Australia*, which will include extracts from a speech given by the Institute's Director, Professor Duncan Chappell, at the National Press Club on 12 August 1992.